

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

Execution Application No. 22/2017

In

O.A. No. 327/2015

Doaba Paryavaran Samiti

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 10.04.2019

CORAM:

**HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s)

Mr. Gaurav Kumar Bansal,
Advocate

For Respondent(s)

Mr. Rahul Verma, AAG for State
of Uttarakhand
Mr. Krishna Kumar Singh,
Advocate for MoEF

ORDER

Heard the learned counsel for the parties.

This execution application has been filed in relation to order dated 10.12.2015 passed in original application no. 327/2015. While deciding the said application, primarily the following directions were passed:

- 1. The State of Uttarakhand shall take immediate steps to submit its proposal for notification of eco sensitive zone covering Kedarnath Wildlife Sanctuary as well as the Wildlife Sanctuary. This proposal must be submitted to Ministry of Environment, Forest and Climate Change within 3 months from the date of pronouncement of this judgment.*
- 2. Ministry of Environment, Forest and Climate Change shall take consequential steps with utmost expeditiousness thereafter.*
- 3. We decline to prevent flying of helicopters in that area However, we direct the State Government to issue specific*

directions in consonance with the aviation policy with specific reference to the Eco Sensitive Zones of Kedarnath Wildlife Sanctuary in relation to height and level of noise that the helicopter being used by the company should be permitted to generate. We direct the Uttarakhand Environment Protection and Pollution Control Board to give their input to the State Government within 2 weeks of passing of this order.

4. Issuance of such notifications and other requisite steps as may be directed by the central government, the State Government shall issue measures and steps which should be taken by the company based on the Precautionary Principle.”

In so far as the directions with regard to eco sensitive zone covering Kedarnath Wildlife Sanctuary is concerned, the learned counsel for MoEF submits that the final notification has been prepared but only on account of code of conduct for parliamentary election is in force the same could not be notified. He further submits that a request for permission has already been sent, to the Election Commissioner of India. As soon as the same is received it shall be notified.

Another direction is with regard to flying of helicopters which was in consonance with aviation policy, with specific reference to the Eco Sensitive Zones of Kedarnath Wildlife Sanctuary. In furtherance thereof respondent State has filed a status report wherein it has been stated as under:

11. It is further submitted that based on the WII report the specific actions are taken by the answering respondents and the same are as follows:

(i) For the implementation of above recommendations, a meeting was held on 26-05-2017 at Rampur (Ukhimath) under chairmanship of Conservator of Forest / Director, Nanda Devi Biosphere Reserve. Deputy Conservator of Forest Kedarnath Wild life Forest Division, Sub Divisional Magistrate Ukhimath, Rudraprayag District and

representatives of almost all helicopter companies operating in the Kedarnath valley participated in the meeting. The minutes of the meeting were circulated to all concerned vide letter of Deputy Conservator of Forest Kedarnath Wildlife Division office letter no. -4810/26-1(5), dated 27-05-2017 (Page Nos.144 to 146 of record of this Hon'ble Tribunal). The helicopter service operators were instructed to maintain the helicopter flight heights to at least 600 m (2000 feet) with the exception of take-off and landing time. Further for proper regulation of minimum flight height, sound intensity and other recommendations, Additional CEO - Uttarakhand Civil Aviation Development Authority (UCADA), Sahastradhara Aerodrome, Dehradun was requested, as it is their mandate to regulate all helicopter services in the valley and a request to this regard was sent to him vide Principal Chief Conservator of Forest /Chief Wildlife Warden, Uttarakhand vide letter no. 3128/19-1 dated 09-06-2017 and Conservator/Director Nanda Devi Biosphere Reserve vide letter no. 1004/26 1(5), dated 14-09-2017 and letter no. 1144/26-1(5) dated 23-09-2017 (Page No.147 of record of this Hon'ble Tribunal). Any deviation from the prescribed norms of 600 meters' flight height was not reported by UCADA to the forest department in the Yatra season 2017.

