

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

OA No. 187/2023

Shailendra Kumar Yadav

Applicant

Versus

State of H.P.

Respondent

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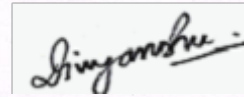
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Date : 09.02.2024

Place: Shimla

Respondent

Through



Divyanshu Kumar Srivastava
48, Lawyers' Chamber, Supreme Court of India
Tilak Marg, New Delhi 110001

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

OA No. 187/2023

Shailendra Kumar Yadav

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State of H.P.

Respondent

ACTION TAKEN REPORT IN COMPLIANCE TO ORDER DATED
20.12.2023 PASSED IN ABOVE TITLED OA ON BEHALF OF STATE OF
HIMACHAL PRADESH THROUGH DEPUTY CONSERVATOR OF
FOREST SHIMLA FOREST CIRCLE.

RESPECTFULLY SUBMITTED:-

1. That this Hon'ble Tribunal on 20.12.2023 passed the following order:-

"1. Applicant is present in person. None has appeared before the Tribunal on behalf of Respondent. By virtual mode, Sh. Krishan Kumar, DFO, Shimla, HP, Forest Department was visible on video but not audible as he has muted himself and despite repeated request did not un-mute. Therefore, we did not have any assistance from the said officer"

..... "9. However, no action taken plan has been given and it is not mentioned as to what actual action has been taken at the ground level or what is the plan for implementing the suggestions. It is not in dispute that implementation of suggestions is also the responsibility of the forest department and its officials.

K.S.

ATTESTED

DATA COMMUNICATIONS

10. Since, none has appeared on behalf of respondents and nobody is present for assisting Tribunal, having no other alternative, we direct personal appearance of ACS/PS, Forest/Environment, Govt. of HP; Principal Chief Conservator of Forest (HoFF), HP, Shimla-1; Deputy Conservator of Forests, Shimla Forest Division to explain as to what action they propose for implementation of the suggestions at the ground level and what action plan they have for restoration and remediation."

2. That at the very outset, it is humbly submitted that the replying respondents hold the orders/ directions of this Hon'ble Tribunal in the highest esteem and as such can never think of disobeying the orders/ directions of this Hon'ble Tribunal. However, without justifying any act, conduct or behavior of the replying respondent, the replying respondents tender sincere and unqualified apology to this Hon'ble Tribunal, which may kindly be accepted by taking a lenient view.
3. That being a law-abiding citizen and also responsible officers of the State, the replying respondents feel themselves duty bound to uphold the Rules and Laws and to abide by the directions of this Hon'ble Tribunal in letter and spirit. As such to the best of their knowledge, experience and abilities, the replying respondents are trying to perform their duty with their honest efforts. That it is most humbly submitted that on the last date of hearing Sh. Krishan Kumar DFO Shimla was instructed to appear before this Hon'ble Tribunal virtually, but due to some technical problem his voice was not audible. This was not due to some intentional or deliberate lapse on his part, however replying respondents once again tenders unconditional apology for any unintentional lapse on their part.

ATTEST

OATH COMMISSIONER

K. S. -

4. That, in response to suggestions pertaining to remedial measures already submitted before the Hon'ble Tribunal, the Forest Department of the State of H.P had made following efforts to delineate those measures on the ground –

- a) As suggested in Paragraph No. B in the remedial measures to address the local issues such as collection of entry fee, proper cleanliness of the site, garbage disposal, fixation of routes, providing minimum basic facilities to the visitors etc. through Eco Development Committee (EDC)-Kufri Mahasu”, the said society stands registered on 08.02.2024 vide registration No. HPCD 16942 under H.P. Societies Registration Act, 2006. The copy of registration certificate dated 08.02.2024 is attached as **Annexure-R1**.
- b) The revenue sharing mechanism has been opted in the lines of HPECOSOC and its utilization i.e. 60:40 ratio (Eco-Development Committee and the State) would be utilized in the same site for providing better facilities and maintaining assets etc.
- c) That the State Government is very serious in the matter and recently under the Chairmanship of the Chief Secretary a meeting was held on 02.02.2024 with the concerned departments regarding regulation of horses in the Kufri-Mahasu area and as reported in the remedial measures to reduce the number of horses from 1029 to 500 with the 10% reduction in each subsequent year.

