

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE) BENCH, PUNE**

**EXECUTION APPLICATION No.16/2016**

**In**

**APPLICATION No. 135(THC)/2013  
(Disposed of on 13.01.2014)**

**CORAM:**

**Hon'ble Shri Justice U.D. Salvi  
(Judicial Member)**

**Hon'ble Dr. Ajay A. Deshpande  
(Expert Member)**

**B E T W E E N:**

**POWERGRID Corporation of India  
Limited**

(A Government of India Enterprise)  
Through its Chief Manager,  
Mr. TSC Rao,  
PowerGrid Corporation of India Limited,  
Of Western Region Transmission  
System-1  
765/400KV GIS Sub Station,  
Village : Khanivali, Post : Vasind,  
Vasind Ambadi Road, Taluka :  
Bhiwandi,  
Dist : Thane, Pin : 421604,  
Maharashtra

**.....Applicant**

**A N D**

**Deputy Conservator of Forest,  
Thane Forest Division**

Lal Bahadur Shastri Marg, Marathon Circle  
Naupada, Thane – 400 602.

**.....Respondent**

**Counsel for Applicant :**

Mr. Asim Sarode, Advocate.

**Counsel for Respondents :**

Mr. D.M. Gupte, Adv.

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**Date: 8<sup>th</sup> July, 2016**

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**ORDER**

**1.** M/s. Power Grid Corporation of India Ltd., has filed the present Application seeking leave of this Tribunal for the construction work of 765KV D/c (Hexa) Aurangabad – Padghe Transmission Line in the area coming within 10 Kms from the boundary of Kalsubai Harishchandra and Tansa Wildlife Sanctuary. This leave has been sought in pursuance to the Order dated 13<sup>th</sup> January, 2014 passed in Application No. 135(THC)/2013 [Smt. Shobha Phadnavis Vs. State of Maharashtra & Ors.]. The Applicant has also sought a leave to cut 1696 number of trees which come within the way and trim trees wherever required within the area of 10 Kms boundary of the said sanctuary.

**2.** It is to be noted that similar applications have already been dealt with by the Tribunal in the past considering the requirements of the projects and the necessary steps taken for the compensatory afforestation proposed and carried out by the Applicants therein.

**3.** The Hon'ble High Court of Judicature of Bombay, Nagpur Bench in Writ Petition No.1277/2000 imposed certain restrictions on felling of trees within 10kms areas from the boundaries of National Parks and Sanctuaries notified as eco-sensitive areas. Based on precautionary principle, these restrictions were continued as per the Judgment passed in O.A. No.135/2013, which came to be registered with this Tribunal on transfer of the said Writ Petition.

**4.** In *Application No.118/2015 i.e. POWERGRID Corporation India Limited Vs. Ministry of Environment, Forest and Climate Change & Ors*, the legal implications of such leave, vis-à-vis the Appeal under Forest (Conservation) Act, 1980 was elaborated which is reproduced for ready reference:

*“4. We are conscious of the fact that the Forest Clearance granted under the provisions of Forest (Conservation) Act, 1980 is Appealable and the Appeal has to be filed before the National Green Tribunal, as per the provisions of National Green Tribunal Act, 2010. We are also conscious of the fact that the Forest clearance can be separately challenged under the provisions of the National Green Tribunal Act, 2010 and grant of such ad-interim permission required for cutting of trees need not be and shall not be considered in any way as*

*vetting or approval the Forest Clearance and therefore, this Application needs to be viewed as mere Application for grant of ad-interim permission without going into the merits of the said forest clearance in execution of the restrictions imposed by the Hon'ble High Court based on precautionary principles due to non-submission of necessary data and information by the State.”*

**5.** In the present Application, M/s. PowerGrid Corporation of India Ltd., have proposed 765 KV D/c (Hexa) Transmission Line from Aurangabad to Padghe which is originally part of System Strengthening in North/West part of Western Region for IPP Projects in Chattisgarh which connects the 765KV Sub Station at Aurangabad and Padghe. The Government of India has granted the permission to the said project under the provisions of Electricity Act, 2003. The Ministry of Environment, Forest and Climate Change has also accorded in-principle approval under Section 2 of the Forest (Conservation) Act, 1980 for the diversion of 145.795 hectare of forest land (Reserved Forest, Protected Forest, Maharashtra Private Forest) vide approval dated 29<sup>th</sup> February, 2016. It is submitted that this Transmission Line has a total length of 284.481 Kms approximately, of which, 24.105 Kms of Transmission

Line passes through different types of forest areas in Ahmednagar, Pune and Thane Districts of the State of Maharashtra. It is submitted that out of this entire project alignment, some part of the Transmission Line passes through an area coming within 10 Kms from the boundary of Kalsubai Harishchanddra Wildlife Sanctuary and Tansa Wildlife Sanctuary. It is submitted that out of 145.795 hectares of forest area involved about 32.824 hectares is within 10 Kms from the boundary of these two wildlife sanctuaries. Though total 6309 trees are required to be fell and 7215 trees are required to be trimmed, only 1696 number of trees will be required to be cut in an area within 10 Kms from the boundaries of these sanctuaries.

