

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

(By Video Conferencing)

Original Application No. 41/2015

Umashankar Patwa & Ors.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

(Earlier titled as D.K. Joshi Vs. Union of India & Ors.)

With

Original Application No. 189/2014

Umashankar Patwa & Ors.

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Respondent(s)

(Earlier titled as D.K. Joshi Vs. Union of India & Ors.)

Date of hearing: 18.09.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant(s): Mr. Raj Panjwani Senior Advocate with Mr. Rahul Choudhary,
Advocate

Respondent(s): Mr. Pinaki Misra, Senior Advocate with Mr. Ajit Sharma, Advocate
for Anand Engineering College and Hindustan Institute of
Technology & Management
Mr. Divya Prakash Pandey, Advocate for MoEF&CC with Mr.
Satish Garkoti, Advisor, MoEF&CC
Mr. Bhanwar Pal Singh, Advocate for State of UP
Mr. Pradeep Misra, Advocate for UPPCB

ORDER

1. The question for consideration is whether Hindustan Institute of Technology & Management, Agra (HIT) (Respondent No. 5 in O.A. No. 41/2015) and Anand Engineering College, Agra (AEC) (Respondent No. 5

in O.A. No. 189/2014) are within the Wildlife Sanctuary notified by the State of Uttar Pradesh as “Soor Sarovar Bird Sanctuary” vide Notification dated 27.03.1991 in District Agra, under Section 18 of the Wild Life (Protection) Act, 1972. If it is within the Wildlife Sanctuary, restrictions under Section 27 will apply and the setting up of the said colleges itself may be questionable.

2. The matter has been considered by the Tribunal on several occasions in the last six years and on 09.04.2019 after referring to the earlier proceedings, the Tribunal observed:

“8. We are of the view that opinion of the MoEF&CC may be required on the following issues:

- i. Whether the restriction under the Wild Life (Protection) Act, 1972 will apply to the entire area, including the area beyond 403.09 ha indicated by blue line.*
- ii. Whether any restriction applies to the area outside the protected area of ‘403.09 ha’. This question may also require consideration of safety zone or buffer zone adjacent to the Bird Sanctuary. We also find from the document ‘Eco-Sensitive Zone of Soor Sarovar Bird Sanctuary’ that area of ESZ is 1020.25 ha while the protected area proposed is 403.09 ha.*
- iii. Further question will be regulation of other structures or activities falling in the proposed ESZ and the mitigation steps required and proposed.*

9. The MoEF&CC may furnish its report in the matter within two months by e-mail at ngt.filing@gmail.com. State of UP/Chief Wild Life Warden, UP may provide copies of relevant official record within two weeks to MoEF&CC.”

3. We have today heard the matter again with the assistance of Advisor, MoEF&CC, who is present in person and who has also had some discussion with the Department of Wildlife. He submits that there is discrepancy which needs to be resolved by the State Government, with the assistance of the concerned central authorities. We find that even though the protected area described by the blue line in the map is 403.09 ha, the area of the sanctuary is said to be 1020.25 ha, which

includes 403.09 ha. There are constructions outside 403.09 ha but within 1020.25 ha. If they are part of the Wild Life Sanctuary, under Section 27 of the Wild Life (Protection) Act, 1972, such constructions are not allowed and are illegal unless the boundary of the wild life sanctuary itself is changed under Section 26A of the Act. The constructions in question are said to be after the 1991 notification. Thus, either it should be clearly declared that the area is part of the wild life sanctuary and in such case all constructions in the said area should be removed or the boundary of the wild life sanctuary itself should be appropriately demarcated and laid down.

4. Let this be done by a joint Committee of Chief Wildlife Warden, UP, nominees of National Board for Wildlife and Forest Division of MoEF&CC. The nodal agency will be the nominee of the National Board for Wildlife for coordination and compliance. The first meeting of the Committee may be held (either physical or virtual) within one month from today. The State of UP may provide all necessary assistance to the Committee to execute its work. Report may be furnished by the Committee to this Tribunal within three months by e-mail at judicial-ngt@gov.in, preferably in the form of searchable PDF/OCR Support PDF, and not in the form of Image PDF.

List for further consideration on 10.02.2021.

A copy of this order be forwarded to the Chief Wildlife Warden, UP, National Board for Wildlife and MoEF&CC by e-mail for compliance.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

September 18, 2020
Original Application No. 41/2015
& Original Application No. 189/2014
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