However, presently the horse owners are not agreeing to this suggestion and a law-and-order situation has already arisen. Horse owners are facing not only livelihood issues but they are facing great difficulty in disposing of the extra horses. Reducing to 500 horses in short span of time will lead

ATTESTED

WATH COMMISSIONER

K. T.

to a situation of distress sale or horses being let off in forests which will cause degradation of the forests in the vicinity.

It is proposed that depending upon fund generated/opportunity available a few of Horse owners who would become unemployed would be compensated through the livelihood initiatives which will be undertaken by the "Eco-Development Committee, Kufri-Mahasu", to augment the employment potential through promotion of eco- friendly activities such as switching-over to electric vehicles; various amenities in the form of Recreation Park, telescope-point, photography point etc. installation of public amenities/e-toilets can be operated by the members of EDC. A true copy of the Minutes of Meeting dated 02.02.2024 is annexed herewith as **Annexure R-2.**

- d) Subsequently a meeting with all the three horse owners association was conducted on 08.02.2024 by the officers of Forest Department.
- e) After having long deliberations, they have agreed to reduce the number of horses from 1029 to 700 immediately and will be regulated by Forest Department through Eco Development Committee (EDC), Kufri-Mahasu. Through the negotiation we could immediately reduce 329 horses from the existing number. The horse owners have agreed to submit the list of the 700 horses on 09.02.2024 to DFO Theog and further tokens will be issued to these horses. That vide letter dated 08.02.2024 it has been further agreed by the said horse associations that they are ready to reduce the number of horses by 5 % in each coming year. A copy of the letter dated 08.02.2024 given by the horse owner association is enclosed as **Annexure-R3.**
- f) That the remedial measures suggested in the earlier report will be implemented by the Eco Development Committee Kufri-Mahasu in due course of time.

ATTESTED

DATH COMMUNICATIONS

K.t.

- g) That it is also brought to the kind attention of this Hon'ble Tribunal that the area in question falls under the legal control of DFO, Theog Forest Division and is recorded as Reserve Forest Teer Mahasu Compartment-1. So it is also requested that DFO/DCF Shimla may kindly be exempted from dealing with this matter.
5. That in view of the above, it is submitted that the present report may kindly be taken on record and it is humbly prayed that present proceedings may kindly be disposed off.

Place: Shimla

Dated: 09.02.2024

Deputy Conservator of Forests
Shimla Forest Division.
On Behalf of State of H.P, Respondent

ATTESTED

NOTARY COMMISSIONER

Through

Divyanshu Kumar Srivastava
48, Lawyers' Chamber, Supreme Court of India
Tilak Marg, New Delhi 110001

**BEFORE THE NATIONAL GREEN TRIBUNAL
(PRINCIPAL BENCH), NEW DELHI
ORIGINAL APPLICATION NO.187/2023**

IN THE MATTER OF:

Shailendra Kumar Yadav

...Applicant

Versus

State of H.P.

...Respondent

AFFIDAVIT

I, Krishan Kumar S/o Sh. Roshan Lal, aged about 37 years presently working as Divisional Forest Office, Shimla, Rural in the State of Himachal Pradesh, do hereby solemnly affirm and state as under: -

1. That I am the Authorised Signatory of the Respondent State in the present matter and I am fully conversant with the facts and circumstances of the case, and I have been duly authorized and am, therefore, competent to affirm this affidavit.
2. I state that I have read the contents of the Reply from paras 1 to 5 and pages 1 to 6. I state that the facts contained therein are true to the best of my knowledge and belief as derived from the record.
3. I state that the legal argument in the Reply is based on the legal advice given to me by my Counsel and factual statements are based on documents/records relied upon.

