

Item No. 05

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 287/2023

Mushtaq Ahmad Malik

Applicant

Versus

Ministry of Environment, Forests
& Climate Change & Ors.

Respondent(s)

Date of hearing: 20.04.2023

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Rahul Khurana & Mr. Hasil Jain, Advocates

ORDER

1. Grievance in this application is against use of snow bikes in and around the Gulmarg Wildlife Sanctuary and Eco Sensitive Zone in terms of notification dated 7.6.2021 issued by the MoEF&CC under the EP Act, 1986. Case set out in the application is that snow bikes use petrol which has harmful impact on the ecology. Weight of the bikes impacts the soil and the vegetation underneath the snow. Such activities also result in encroachments and loss of grasslands.

2. Reference has been made to Notification dated 07.06.2021 whereby area of 62.2 square km around the sanctuary is proposed to be notified as Eco Sensitive Zone. Relevant part of the Notification is extracted below:-

“MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 7th June, 2021

S.O. 2182(E).— *The following draft of the notification, which the Central Government proposes to issue in exercise of the powers conferred by sub-section (1), read with clause (v) and clause (xiv) of sub-section (2) and subsection (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) is hereby published, as required under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, for the information of the public likely to be affected thereby; and notice is hereby given that the said draft notification shall be taken into consideration on or after the expiry of a period of sixty days from the date on which copies of the Gazette containing this notification are made available to the public;*

Any person interested in making any objections or suggestions on the proposals contained in the draft notification may forward the same in writing, for consideration of the Central Government within the period so specified to the Secretary, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jorbagh Road, Aliganj, New Delhi-110 003, or send it to the e-mail address of the Ministry at esz-mef@nic.in

xxxxxx.....xxx

NOW, THEREFORE, *in exercise of the powers conferred by sub-section (1) and clauses (v) and (xiv) of sub-sections (2) and (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) (hereafter in this notification referred to as the Environment Act), read with sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby notifies an area to an extent varying from zero (0) to 4.1 kilometers around the boundary of Gulmarg Wildlife Sanctuary, in Baramulla District in the Union Territory of Jammu and Kashmir as the Gulmarg Wildlife Sanctuary Eco-sensitive Zone (hereafter in this notification referred to as the Eco-sensitive Zone) details of which are as under, namely:*

1. Extent and boundaries of Eco-sensitive Zone. – (1) *The Eco-sensitive Zone shall be of 62.2 square kilometers with an extent of zero (0) to 4.1 kilometers around the boundary of Gulmarg Wildlife Sanctuary. The ‘zero’ extent of Eco-sensitive Zone in some directions is proposed as the areas have tourist potential and the population living around the Gulmarg Wildlife Sanctuary mainly are dependent on tourist activities. If the entire area is included within the Eco-sensitive Zone, then livelihood of the villagers will be directly affected.*

xxxxxx.....xxx

4. List of activities prohibited or to be regulated within Eco-sensitive Zone:xxx.....xxx

S. No.	Activity	Description
A. Prohibited Activities		
xxx	xxx	xxx.....xxx
xxx	xxx	xxx
9.	Undertaking other activities related to tourism like over flying over the Eco-sensitive Zone area by hot air balloon, helicopter, drones, Microlites, etc	Prohibited.

”

3. The applicant has also relied upon letter dated 21.02.2023 of Wildlife Range Gulmarg addressed to the Director Tourism, Srinagar on the subject of Unauthorized plying of Snow bikes in Gulmarg Wildlife Sanctuary at Kangdori Gulmarg as follows :-

*“With regard to above cited subject matter it is to inform your good office that **your Department at Gulmarg allowing the snow bike operators to ply their vehicles in Gulmarg wildlife sanctuary in Co. 50 at kangdori which is illegal** and an offence under The Wildlife (Protection) Act, 1972, Section 27 Sub Section(3) and also punishable under Section 51(1) which reads any person who contravenes any provision of this Act(except chapter VA and Section 38J) or any other rule or order made thereunder or who commits a breach of any of the conditions of any license or permit granted under this Act, shall on conviction, be punishable with imprisonment for a term which may extend to three years or with fine which may extend to 25000 rupees or both.*

It is also pertinent to mention here that due to these snow bikes the natural habitat of many wild animals is being disturbed and force these animals to leave their natural habitat and settle down in human habitation which leads to many man animal conflicts. In view of above and to avoid such incidents your goodself is as such requested to pass directions to stop the entry of snow bikes in Gulmarg wildlife sanctuary immediately.

Early action and positive response at your end is solicited please, so that higher-ups of the Department including commissioner Secretary forests can be apprised at the earliest.”

4. On due consideration but without expressing any opinion on merits at this stage, we consider it appropriate to direct that the matter be

looked into and such remedial action taken in accordance with law as found appropriate by the ACS, Forest and Environment, J & K.

The application is disposed of.

A copy of this order be forwarded to ACS, Forest and Environment, J & K by e-mail for compliance.

The applicant may serve a set of papers on ACS, Forest and Environment, J & K and file affidavit of service within one week.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

April 20, 2023
Original Application No. 287/2023
SN