

**BEFORE THE NATIONAL GREEN TRIBUNAL,
CENTRAL ZONAL BENCH,
BHOPAL**

Original Application No. 38/2014 (CZ)

AND

Original Application No. 34/2014 (CZ)

IN THE MATTERS OF

Salim Khan S/o Shyamlal
R/o Village Premtala, Post Bagra,
Tehsil Babai, District Hoshangabad,
Madhya Pradesh(OA No. 38/2014)

.....Applicant

Jahangeer Ali S/o Shri K.S. Ali
R/o Village Premtala, Post Babai,
Bagdatawa, District Hoshangabad,
Madhya Pradesh.(OA No. 34/2014)

Versus

1. Union of India through its
Secretary, MoEF
2. State of Madhya Pradesh through
its Chief Secretary, Vallabh Bhawan,
Bhopal, Madhya Pradesh.
3. Chief Conservator of Forest,
Madhya Pradesh, Bhopal.
4. Conservator of Forest,
Hoshangabad Circle,
Madhya Pradesh
5. The Collector, Hoshangabad,
Madhya Pradesh.
6. Director, Satpura Tiger Reserve,
Hoshangabad District,
Madhya Pradesh.

.....Respondents

Counsel for Applicant :

None appeared

Counsel for Respondents :

Shri Om S. Srivastava, Advocate - Respondent No. 1
Shri Sachin K. Verma, Advocate - Respondent Nos. 2 to 6

CORAM:

Hon'ble Mr. Justice Dalip Singh (Judicial Member)

Hon'ble Mr. P.S.Rao (Expert Member)

Dated : April 4th , 2014

J U D G M E N T

1. These two applications were registered in the National Green Tribunal, Central Zonal Bench, Bhopal on transfer from the Hon'ble High Court of Madhya Pradesh, Principal seat at Jabalpur where they were dealt in Writ Petition Nos. 15467/2010 and 7405/2013 and on transfer, they were registered as Original Application Nos. 38/2014 and 34/2014, respectively. Since the issues involved in both the petitions filed before the Hon'ble High Court are identical, these two OAs are taken up together for hearing and decided together.

The facts in the present cases in a nutshell are as follows : -

2. Both the Applicants are residents of Village Premtala, Post Bagra, Tehsil Babai, District Hoshangabad, Madhya Pradesh. They claim that they are social workers and environmentalists deeply concerned with the larger public interest especially with reference to the environmental and ecological issues and they strive for protection of environment and forest. They stated that in the year 1980, the State Government has spent huge amount of money and raised plantations over an extent of 1400 acres with different species of trees i.e. Mahua, Harra, Bahera, Sagoan, Aawla and other valuable species in the villages Dolaria Khurd, Kharda, Ghoghari Kheda in Compartment Numbers 15 and 17 and Khasra Nos. 183 & 185 which fall in the Reserved Forest. They averred that the forest land where the aforesaid plantations have been raised, has been allotted to the outsiders who started cutting the trees and establishing dwelling units for residential purpose by raising constructions in violation of the guidelines laid-down by the Hon'ble

Supreme Court in the case of “*T.N. Godavarman Thirumulkpad Vs. Union of India* (1997) 2 SCC 267”. Therefore, having concern for the destruction of plantations being carried out at a large scale, they have filed the petitions before the Hon’ble Madhya Pradesh High Court in the larger interest of protection of environment and forest.

3. On an application filed by the Applicant under the Right to Information Act, 2005, the Forest Department furnished information to the Applicant stating that the land in question has been allotted for the residential purpose. The Applicants claim that they have given representation to the Divisional Forest Officer with a request not to allow cutting of the trees as forest land cannot be allowed to be used for residential purpose and a copy of the representation was also sent to the Chief Conservator of Forest, Bhopal. They further stated that a complaint was also filed before the District Collector, Hoshangabad, but no heed was paid to their request and the officials are continuously allowing the cutting of trees in disobedience of the orders of the Hon’ble Supreme Court and also in violation of the Forest (Conservation) Act, 1980. They prayed that the Respondents may be restrained from allowing cutting of trees in the Reserved Forest area in the above mentioned villages and also direct to conduct a CBI probe into the matter.

4. Having heard the case in Writ Petition No. 15467/2010 (Presently OA No. 38/2014), the Hon’ble High Court of Madhya Pradesh vide its order dated 18th March, 2011 directed that the Respondents shall not cut and fell any tree standing in the Satpura National Park and villages of Tehsil Babai, District Hoshangabad until further orders.

