

Item No. 2

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL**
(Through Video Conferencing)

Original Application No. 49/2023(CZ)

Rajendra Tiwari

Applicant

Vs.

Union of India & Ors.

Respondent

Date of Hearing: **26.09.2023**

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. A SENTHIL VEL EXPERT MEMBER**

For Applicant(s): Mr. Vaibhav Pancholy, Adv.

For Respondent(s): Mr. Rohit Sharma, Adv.
Mr. Shoeb Hasan Khan, Adv.
Mr. Dharamvir Sharma, Adv.

ORDER

1. The main question involved in this application is the encroachment on the forest area in violation of Wildlife Sanctuary Act and Regulations. This Tribunal vide order dated 13.07.2023 narrated the facts as follows :-

"1. Later on, a notification was issued under Section 18 on Wildlife Protection Act, 1972 on 22.09.1980, declaring certain area as Nahargarh Wildlife Sanctuary, which included the land of village Nahargarh Khasra no.93. Vide Notification dated 08.03.2019, Government of India declared certain area around Nahargarh Wildlife Sanctuary as Eco-Sensitive Zone which is from 0-13 Kms. around the sanctuary boundaries of Nahargarh Wildlife Sanctuary

2. There is a natural drain running in the Wildlife Sanctuary, passing through Khasra No. 93, village Nahargarh which comes from a water fall named 'Prabhat Puri Ka Khola' and merges ultimately with Jalmahal Lake, therefore, a source of water recharge of the water body i.e., Jalmahal Lake.

3. Applicant notice that recently some construction activities have started by converting natural drain with permanent construction, where against applicant made complaint/representation vide letter dated 11.06.2023. Respondents 11 to 14, however, are adamant to go ahead with the above construction over the said natural drain in Khasra no.93, village Nahargarh.

4. Assistant Conservator of Forest, Nahargarh, Wildlife Sanctuary in furtherance of applicant's representation/letter dated 11.06.2023, prepared a factual report on 16.06.2023, and informed Deputy Conservator of Forest Wildlife, Jaipur to take effective steps for stopping the said construction and also to raise fencing on sides of drain but no effective steps have been taken so far. Assistant Conservator of Forest has also sent letter 14.06.2023 to Executive Engineer, Nagar Nigam stating that the construction, in dispute, is contrary to the provisions of Wildlife Protection Act, 1972 and Forest Conservation Act 1980 but the officials of Nagar Nigam have not taken care of the said letter.”

3. A committee was constituted with the direction to submit the report. The committee has submitted the report with the records filed by Forest Department. Deputy Conservator of Forest and Nahargarh Wildlife Sanctuary vide letter dated 14.06.2023 communicated the Municipal Corporation, Jaipur containing the facts that tender has been issued for construction of certain activities, which is in violation of Wildlife (Protection) Act, 1972 and Forest Act, 1980. No permission has been taken from the Forest Department.
4. Municipal Corporation was directed to submit the reply and further to take remedial actions but no reply has been filed. None is present on behalf of Municipal Corporation. Admittedly land/area is of forest area within the Nahargarh Sanctuary and any activities in violation of rules are not permitted.

5. The version of the forest department is that inspite of the repeated requests/letter, the Municipal Corporation, Jaipur has not acted in accordance with the rules and issued tender notification for construction.
6. In view of the above facts, we direct that no construction be continued in violation of Wildlife (Protection) Act, 1972 and in violation of Forest Act, 1980. Rajasthan State Pollution Control Board is directed to take remedial actions and calculate the environmental compensation according to the rules.
7. Respondent Nos. 2, 4, 5, 6 and 7 have submits their reply today. Rest of the respondents are directed to submit their reply within fortnight. Municipal Commissioner, Jaipur and Executive Engineer, Jaipur are directed to remain present through video conferencing at the time of hearing with the facts of this case.
8. State Pollution Control Board is further directed to see the cutting/damaging of the trees and also include it in assessment of the environmental compensation.
9. Learned counsel for the State Pollution Control Board has submitted that vide order dated 13.07.2023 in para 10 additional remuneration has been fixed to private persons and in para 8, the committee constituted are of the state officials. Thus, para 10 dealing with the remuneration is not required accordingly para 10 of the order dated 13.07.2023 is recalled.

List it on **01st November, 2023.**

Sheo Kumar Singh, JM

Dr. A Senthil Vel, EM

26th September, 2023
O.A No. 49/2023(CZ)
PN