

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH
BHOPAL**

Original Application No. 141/2013 (CZ)

CORAM:

**Hon'ble Mr. Justice Dalip Singh
(Judicial Member)**

**Hon'ble Mr. P.S.Rao
(Expert Member)**

BETWEEN:

1. Umesh Tiwari
S/o Sri Bansh Gopal Tiwari,
Organizer of Roko, Toko,
Thoko Krantikari Morcha, Uttar Karondiya,
College stadium Marg, Sidhi
Sidhi District (M.P.)
2. Harishankar Tiwari
S/o Shri Shambhu Prasad Tiwari,
R/o Village, Majhigawan,
Tehsil Rampur Naikin,
District Sidhi (M.P.)

.....Applicants

Versus

1. Union of India
Through Secretary,
Ministry of Mines, Shastri Bhawan,
C-Wing, Dr. Rajendra Prasad Road,
New Delhi
2. Secretary
Ministry of Environment and Forests,
Govt. of India, Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi.

3. State of Madhya Pradesh
Through Principal Secretary,
Mineral Resources Department,
Mantralaya, Vallabh Bhawan,
Bhopal (M.P.)
4. Principal Secretary
Forest Department,
Mantralaya, Vallabh Bhawan,
Bhopal (M.P.)
5. Commissioner,
Rewa Division, Rewa (M.P.)
6. Collector,
Sidhi, District Sidhi (M.P.)
7. Collector,
Satna, District Satna (M.P.)
8. Jaiprakash Associates Ltd.
Through its Managing Director,
Registered Office,
Sector 128, Noida (U.P.)
9. Sunny Gaur
Managing Director,
Jaiprakash Associates Ltd.,
Regional Office, Narmada Sadan,
E-1/109, Arera Colony,
Bhopal(M.P.)

.....Respondents

Counsel for Respondent No. 1 & 2 :
Counsel for Respondents No. 3 to 7 :
Counsel for Respondents No. 8 & 9 :

Shri Om. S. Shrivastav, Adv.
Shri Sachin K. Verma, Adv.
Shri Naman Nagrath, Sr. Adv.
with Shri Qasim Ali, Adv.

Delivered in Open Court by
Hon'ble Mr. Justice Dalip Singh, Judicial Member

1. This original application which was filed before the Hon'ble High Court of Madhya Pradesh at Jabalpur by way of Writ Petition No. 20307/2013 which came to be transferred to this Tribunal vide order of the Hon'ble High Court dtd. 27.11.2013. Notices were issues and the matter was heard on 07.02.2014. Since the Original Writ Petition challenged the grant of the Forest Clearance (for short, 'FC') in the Kaimur range, Budhgoan Forest Block in Sidhi District (M.P.) to the Respondent No. 8 the Project Proponent, the issue was considered under the order dated 07.02.2014 and it was found that as far as the challenge to the FC is concerned which is dated 12.11.2012, was beyond the limitation as the Writ Petition filed on 18.11.2013 itself was beyond the limitation for preferring an Appeal before the Tribunal under section 16(h) of the National Green Tribunal Act, 2010. As such, so far as challenge to the FC is concerned, this Tribunal held that the application is barred by limitation, however only on alternative, the Tribunal accepted the plea on behalf of the Counsel for the Applicant as it was contended that there had been specific violations and breach of the conditions of FC and its non-compliance. To the limited extent

to ensure compliance of the conditions of the FC, the matter was kept pending. The aforesaid issue with regard to the alleged non-compliance of the terms of the FC was raised by the Applicant based upon the letter of the Respondent State of MP written to the Additional PCCF (Land Records) dated 24.11.2012 wherein it is mentioned that compensatory afforestation was required to be carried out.

2. Vide our order dated 01.04.2014, the reply of the State was sought and was directed to submit their affidavit with regard to the same.
3. On 18.07.2014, the State submitted its reply by way of response to the order dated 01.04.2014 which is as follows:
 - i. *That, the Hon'ble Tribunal vide order dtd. 01.04.2004 and the subsequent order dtd. 28.04.2014 directed the State Government to file an affidavit, thereby the specifically indicating as to whether the compliance of the condition no. 2 pertaining to the compensatory reforestation and utilization of the amount in terms of the scheme is done by State Government.*
 - ii. *That the Respondent most respectfully submits that, the project proponent in the instant case have been allotted mining lease 66.949 hectares forest land at compartment no. 1119 of the Budhgoan Forest Block for excavation of lime stone. The project proponent have been further allotted 54.825 hectares of land for excavation of lime stone at the compartment No. 1121 of Majhgaon Forest Block, the aforesaid mining lease have been sanctioned with due forest clearance from the Ministry of Environment and Forests, Government of India. The conditions enumerated in the forest clearance give to the Project Proponent put forth the condition regarding afforestation on the area equivalent as sanctioned for mining in the forest area. The aforesaid afforestation was directed to be done at the expense of the project proponent on the land to*

be acquired by the project proponent and thereafter transferred to the forest department.

- iii. That, it is most respectfully submitted that the amount which is required to be used for compensatory afforestation is deposited in the Ad-hoc CAMPA fund of the Government of India which in turn is granted to the State Government specifically for afforestation on the land acquired by the project proponent.*
- iv. That the project proponent has acquired 54.825 hectares and 66.949 hectares of non-forest land respectively at District Chhattarpur and has duly handed over the said land to the Forest Department, District Chhattarpur according to the conditions of the forest clearance accorded to the project proponents.*
- v. That, the funds which were deposited in the Ad-hoc CAMPA fund of the Government of India has not been released in the year 2013-14 and has been released in the financial year 2014-15 by the Government of India, whereby the Forest Department would immediately use the aforesaid fund in compliance of the directions of Ministry of Environment and Forests, Government of India and the afforestation on the aforesaid non-forest land shall be done accordingly this year.*
- vi. That, the compliance report pertaining to the forest clearance accorded to the project proponents in the instant matter has been submitted by the Divisional Forest Officer (T), Forest Division, Sidhi (M.P.) to the Chief Conservator of Forest, Rewa Circle.*

4. It is therefore, evident that the necessary amount towards compensatory afforestation has been collected from the User Agency and the funds have been deposited under Ad-hoc CAMPA. The said amount has also been released to the State Government and the State Government is bound to utilise the same in accordance with the scheme which has already been formulated and areas identified for the said purpose. It has also been stated by the State that the Project

Proponent has acquired land measuring 54.825 hectares and 66.949 hectares which is non-forest land in District Chhatarpur and handed over the same to the Forest Department.

5. From the response of the State, we are therefore satisfied that the objections raised by the Applicant based upon the conditions of the FC pertaining to compensatory afforestation, deposition of the amount under the CAMPA fund and the providing the same to the State Government for being utilized, stands complied with. Accordingly we dispose of this application.
6. In view of the above, the Original Application No. 141/2013 stands disposed of. No order as to cost.

(Mr. Justice Dalip Singh)
Judicial Member

(Mr. P.S.Rao)
Expert Member

Bhopal:
8th September, 2014

NGT