

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE) BENCH, PUNE  
APPLICATION NO.118/2015(WZ)**

**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 India Limited,**

(A Govt. of India Enterprise)

Through Its Asstt. General Manager,

Mr. N.C. Rameshan, A.G.M.

Power Grid Corpn. Ltd.

Western Region Transmission System-2

400KV Sub-Station, Boisar,

Distt. Palghar.

.....Applicant

**A N D**

**1. Ministry of Environment,  
Forest and Climate Change,**  
Govt. of India, Regional Office,  
Nagpur, Through : The Conservator  
of Forest (Central), At Ground Floor,  
East Wing, New Secretariat Bld.  
Civil lines, Nagpur 400 001

**2. Chief Conservator of Forest  
(Thane Circle),**  
12 Bungalow Area, Kopri,  
Near Micor Wave Tower  
Thane (East)

**3. The Deputy Conservator of Forest,**  
Jawhar Forest Division, Jawhar,  
Taluka Jawhar, Distt : Palghar.

.....Respondents

**Counsel for Applicant**

Mr. Asim Sarode, a/w.

Mrinalini Shinde and Shivani Kulkarni

**Counsel for Respondent Nos.2 & 3 :**

Mr. A.S. Mulchandani, A.G.P. a/w

Priti Mandhan,

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**Date: November 20<sup>th</sup>, 2015**  
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**JUDGMENT**

**1.** The present Application is filed by Powergrid Corporation of India Ltd., a Government of India Enterprises, seeking permission of this Tribunal to cut some trees in 3 (three) mtrs. wide strip of land below the conductor 400 KV electricity transmission line, to be laid from Kala to Kudus falling within 10 kms. area from boundary of Tansa Wild life sanctuary.

**2.** The Hon'ble High Court of Judicature of Bombay, Nagpur Bench in Writ Petition No.1277/2000 on 30<sup>th</sup> April, 2004 passed an order directing the State to comply with the policy decision taken by Central Government for protecting environment and therefore imposed restrictions on felling of trees within 10 k.m. area from the boundaries of National Park of Sanctuary, notified as eco-sensitive area. On 4<sup>th</sup>

October 2004, the Hon'ble High Court further clarified that if the Court is furnished with all the necessary data and steps taken by the State Government in taking up the matter with the Competent Authority, it may be possible to consider review of such restrictions. Subsequently, by order dated 27<sup>th</sup> April, 2005, the Hon'ble High Court noted that the State Government has not come before the Court with comprehensive plan to protect and preserve the eco-sensitive and eco-fragile zone around National Park and Wild Life Sanctuary and further directed that in case the State Government has got any specific clearance to carry out non-forest activity from the Ministry of Environment and Forest, they can bring the notice from the Court and proceed in accordance with the working plan sanctioned by Central Government.

**3.** This Writ Petition No.1277/2000 was transferred to this Tribunal which was registered as Original Application No.135/2013 (Western Zone) which was finally disposed of by the judgment dated 13<sup>th</sup> January, 2014. Considering the precautionary approach taken by the Hon'ble High Court and non-submission of the data and information collected by the State even before this Tribunal, the restrictions imposed by the Hon'ble High Court were continued for the execution purposes only.

**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.** Now coming back to the particular case, the project proponent has got necessary permissions and the forest department filed an affidavit stating that certain amount has been deposited for the re-plantation besides the CAMPA Fund. In the present developmental activity, it is proposed that 147.242 Hec. of forest land will be diverted. Total 275 number of trees will be required to be cut besides 590 trees which will be trimmed/lopped as and when required for safety purpose. The Forest Department has proposed

compensatory afforestation on 295 Hec. of degraded forest area and approximately with plantation of 3,54,000 plants to be maintained for seven (7) years at the cost of the project authority for estimated cost of Rs.10.15 Crores (Rs. Ten Crores fifteen lakhs) by the Department of Forest. In addition as a special measure, 3,54,200 medicinal plants will be planted at the approximate cost of Rs.5.12 Crores (Five Crores twelve lakhs). Other environmental measures like Soil Conservation, construction of Vanatalao, cement Bandhara etc. are also planned at the cost of project proponent.

**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.

7. The project aims of providing the efficient transmission of electricity which is the basic requirement of overall social development. The number of trees which are to be cut is 275 only, when compared to forest area diversion of about 147 Ha. of area. We, therefore, allow this Application with additional condition that atleast double the number of trees shall be immediately planted before starting of the project, at the cost of the Applicant which is over and above the funds which are already deposited with the forest department. This plantation shall be carried out immediately by providing additional funds directly to the local forest office by the project proponent.

8. With this condition, the Application is allowed. Granted leave in terms of our Order in the Judgment in (Original Application No.135/2013, **Shobha Phadnavis Vrs. State of Maharashtra & Ors**) and the forest department is

directed to ensure compliances and submit six (6) monthly report for next three (3) years to this Tribunal. The Powergrid Corporation of India Ltd. through its internal mechanism should also, as part of compliance of environment/forest clearance, engage themselves in ensuring that compensatory afforestation is carried out as per the proposed plan and should provide all the necessary assistance and support to the forest department for successful compensatory afforestation. We are, hopeful that organization like Powergrid Corporation will not consider mere payment of compensatory afforestation as compliance of conditions and would also get involved in monitoring of progress of compensatory afforestation, as a part of corporate environmental governance, and will avoid further complications/directions in this behalf.

The Application is accordingly disposed of. No costs.

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

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

**Date : November 20<sup>th</sup>, 2015**

**ajp.**