

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

(By Video Conferencing)

Original Application No. 154/2020

In Re: News item published on 27.07.2020 in the local daily named "Times of India" titled "Forest guard mowed down by 'mining mafia' in Sariska"

Date of hearing: 06.04.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Respondent: Ms. Punam Singh, Mr. Kumar Rajesh Singh, Advocates for MoEF & CC

ORDER

1. Proceedings in this matter have been initiated based on media report¹ dated 27.07.2020 under the heading "Forest guard mowed down by 'mining mafia' in Sariska". The report is to the effect that a forest home guard was mowed down by a tractor belonging to suspected mining mafia inside Sariska Tiger Reserve on Sunday after he attempted to stop them along with his colleague. The guard was rushed to a hospital where he succumbed to injuries. Cops are yet to arrest the accused, but have seized the tractor. This is not the first time that forest officials have been attacked inside the Sariska Tiger Reserve. The deceased has been identified as Keval Singh. He was in his mid – 40s. Sariska Tiger Reserve, DFO Seduram Yadav said, "On Sunday, the guard along with his colleague went for patrol in Baldevgarh checkpost area of the tiger

¹ News item published in Times of India

reserve where they saw certain individuals illegally transporting *bajri* from the forest area. When the guards tried to stop them, they mowed him down with a tractor. This is not the first time that villagers have attacked forest officials. On January 25, a forest ranger of STR Jitendra Chaudhary had to run for his life after being attacked by villagers. The villagers attacked him after he and this 10-member team confiscated 18 sheeps and 30 goats for illegal grazing in the tiger reserve. On December 15, 2019, senior forest officials were allegedly manhandled by villagers in the tiger reserve. Following this, a case against 20 identified accused was registered at the Bansur police station. The reserve is spread across 1,281 sq. km. area and is divided into six ranges. There are just 108 forest guards, which is far less than its sanctioned strength of 132. Moreover, with the menace of frequent attacks in Sariska, unarmed forest guards often struggle to protect the area.”

2. The matter was last considered on 10.08.2020 and it was observed that there was failure of oversight regulatory mechanism in enforcing provision of the Wildlife (Protection), Act, 1972 and Sustainable Sand Mining Guidelines, 2020. Accordingly, a joint Committee comprising State PCB, District Magistrate, Alwar and PCCF (HoFF), Rajasthan was constituted to take further remedial action and to file a report specifically mentioning estimate of illegal mining, number of mines sanctioned in the area and regulatory mechanism to check the illegal mining in the said eco sensitive area.

3. Accordingly, DCF, Sariska Tiger Reserve, Rajasthan has filed a report on 15.02.2021 giving the list of mining within 10 kms. of the Sariska Tiger Reserve with the steps taken to control illegal mining in the said eco sensitive zone. The annexure to the report is an action taken

report by Member Secretary, Forest Conservation and Director, Sariska Tiger Reserve, Alwar to the effect that eco sensitive zone of Sariska Tiger Reserve has not been notified yet. 157 mines exist within 10 km. of the said Tiger Reserve. There is also a report by the State PCB dated 29.12.2020 to the effect that out of 157 mining leases, 69 leases are having valid consent to operate from the State PCB, 17 have applied for consent to operate and remaining 71 have not applied for consent to operate. 88 mines are not working.

4. We have heard learned Counsel for the appearing parties. Order of the Hon'ble Supreme Court dated 11.12.2018, in WP 2020/1995, *TN Godavarman v. UOI*, is as follows:

“The learned ASG has informed us that there are 104 National Parks and 558 Wildlife Sanctuaries making a total of 662 National Parks and Wildlife Sanctuaries in the country.

The proposals for declaring areas around these National Parks and Wildlife Sanctuaries as Eco Sensitive Zone have been received from State Governments / UT Administrations for 641 National Parks and Wildlife Sanctuaries. No proposals have been received in respect of 21 National Parks and Wildlife Sanctuaries.

The proposals have been accepted and Notification has been issued in respect of 289 National Parks and Wildlife Sanctuaries as on 26.11.2018 and draft Notification has been prepared in respect of 206 National Parks and Wildlife Sanctuaries.

The declaration with regard to Eco Sensitive Zone is under process with the Ministry of Environment, Forests and Climate Change (MoEF) as well as with the State Governments in respect of 146 National Parks and Wildlife Sanctuaries.

We expect the Ministry of Environment, Forests and Climate Change to actively pursue the preparation of the draft Notification and to issue a final Notification at the earliest.