ATTESTED

OATH COMMISSIONER

Kanta

DEPONENT

VERIFICATION

I, Krishan Kumar, the Deponent above named, do hereby verify that the contents of paragraph no. 1 to 3 of the above affidavit are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Reviewed
Identified by

Verified at Shimla on this 9th day of February 2024.

Kumar

DEPONENT

ATTESTED
OATH COMMISSIONER

Certify that the above/overleaf was declared before me on solemn affirmation on this 9th day of Feb at Shimla in the District of Shimla by Sh. Krishan Kumar who was identified by Sh. Pankaj Sharma who is personally known to me and the contents of the above affidavit have been read over & explained to the deponent in vernacular who admitted them to be correct and true at the time of making thereof.

All Cuttings and Corrections are duly attested by me.

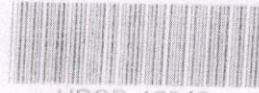


[Signature]
Oath Commissioner
HP High Court, Shimla

[Signature]
Oath Commissioner

Anneau R-I

Registration No :



HPCD-16942

Certificate of Registration of Societies



Himachal Pradesh Societies Registration Act 2006 (Act No. 25 of 2006)

This is certified that the ECO DEVELOPMENT COMMITTEE KUFRI MAHASU located at DIVISIONAL FOREST OFFICE THEOG DISTT SHIMLA-171201 has been registered under the provisions of the Himachal Pradesh Societies Registration Act, 2006 (Act No. 25 of 2006) on the 8th day of February 2024 (08/02/2024).

Given under my hand and seal at DC Office, SHIMLA, Himachal Pradesh.



Deputy Commissioner -cum- Additional Registrar of Societies
Himachal Pradesh

Proceedings of the meeting regarding the Hon'ble NGT OA No. 187/2023 Shailender Kumar Yadav V/s State of H.P. under the Chairmanship of Chief Secretary Govt. of Himachal Pradesh in HP Secretariat on dated 02.02.2024 at 5.30 pm.

1. At the outset, Chief Secretary Govt. of H.P welcomed all the members present in the Committee Room. He requested the briefing about the case and the action taken in this regard by the line departments.
2. Pr.CCF (HoFF) H.P apprised Chief Secretary that an OA No. 187/2023 titled Shailender Kumar Yadav V/s State of H.P. has been filed before the Hon'ble NGT in which the applicant has raised serious environmental concerns due to the unregulated plying of ponies on the poorly maintained trail which is responsible for accumulation of bio-waste that adds to the detrimental impact on the native bio-diversity in Kufri (Mahasu Peak). The said O.A. was considered by the Hon'ble NGT and issued notice to the State of H.P. to submit the facts reflected in the original application. The various orders passed by the Hon'ble NGT dated 13.03.2023 / 25.05.2023/ 12.07.2023/03.10.2023/ 20.12.2023 were also briefed. As per record maintained by SADA, 1029 horses/ponies were registered/allowed to operate in the Kufri Mahasu peak, however as per joint inspection committee report submitted to the Hon'ble NGT, 217 horses/ponies may be permitted (27 horses/ponies per hour) keeping in view the carrying capacity of the trail. To implement this decision to curtail the number of ponies plying on the trail, a numbers of meetings were conducted by Pr.CCF (HoFF) /CCF /DFO with the horse owners and other stakeholders and finally it was agreed to regulate the numbers to 500 immediately and reduce by 10 % in each succeeding year till 217 is reached.
3. Principal Secretary (Forests) informed that the Hon'ble NGT had sought comments/report from (MoEF & CC), ACS Tourism/ Environment, SADA Kufri and Gram Panchayat Kufri on the joint committee report

submitted to the Hon'ble NGT on 23.05.2023. However, no comments/report has been submitted by the concerned authorities and accordingly the Tribunal in the subsequent Order dated 12-07-2023 took note of the fact that no remedial action was taken and constituted a committee consisting of DFO Shimla and PCCF (HoFF) to suggest remedial measures.