**6.** The Applicant states that the Applicant has received statutory approvals from the concerned Regulatory Authorities including the in-principle approval of the Central Government under Section 2 of the Forest (Conservation) Act, 1980 dated 29<sup>th</sup> February, 2016 and 2<sup>nd</sup> March, 2016. The Applicant, therefore, claims that it has received the necessary permissions required under the Environmental Regulations and the Applicant may be allowed to construct the said transmission line and towers as envisaged in the project.

**7.** The Deputy Conservator of Forests, Thane has filed reply to this particular Application and states that

the necessary in-principle approval for diversion of 145.795 hectares of forest has been accorded by Ministry of Environment, Forest and Climate Change vide letters dated 29<sup>th</sup> February, 2016 and 2<sup>nd</sup> March, 2016. It is also submitted that the draft notification of Tansa Wildlife Sanctuary has not been published, though the proposal for the same has been prepared and under progress. It is submitted that activity of the laying of Transmission Line comes under the category of 'Regulated' in the Eco Sensitive Zone and a proposal for approval of which has been submitted to the Central Government. It is further stated that the area proposed for diversion of the forest, falling in the proposed Eco Sensitive Zone has been demarcated after detailed inspection by the Forest Department and therefore, Forest Department is of the opinion that the proposed activity can be permitted and the environmental impact on the Eco Sensitive Zone can be neutralized by resorting to compensatory afforestation and adopting the regulatory conditions laid down by MoEF.

**8.** The Applicant has undertaken to strictly comply with the conditions of the in-principle approval dated 29<sup>th</sup> February, 2016 and 2<sup>nd</sup> March, 2016. It is submitted by the Applicant that compensatory afforestation has been proposed and approved in 292.2

hectares of degraded forest area (double the forest area 145.795 hectares to be diverted for the project) by planting approximately 386350 saplings which will be planted and maintained by the Forest Department for a period of seven (07) years at the cost of the Applicant. Estimate cost of this activity is about Rs.9.35 Crores. The Applicant undertakes that as soon as the demand note from the Forest Department is received for such afforestation work as well as NPV value, the said amount will be expeditiously remitted to the Forest Department.

9. We have already considered similar Applications earlier and highlighted the need of carrying out the compensatory afforestation and re-plantation *pari passu* the project development activities. The relevant observations in *Application No.118/2015* are reproduced for ready reference:

*“6. We have also considered similar Applications in the past. We have noted that though the project authority deposits necessary funds in CAMPA for compensatory afforestation, besides identification of land for compensatory of afforestation, there is always a time-lag between actual cutting of the trees and compensatory afforestation. In the instant case, the Deputy Conservator of Forest who was present during the final hearing, fairly*

*admitted that it will take some time, may be about a year to receive the financial grants and for carrying out plantation work as proposed. We have already noted in Application No.57/2015 (The National Highways Authority of India Vrs. Chief Secretary, Govt. of Mah. & Ors.) that depositing of funds in CAMPA and its release to the Field Offices generally takes substantial time, may be in years and therefore, the trees are cut and only after a substantial time-lag, compensatory afforestation is practiced. This cannot be called "Sustainable Development" and defeats the very purpose of concept of compensatory afforestation. It is, therefore, necessary that the activities of tree cutting and plantation should be carried out Paripassu, if not possible atleast at the first available season suited for the plantation purpose."*

**10.** The proposed project aims at providing efficient transmission of electricity for overall socio-economic development. The Applicant has obtained in-principle Forest Clearance. The Applicant has undertaken to deposit the required funds for afforestation as well as NPV immediately on receipt of such demands from the Forest Department.

**11.** We are also conscious of the fact that the Forest Clearance granted under Forest Conservation Act,



1980 is appealable before this Tribunal and therefore, this Application seeking leave of the Tribunal to initiate the project activities within 10 Kms from the sanctuaries/eco sensitive areas cannot be and shall not be construed as any appellate proceedings. This Application is an application simplicitor seeking leave of the Tribunal under specific directions issued in its Order dated 13<sup>th</sup> January, 2014 in Application No.135(THC)/2013.

**12.** In view of the above, the Application is allowed and leave is granted in terms of our Order in the Judgment in (Original Application No.135/2013, **Shobha Phadnavis Vrs. State of Maharashtra & Ors.**) with following conditions:-

- (i) The Applicant shall deposit the amount claimed by the Forest Department for compensatory afforestation and the NPV value, within fifteen (15) days from the date of receipt of such claim from the Forest Department.
- (ii) The Applicant in the meantime shall carry out plantation of at least 1696 trees of native species in this monsoon season(2016) without awaiting the start of the project construction activity through the Forest Department in the

affected area. This plantation is over and above as stipulated independently in the Forest Clearance.

(iii) The actual construction activity shall commence only after making necessary payment to the Forest Department as referred above.

**13.** Forest Department is directed to ensure compliance and periodically submit six (06) monthly report for next three (03) years to this Tribunal.

**The Execution Application No.16/2016 is accordingly disposed of. No costs.**

....., **JM**  
**(Justice U.D. Salvi)**

....., **EM**  
**(Dr. Ajay.A. Deshpande)**

**Date : 8th July, 2016**  
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