The proposals for 21 National Parks and Wildlife Sanctuaries in respect of which proposals have not yet been received by the MOEF are as follows:-

ASSAM

1. Pobitora Sanctuary

JAMMU AND KASHMIR

2. Hemis High Altitude National Park

3. *Kishtewar National Park*
4. *Changthang Sanctuary*
5. *Hokersar Sanctuary*
6. *Trikuta Sanctuary*

KARNATAKA

7. *Jogimatti Sanctuary*
8. *Thimlapura Sanctuary*
9. *Yadahalli Chinkara Sanctuary*

MAHARASHTRA

10. *Deolgaon Rehekuri Sanctuary*
11. *Thane Creek Flamingo Sanctuary*
12. *Malvan Marine Sanctuary*

MANIPUR

13. *Siroi National Park*
14. *Khongjaingamba Ching Sanctuary*

MEGHALAYA

15. *Baghmara Pitcher Plant Sanctuary*

NAGALAND

16. *Fakim Sanctuary*
17. *Puliebadze Sanctuary*
18. *Rangapahar Sanctuary*

UTTAR PRADESH

19. *Dr. Bhimrao Ambedkar Bird Sanctuary*
20. *Pilibhit Sanctuary*

WEST BENGAL

21. *Jorepokhri Sanctuary*

It is submitted by the learned Amicus that this issue has been pending since sometime in December, 2006. 12 years have gone-by but no effective steps have been taken by the State Governments in respect of the National Parks and Wildlife Sanctuaries mentioned above.

Under the circumstances, we direct that an area of 10 Kms around these 21 National Parks and Wildlife Sanctuaries be declared as Eco Sensitive Zone by the MoEF. The declaration be made by the MoEF at the earliest.

Liberty is granted to the State Governments to move an application for modification of this order along with proposal only two weeks after submission of the proposals to the MoEF.”

5. Following the above order, this Tribunal vide order dated 20.12.2018 in Appeal No. 48/2016, *Nityendra Manav vs. UOI*, prohibited mining within 10 km of Sariska Tiger Reserve and quashed the EC in

question against which appeal was filed before the Tribunal. Relevant part of the order is reproduced below:

“ xxx.....xxx.....xxx

Learned Counsel for respondent brought to our notice an order issued by Hon'ble Supreme Court on 11-12-2018 in WP (C) No. 202/1995 wherein Hon'ble Supreme Court had ordered that in respect of 21 National Parks/Sanctuary, the Eco-sensitive zone will be 10 kms as the proposal for the same had not been sent to MoEF by the States. The Learned Counsel for the respondent tried to make a distinction that in this case the Government of Rajasthan had sent the proposal to MoEF and it is pending consideration by MoEF.

It is the admitted position that the final notification of Eco-sensitive zone for Sariska Tiger Reserve/Sanctuary is yet to be issued by the MoEF. We, therefore, direct that all mining activities of any mineral will be stopped within 10 kms of the boundary of Sariska Tiger Reserve/Wildlife Sanctuary till mining leases are cleared by the standing committee of the National Board of Wildlife. All the ECs of the mining leases may be referred to the standing Committee of the NBWL. In case MoEF issues final notification on Eco-sensitive Zone, the mining lease which fall within the Eco-sensitive Zone will have to have clearance of the standing committee of the NBWL.”

6. In view of above, it is necessary for the authorities to take further remedial measures to enforce the law of the land. The State PCB and District Magistrate, Alwar may take steps to stop operation of mining leases, operating illegally, without requisite consents and also to examine whether the leases for which consents are given are permissible. The State PCB may also recover compensation for damage to the environment by illegal mining activities, following due process. on 'Polluter Pays' principle.

7. Though counsel appears for the MoEF&CC, she says that she has no instructions. Let the State of Rajasthan and the MoEF&CC take further steps in the light of order of the Hon'ble Supreme Court for issuance of requisite notification for declaring the area around the Tiger Reserves to be eco sensitive zone for protection of the said Reserve. The

State of Rajasthan may furnish the requisite proposal in the light of Guidelines dated 09.02.2011 issued by the MoEF&CC to all the Chief Wildlife Wardens for eco sensitive zones.

8. We further direct constitution of a joint Committee comprising MoEF&CC, CPCB, State PCB, Chief Wildlife Warden, SEIAA, Rajasthan and District Magistrate, Alwar to conduct a study about the carrying capacity of the area to sustain the mining activities on 'Sustainable Development' principle. The CPCB and State PCB will be the nodal agency for compliance and coordination. The joint Committee may give its report 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.

9. The MoEF&CC and State of Rajasthan may also file their respective action taken reports in the matter 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, before the next date.

A copy of this order be forwarded to the MoEF&CC, CPCB, State PCB, Chief Wildlife Warden, SEIAA, Rajasthan and District Magistrate, Alwar by e-mail for compliance.

List for further consideration on 11.08.2021.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

April 6, 2021
Original Application No. 154/2020
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