4. Pr.CCF (HoFF) H.P further explained that in response to the interim order dated 03-10-2023, an action plan consisting of several remedial measures was filed and Sh. Krishan Kumar appeared before the Hon'ble Tribunal in virtual mode. But due to a technical snag, the officer could not submit any remarks verbally before the Hon'ble Tribunal. Hon'ble NGT while taking note of the proposed action plan, desired that action taken plan and remedial measures taken on ground be intimated and has directed personal appearance of Pr. Secretary (Forests)/ACS/PS Environment and PCCF (HoFF) on 12.02.2024.

5. Hon'ble Chairman wanted to know the extent of environmental damages that were caused due to the movement of horses on the Kufri-Mahasu Trail. Pr.CCF (HoFF) informed that the plying of horses/ponies has been practiced in the area for a very long time in the past and is an important livelihood activity for the locals as well as an attraction for the tourists. Further the unregulated movement of horses/ponies has been responsible to certain extent in trampling of soil and grazing which is leading to soil erosion in the said forest area, also corroborated by HFRI. The PCB has further taken water samples from the said area and presence of coliform bacteria has been confirmed in a few samples.

6. Chairman wanted to know about the revenue generation activities in the Kufri-Mahasu peak by the Govt. of H.P/ Horse owners. Pr.CCF (HoFF)

informed the plying of horses/ponies is one of the major livelihood activities and the number varies from season to season. The influx of tourist is high in the said area between April to July, thus the horses/ponies operate in large numbers during the said season. As of now the Gram Panchayat Kufri, Makhrol and Nalla charge Rs. 10/- each from the horse owners who are using the trail passing through the forest area of Kufri-Mahasu. There is no control of Forest department in regulating the horse entry thus the same can be ensured by following the model of Khajiar. It was felt that the Khajiar model could be followed at Kufri-Mahasu and that the tourist activities brought under HPECOSOC by constituting an Eco-Development Committee.

7. Chairman wanted to know about the remedial measures which have been flagged before the Hon'ble NGT. In response the Pr.CCF (HoFF) read out the detailed remedial measures mentioned in the Para 6 of the interim order of 20-12-2023.

8. CCF Shimla further apprised about the ECOSOC meeting held with the horse owners and other stakeholders on 20-10-2023 in which they were informed about the directions of Tribunal regarding the regulation of horses as per the carrying capacity of the said trail. In order to control the number of horses moving on the trail, initially 500 number of horses has been proposed to be allowed to ply and thereafter there will be 10% annual decrease in the number of horses to finally reach the figure of 217. The same has been filed before the Tribunal as one of the remedial measure as per the consultations held with all the stakeholders and after obtaining their consent. Chief Secretary directed that this be communicated to all the stakeholders.

9. Principal Secretary (Forests) informed that reduction the number of horses from 1029 to 500 immediately may create law and order problems

which needs to be addressed by the Deputy Commissioner through SADA and Superintendent of Police Shimla. Chief Secretary asked the District Administration and Police to liaison with the Forest department and ensure no law and order problem arises in the matter.

10. Chairman stressed for the action plan to address the livelihood issues. Pr.CCF (HoFF), briefed that initially it was agreed with the horse owners that 500 horses would be allowed to ply with 10% reduction each year. However, now the horse owners are not agreeing to this suggestion and a law and order situation has already arisen. Horse owners are facing not only livelihood issues but they are facing great difficulty in disposing of the extra horses. Reducing to 500 horses is leading to a situation of distress sale or horses being let off in forests which will cause degradation of the forests in the vicinity. It was felt that for the others it would be compensated through the livelihood initiatives which will be undertaken by the "Eco-Development Committee, Kufri-Mahasu", to augment the employment potential ecofriendly activities can be promoted such as switching-over to electric vehicles; various amenities in the form of Recreation Park, telescope-point, photography point etc. installation of public amenities/e-toilets can be operated by the members of EDC.

11. Member Secretary-Pollution Control Board informed that due to huge number of horses operating in small area there is an impact on the vegetation, soil erosion etc. in the area. Hence an option of alternate route can be explored for plying of horses/ponies along with introduction of E-Vehicles.

The meeting ended with vote of thanks to the Chair.