5. On 30th May, 2013, the Hon’ble High Court in Writ Petition No. 7405/2013 (Presently OA No. 34/2014) having recorded the averments of the learned counsel for the Petitioner who stated that despite the interim order dated 18th March, 2011 of the Hon’ble High Court, the State Government is not complying with the

directions passed by the Hon'ble High Court. The Hon'ble High Court, accordingly, appointed an Advocate Commissioner to visit the site and submit report with instructions that the officials of the State Government shall remain present at the time of inspection. However, thereafter both the writ petitions were transferred to the NGT, Central Zonal Bench, Bhopal by the Hon'ble High Court as per the decision of the Hon'ble Supreme Court rendered in "*Bhopal Gas Peedith Mahila Udyog Sangathan and Others Vs. Union of India & Others (2012) 8 SCC 326*".

6. Reply dated 18th May, 2011 has been filed before the Hon'ble High Court on behalf of the State Government stating that the alleged illegal activities by the answering Respondents are not, in fact, illegal and not being done in the area which falls within the Satpura Tiger Reserve including Satpura National Park and Bori Wildlife Sanctuary. It was further replied that the activities which were alleged to be illegal and highlighted by the Applicants pertain to relocation and rehabilitation of villagers displaced from Bori Wildlife Sanctuary of Satpura Tiger Reserve, District Hoshangabad as per the provisions under Wildlife (Protection) Act, 1972. The displaced villagers who are residents of Forest villages located inside the Bori Wildlife Sanctuary, are being shifted and rehabilitated in the degraded Protected Forest (in short, referred to as 'PF') land of Hoshangabad Forest Division duly obtaining permission from the Ministry of Environment & Forests, Government of India under the Forest (Conservation) Act, 1980. It was further contended that the Respondents are not allowing felling of any trees in the Satpura Tiger Reserve and also in the Revenue lands of the aforesaid villages. It was stated that 97 families of Dhain Forest Village located in Bori Wildlife Sanctuary of Satpura Tiger Reserve were shifted during 2004-06 period to PF Compartment No. 190 of Bagra range of Hoshangabad Forest Division for which MoEF, Union of India granted permission on 3rd February, 2004 and also provided

necessary funds for the purpose (MoEF order dated 03.02.2004 filed at Annex. R-1). 106 families belonging to Bori Forest Village of Bori Wildlife Sanctuary were also shifted to the degraded PF Compartment No. 118 (new Compartment No. P-191) of same Bagra Range of Hoshangabad Forest Division. This was carried out as per the new guidelines issued by the National Tiger Conservation Authority (NTCA) setup by the Government of India and permission was accorded by the MoEF vide its letter dated 27th December, 2004 (filed at Annex. R-2). Another batch of 44 families of Sakot Forest village of Bori Sanctuary are being relocated and rehabilitated in the PF Compartment No. 115 of Bagra Range of Hoshangabad Forest Division for which permission was granted by the MoEF vide its order dated 5th June, 2009 (filed at Annex. R-3). Further, the last batch of 45 families of Khakrapura Forest village of Bori Wildlife Sanctuary are also being relocated and rehabilitated in PF Compartment No. 11 of Sukhatava Range of Hoshangabad Forest Division as per the permission granted by MoEF vide its letter dated 5th June, 2009 (filed at Annex. R-4).

7. It was further contended by the Respondents in their return that the Petitioner had made a false statement in the application saying that there is ample revenue land available for Forest villages which can be used for rehabilitation but the Respondents/authorities are not using the same but are converting the forest land into residential area. The Respondents further stated that this allegation is absolutely unfounded and without any authentic information. The District Collector, Hoshangabad has issued a certificate that there is no revenue land available for relocation and rehabilitation of villagers displaced from the Bori Wildlife Sanctuary. Therefore, based on the said certificate and since no revenue land is available, the Forest villages located in the interior part of the Sanctuary are relocated and rehabilitated in the aforesaid PF land with the permission of the Government of India. It was further stated that the NTCA also issued guidelines

specifying as to in what manner the relocation and rehabilitation has to be made and the same are followed as per the statutory provision of shifting of the villagers residing within the core area of Critical Tiger Habitat of Tiger Reserves. Since, the Critical Tiger Habitat of Satpura Tiger Reserve has been notified under Section 38-V of the Wildlife (Protection) Act, 1972 amended in 2006, relocation and rehabilitation of villagers residing in the core areas is a necessary statutory requirement. Therefore such exercise is being done by the Respondents. It was also stated that taking note of guidelines of NTCA, the State Government has also issued instructions on 30th October, 2008 specifying the procedure for relocation and rehabilitation of villagers from the core areas. It was further stated by the Respondents that there is no restriction imposed by the Hon'ble Apex Court in *T.N. Godavarman's case (supra)* on relocation and rehabilitation of villagers from the Protected Areas and in fact, the Hon'ble Court also provided full exemption from paying N.P.V. in such exercise of diverting forest lands for non-forest activities in its order dated 28th March, 2008 and 9th May, 2008 in I.A. No. 826 in 566 with related I.As in Writ Petition (Civil) No. 202/1995.