(ii) The permission is given to various helicopter service providers to fly in Kedarnath Valley during the Kedarnath Yatra season by Uttarakhand Civil Aviation Development Authority (UCADA). After the shortlisting of various helicopter service providers, a permission letter is issued by CEO-UCADA. In the permission letter issued to shortlisted Helicopter Service providers in Kedarnath Yatra season 2017 they were instructed to fly the helicopters at 600m over the sanctuary area except take off and landing times and share the flight GPS data generated during the flight. Photocopy of the said letter is annexed hereto and marked as ANNEXURE A-1.

(iii) Constant manual monitoring of flights was also done in 2017-18 Yatra season by the territorial field staff of the forest department during their field visits and patrolling in Kedarnath Wildlife Sanctuary, and utmost care has been ensured in this regard. During Kedarnath Yatra season of 2017-18 regular inspections were made by forest officials of the operational helipads the detail of which are given below.

Inspections by Deputy Conservator of Forest, Kedarnath were done on 26-05-2017, 04-06-2017 and 05-06-2017.

Inspections by Sub Divisional Officer Kedarnath were done on 26-05-2017 and 26-06-2017

Photocopy of the tour dairy of the above officers is annexed hereto and marked as ANNEXURE A-2.

(iv) In compliance of above specific measure (II) of the WII Report, a direction to DCF Kedarnath wild life sanctuary has already been issued by Conservator/Director Nanda Devi Biosphere Reserve for procurement of laser distometers/Laser range finders or LIDAR gun and other necessary instruments for the measurement of flight height, and sound intensity etc. and to set up independent stations inside the wildlife sanctuary area. DCF Kedarnath wild life sanctuary has set up the monitoring stations inside the Kedarnath Wildlife Sanctuary and Laser distometers / Laser Range Finders have been installed. The GPS locations of the monitoring stations set up inside the sanctuary is as follows. Photocopy of the Map is annexed hereto and marked as ANNEXURE A-3.

*a. Station 1: Bhimbali Station (2668 m above msl)
GPS coordinates: 30°41'27" N 79°03'10.5" E*

*b. Station 2: Lincholi Station (2730 m above msl)
GPS coordinates: 30°41'24" N 79°03'13.6" E*

(v) The Kedarnath Yatra is scheduled to start from 29th April in 2018 and the helicopter services will start operating in Kedarnath Valley during the course Kedarnath Yatra. A register will be maintained at both monitoring stations and the height measurement entries of helicopters taken at different time intervals will be documented.

(vi) Another point in the recommendation of WII report was to monitor the impacts of helicopter flights on wildlife which could be carried out on a regular basis (every 3 to 5 years) including stress hormone studies so that a comprehensive database can be developed for rigorous statistical analysis. In this regard the next study is proposed in the year 2019-2020 to generate database for statistical analysis.

(vii) In compliance of above specific measure III of the WII Report regarding construction of Ropeways for the transportation of pilgrims from Gaurikund to Kedarnath temple a TEFS study is in progress by the Tourism Department and after the study is completed, a DPR will be prepared for the construction of the Ropeway. Within the TEFS study the Tourism department has completed the Site

reconnaissance, Alignment and terminal station option analysis, Consultations, Geology and other Investigations, E-site topographic study and the E-study will be completed within next 2 months. Photocopy of the progress of study for proposed construction of Kedarnath Ropeway is annexed hereto and marked as ANNEXURE A-4.

Along with the aforesaid averments made by the State Government the requisite documents on the basis of which the same has been submitted, has been filed along with as Annexure A-1, A-2, A-3 and A-4.

After having gone through the order passed by the Tribunal on 10.12.2015 and the submission/reply given by the respondents, we are of the considered view that appropriate steps have been taken for compliance of the order, particularly in respect of flying helicopters. As mentioned above the notification for Eco Sensitive Zones of Kedarnath Wildlife Sanctuary shall be issued, as soon as the order is received from the Election Commission. As substantial compliance have been made, we do not find any just reason for further direction in this execution application.

Accordingly, Execution Application No. 22/2017 in Original Application No. 327/2015 stands disposed of, with no order as to cost.

Raghuvendra S. Rathore, JM

Dr. Satyawan Singh Garbyal, EM

April 10, 2019
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