The list of officers / officials present in the meeting:

1. Dr. Amandeep Garg, IAS, Pr. Secretary Forests (GoHP).
2. Sh. Rajiv Kumar, IFS, PCCF (HoFF) H.P.
3. Sh. D.C. Rana, IAS, Director, Deptt. of Environment, Science and Technology.
4. Sh. Anil Joshi, IFS, Member-Secy., HP Pollution Control Board.
5. Sh. K Thirumal, IFS, Chief Conservator of Forests, Shimla Forest Circle.
6. Sh. Anupam Kashyap, IAS, Deputy Commissioner Shimla.
7. Sh. Sanjiv Gandhi, IPS, Superintendent of Police Shimla.
8. Sh. Krishan Kumar, IFS, Deputy Conservator of Forests, Shimla Forest Division.
9. Sh. Suresh Attri, Chief Scientific Officer, Deptt. of Environment, Science and Technology.
10. Sh. Ajit Bhardwaj, Additional District Magistrate (Law and Order)
11. Sh. Satpal Dhiman, Joint Secretary, Department of Environment, Science and Technology.
12. Sh. Manish Rampal, HPFS, Divisional Forest Officer, Theog Forest Division.



H.P. Forest Department
Shimla Territorial Forest Circle
Email: head-foreirshi-hp@hp.gov.in
Ph. 0177-2624850



Proceedings of the meeting regarding held on 08.02.2024 with the Horse Union Kufri under the Chairmanship of Sh. K. Thirumal, IFS, Chairman SEMS-cum-Chief Conservator of Forests, Shimla Forest Circle, Shimla.


Meeting started with the welcome of the Officers and all the three Horse Union Pradhan and Others by the Chair. List of the participants is attached as Annexure-A. Following points were discussed/ decided in the meeting:

1. Hon'ble NGT Court Case (Shailendra Kumar Yadav Vs State of HP & Ors) was briefed by the Chairman to all the three Horse Union representative and informed about the regulatory Mechanism to be put in place by the Forest Department.
2. Chairman requested for cooperate to fix the limit of 500 number of Horses per day as previously agreed. The Horse Unions have submitted written request to allow the permission of horses at least 700 numbers per day (copy enclosed). Since reduction to 500 or will 217 lead to loss of income generation activity to lots of people which can be reduced gradually by 5% every year. The Chairman insisted to regulate for 700 horses per day as requested by the union and the matter will be taken up with Hon'ble NGT on 12th February for approval .
3. Registration of Eco Tourism Committee also discussed in the meeting and decided that Forest Department regulate the Tourism activity at Kufri on completion of the registration of EDC.

DFO Theog was directed to get the list of 700 horses on 09th February 2024 and from 10th February, they should issue tokens to only these horses. The entry fee of Rs. 50/- may be charged for each token and the revenue generated may be deposited in the ECO Development Committee account of Kufri Mahasu.

The Chairman requested for co-operation and smooth regulation of NGT direction and the Horse owners association agreed for the same.

The meeting ended with vote of thanks to/from the Chair.


09/02/2024

(K. Thirumal, IFS)
Chairman-SEMS-cum-
Chief Conservator of Forests,
Shimla Forest Circle, Shimla.

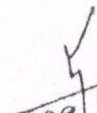
Annexure-A

List of Participants

1. Sh. Munish Ram Pal, HPFS, DFO Theog
2. Sh. Yoginder Singh, Ranger Forest Officer Theog
3. Sh. Chander Shekhar
4. Sh. Sohan Singh Thakur
5. Sh. Keshav Ram
6. Sh. Om Prakash
7. Sh. Bhoop Ram Rajata

Endst. No. Eco Tourism/ 7350 Dated 09.02.24

Copy is forwarded to DFO Theog for information and immediate necessary action.


09/02/2024.

(Sh. K. Thirumal, IFS)
Chairman-SEMS-cum-
Chief Conservator of Forests,
Shimla Forest Circle, Shimla.

