

Item No. 01

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 04/2019 (EZ)

Alaya Samantaray & Anr.

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

Date of hearing: 15.07.2019

**CORAM : HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s): Mr. Sankar Prasad Pani, Advocate

For Respondent (s): Mr. Soumyajit Pani, Advocate and Mr. Sarad Kumar Sahoo (ACF) for State of Odisha.
Mr. Gora Chand Roy Choudhury, Advocate for Respondent No. 6.

ORDER

1. Report has been received from the Collector and District Magistrate, Kendrapada and the Divisional Forest Officer, Cuttack. The observations contained in the report are as follows :

- a. *The team observed that the Project Mega Piped Water Supply is sanctioned by the Government of Odisha PR & DW Department to mitigate the acute drinking water scarcity in that area for 46703 nos of households i.e. 265177 nos. of individuals.*
- b. *That the team observed that there is no tree felling over the alleged forest land and there is no forest growth over the alleged plot except few numbers of Acacia species on the boundary of the plot.*
- c. *That the team observed that the above area recorded under mouza Manikunda, Plot No. 363 & 323, Khata No. 644 under Marsaghi Tahasil having kissam Gramya Jungle under Revenue Department.*
- d. *The Team observed that the Executive Engineer, RWS &S Division, Kendrapada continuing the Mega Piped Water Supply Project work over the alleged land by constructing masonry compound wall over 179 Rmt, temporary labour shed over 540 sqft. construction*

of bore well and treatment plant and stored the construction materials, though it has been clearly instructed to stop all the work over the forest land during the last inspection 7th March, 2019.

- e. Due to disobedience of the instruction of the Committee as instructed on 7th March, 2019, the Collector and DM, Kendrapada imposed fine amounting to Rs, 50.000.00 to the construction contractor L & T.*
- f. Two nos. of application for two villages through Gram Sabha in the proper format with all connecting documents for diversion of forest area less than 1 ha. Under Section 3 (2) (g) of ST & OTFD Act, 2006 submitted by the Executive Engineer, RWS & S Division, Kendrapada has been processed & allowed for use of Forest land with certain term & condition for above Project.*
- g. The permission accorded for use of forest land to mitigate the normal drinking water scarcity to 200 nos. of villages of Mahakalpada & Marshaghai Block in Kendrapada District & Sever drinking water scarcity created after severe cyclone "FANI" in the above district."*

2. The substance of the aforesaid observation is that applications under Section 3 (2) (g) of ST&OTFD Act, 2006 for diversion of forest submitted by the Executive Engineer, RWS&S Division, Kendrapada for area measuring less than 1 hectare has been processed and use of the forest land allowed under certain terms and conditions. This, however, obviously pertains only to two villages and does not give a clear picture as to whether or not other areas are also involved. If the entire project involves an area of only 1 hectare or less, application for forest clearance would not be necessary. It is not certain as to whether the activity is restricted to 1 hectare or less.

3. We, therefore, seek necessary clarification from the same Joint Committee of the Collector & DM Kendrapara and the DFO, Cuttak on the above and submit a report through email at judicial-ngt@gov.in, before the next date.

4. In the meanwhile the MoEF&CC shall also file its affidavit to clarify this and the Applicant to place before us his views.

5. List on 03.09.2019 for further consideration.

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Satyawan Singh Garbyal, EM

15th July, 2019
O.A. No. 04/2019 (EZ)
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