8. As the exercise of relocation and rehabilitation of the villagers is going on, the families vacated from the core area of the Tiger Reserve have started moving into the newly allotted land and constructing their houses as well as taking up agricultural activities. In the above facts and circumstances, the Respondents made a plea to dismiss the petition to meet the ends of justice.

9. The Respondent No. 1/MoEF represented by the Conservator of Forests, MoEF Regional Office at Bhopal, filed reply stating that as per the records of their office 246 hectares of forest land in PF Compartment No. 118 of Bagra Range of Hoshangabad Forest Division was allowed to be diverted for rehabilitation of 107 families of Forest village Bori of Bori Wildlife Sanctuary of Satpura Tiger Reserve vide Ministry letter No. 8-91/2004-FC dated 5th June, 2009. Similarly, 114

hectares of forest land in compartment No. P-11 of Sukhtawa Range of Hoshangabad Forest Division was allowed to be diverted for rehabilitation of 45 families of Forest village Khakrapura of Bori Sanctuary of Satpura Tiger Reserve vide Ministry letter No. 8-92/2004-FC dated 5th June, 2009. Similarly, 102 hectares of forest land in compartment no. P115 of Bagra Range of Hoshangabad Forest Division was allowed to be diverted for rehabilitation of 44 families of Forest village Sakot of Bori Sanctuary of Satpura Tiger Reserve vide Ministry letter No. 8-90/2004-FC dated 27th December, 2009. It has been further submitted that use of forest land for relocation of displaced villages after obtaining the permission from the MoEF, Government of India, is not against the provisions of the Forest (Conservation) Act, 1980. Village relocation is in the interest of biodiversity conservation and is as per the provisions of the Wildlife (Protection) Act, 1972 and NTCA guidelines.

10. As verified from the record received from the Hon'ble High Court of Madhya Pradesh, though in W.P. No. 7405/2013 (OA No. 34/2014) Advocate Commissioner was appointed to inspect the site and submit report, it appears that no such exercise has been carried out which was corroborated by the counsel for the Respondent during the course of hearing and in the meanwhile, the case was transferred to the NGT. After transfer from the Hon'ble High Court both the Original Applications were posted for hearing on 7th March, 2014 but none appeared for the Applicants and hence the case stood adjourned to 25th March, 2014. On that date also, the Applicants was unrepresented and therefore one more opportunity was given to the Applicants and the case was posted for hearing on 31st March, 2014 and on both the dates of hearing i.e. 25th March, 2014 and 31st March, 2014 Shri B.S. Yadav, ACF/Assistant Director and Officer-in-Charge, Satpura Tiger Reserve, Pachmari was present in the Court and he clarified the issue in detail. Even on this date of hearing also, none appeared on behalf of the

Applicants and therefore considering the replies tendered by the Respondents and having gone through the record in detail and having satisfied that the action taken by the Respondents in getting the permission from the MoEF for relocation and rehabilitation of the villagers displaced from the core area of the Satpura Tiger Reserve by selecting the degraded PF in Hoshangabad Division is as per the statutory requirement under the Wildlife (Protection) Act, 1972 and as per the guidelines issued by the NTCA as well as the State Government, we are satisfied that the averments made by the Applicants do not contain any substance and the action taken by the Respondents is in accordance with law and no evidence on record is available or placed before us to find fault with the entire procedure adopted by the Respondents and there is no evidence that the Respondents are allowing illegal and unauthorised felling of trees and occupation of the forest land.

11. In the above facts and circumstances of the case, these two OAs no longer require further hearing as sufficient opportunity was already given to the Applicants to bring on record to substantiate their allegations. Therefore, we deem it just and proper to dismiss both these Original Applications and accordingly dismiss the OAs *ex-parte*. There shall be no order as to costs.

(Mr. Justice Dalip Singh)
Judicial Member

(Mr. P.S.Rao)
Expert Member

Bhopal;
April 4th, 2014