सेवा में

मुख्य अरण्यपाल
वन वृत शिमला।

विषय: कुफरी में चलने वाले घोड़ों की संख्या कम से कम 700 करने बारे।

श्री मान् जी,

निवेदन इस प्रकार से है कि हम कुफरी में घोड़ें चलाकर लगभग 30 वर्षों से अपना तथा अपने परिवार का पालन पोषण करते हैं जिसे अब विभाग द्वारा कम किया जा रहा है। इस बारे हम जनाब से प्रार्थना करते हैं कि कुफरी में लगभग 1029 घोड़े चल रहे हैं जिससे हमारी रोजी रोटी चलती है फिर भी विभाग के आदेश अनुसार घोड़ों की संख्या 1029 से 700 करने के लिए तैयार है। जिसकी लिस्ट हम वन मण्डल अधिकारी टियोग को कल दिनांक 09.02.2024 तक दे देंगे व हमें 700 टोकन विभाग द्वारा प्रदान कर दिये जाए जिस अनुसार हम कार्य करेंगे।। हमारा सरकार से निवेदन है कि जो हमारे 329 घोड़े कम किये जा रहे है हमारे उन साथियों को भी किसी तरह का रोजगार प्रदान करे ताकि वह अपने जीवन का निर्वाह कर सकें। यदि सरकार द्वारा हमारे घोडा न चलने की वजह से बेरोजगार हुए साथियों को रोजगार प्रदान किया जाएगा तो हम हर वर्ष 5 प्रतिशत घोड़े कम करने की कोशिश करेंगे। इसके लिए हम आपके सदा अमारी रहेंगे।

दिनांक 08.02.2024



Eco-tourism

for nla

08/02/24.

भवदीय

1. घोडा यूनियन 1 प्रधान

2. घोडा यूनियन 2 प्रधान

3. घोडा यूनियन 3 प्रधान

**BEFORE THE NATIONAL GREEN TRIBUNAL
(PRINCIPAL BENCH), NEW DELHI
ORIGINAL APPLICATION NO.187/2023**

IN THE MATTER OF:

Shailendra Kumar Yadav

...Applicant

Versus

State of H.P. & Ors.

...Respondents

VAKALTNAMA

KNOW ALL to whom these presents shall come that I/we K. Thirumal, am Respondent no. 1, do hereby appoint **SHRI DIVYANSHU SRIVASTAVA**, hereinafter called the Advocate to be My/our Advocates in the above noted case and authorise them/him:

- a) To act, appear and plead in the above noted case in this court in any other court in which the same may be tried or heard and also in the appellate courts.
- b) To sign, file, verify and present pleading, applications, appeals, cross-objections or petitions for execution, review, revision, withdrawal, compromise or other petition, replies, objections affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.
- c) To file and take back documents.
- d) To withdraw, or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.
- e) To take out execution proceedings.
- f) To deposit, draw and receive moneys, cheques and grant receipts therefor and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- g) To appoint and instruct any other Legal Practitioner authorising him to exercise the powers and authorities hereby conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on my/our behalf.

And I/we the undersigned do hereby agree to ratify and confirm acts done by the Advocate or his substitute in the matter my/our own acts as if done by me/us to all intents and purposes.

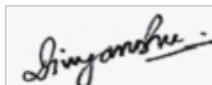
And I/we undertake that I/we or my/our authorised agent would appear in the court on all hearings and will inform the Advocate for appearance when the case is called.

And I/we the undersigned do hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequence of his absence from the court when the said case is called up for hearing, or for any negligence of the said Advocate or his substitute.


And I/we the undersigned do hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. If any costs are allowed for an adjournment, the Advocate would be entitled to the same.

IN WITNESS WHERE OF I/we do hereunto set my/our hand to these presents of which have been understood by me/us this 8th day of February, 2024.

ACCEPTED:



(DIVYANSHU KUMAR SRIVASTAVA)
48, Lawyers' Chamber, Supreme Court of India
Dksrivastava0511@gmail.com
9711872319


08/02/2024
(CLIENT)

Chief Conservator of Forests,
Shimla Forest Circle, Shimla