

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE) BENCH, PUNE  
APPLICATION No. 10 (THC)/2013 (WZ)**

**CORAM:**

- 1. Hon'ble Shri Justice V.R. Kingaonkar  
(Judicial Member)**
- 2. Hon'ble Dr. Ajay A. Deshpande  
(Expert Member)**

**B E T W E E N:**

- 1. PUNAMCHAND S/o RAMCHANDRA PARDESHI,**  
Age 59 yrs. Occup. Service  
R/o Western side of Prant Bungalow  
Amalner, Tal. Amalner, Dist. Jalgaon.
- 2. Dr.Deelip S/o HiralalGujarathi,**  
Age 54 yrs. Occup. Medical Practitioner,  
R/o NearDadwadi, Tal.Amalner,  
New Plot, Amalner, District. Jalgaon.

**....Applicants**

**A N D**

**1. THE UNION OF INDIA**

(Copy to be served on Standing Counsel of Union of India) High Court of Judicature of Bombay Bench At Aurangabad).

**2. THE STATE OF MAHARASHTRA**

(Copy to be served on Govt. Pleader High Court of Judicature of Bombay Bench At Aurangabad).

**3. THE CHIEF CONSERVATOR OF FOREST,**

Maharashtra State, Seminary hills,  
NAGPUR.

**4. THE CONSERVATOR OF FOREST,**

DhuleCircle, Behind S.T. Depot,  
Dhule, Dist. Dhule.

**5. THE DEPUTY CONSERVATOR OF FOREST,**

Jalgaon Division, Near Collector Office,  
Jalgaon.

**6. THE DEPUTY CONSERVATOR OF FOREST,**

Yawal Division, at Jalgaon,  
Mahabal Colony Road, Jalgaon,  
Dist. Jangaon.

.....**Respondents**

**Counsel for Applicant**

Mr. S.D.Bade,

**Counsel for Respondent(s):**

Mr. UjwalaPawar, DGP/A.S. Mulchandani, AGP  
forRespondent Nos.2,5,6.

Mr. R.M. Sanap ACF for Respondent No.4.

Mr. P.G. Rahunkar, Dy C.F for Respondent No.6.

**J U D G M E N T**

1. Originally, the Applicants filed Writ Petition No.4044 of 2001, in the Hon'ble High Court of Judicature of Bombay Bench at Aurangabad, alleging that certain forest lands were being illegally diverted for non-forest purposes, which would cause felling of trees to the extent of 2.5 to 3 lakhs and that would be a great loss to the environment.

2. By order dated October 1<sup>st</sup>, 2003, Hon'ble Division Bench of the High Court, transferred the Writ Petition to this Tribunal in view of Judgment of the Apex Court in the case of "**Bhopal Gas Peedith Mahila Udyog Sangathan & Anr Vs Union of India**" (2012)

**8, SCC 326.**" Thereafter, it was registered as an Application No.10 (THC)/2013. We may note that none has appeared for the Applicants before this Tribunal, after transfer of the Writ Petition, inspite of issuance of Notices. However, on January 31<sup>st</sup>, 2014, Mr. S.D. Bade, Advocate appeared for the Applicants and informed that he was instructed to appear and was likely Vakalatnama for the Applicants. Thereafter he did not appear nor anyone appear for the Applicants. The Applicants subsequently sent a letter dated 25.1.2014, reiterating

the issues raised in the original petition. Needless to say, we are at loss to know the contentions of the Applicants, besides the pleadings, which are stated in the Writ Petition.

**3.** The case of the Applicants, as can be gathered from the pleadings of the Writ Petition, is that there are ten (10) projects as stated in paragraph (3) of the petition, which are Irrigation Projects of large scale, minor scale, Percolation Tank etc. For the purpose of these irrigation projects, the Respondents have planned to divert forest area, without taking due Forest Clearance (FC) from the competent Authority. They are likely to cut down large number of trees in the range of 2.5 to 3 lakhs, which will cause severe environmental damage. It is necessary to conserve the forest, ecology and environment, in order to control soil erosion, pollution of air, groundwater level, global warming, increase in rains and keeping balance of the nature. The Applicants further allege that some part of Yawal sanctuary is likely to be submerged in irrigation project called “Handya-Kundya” Project, which will affect the wildlife in the said sanctuary. So also, it will affect Teak wood and Bamboo trees within the area of said sanctuary. They submitted representations to the Authorities to the effect that in view of the Judgment of Apex Court in “***T.N. Godavarman Thirumulkpad Vs Union of India & Ors***” **(1997) 2 SC 267**, the conversion of forest land

for non-forest purposes shall not be done. The Respondents did not pay heed the representations and hence they approached to the Court with their petition.

**4.** By filing their common affidavit in reply, the Respondent Nos.2 to 6, resisted the petition on various grounds. According to them, total land covered by the said ten (10) projects is 6,394.18 Ha. All the projects are for public welfare and the cost benefit ratio is more than the loss of number of trees, which is estimated during the study that was undertaken before planning of the projects. They submit that by way of compensation equal area of non-forest land was received and shall be utilized for afforestation. They further submit that they will plant large number of trees over the available land of 1423.8 Ha. The felling of trees is 133179, whereas 2562966 seedlings are sought to be planted. The project will solve the water scarcity problem faced by the local public members. It will also cause benefit to the Agriculturists, because irrigation facility will be available to them for irrigation of their lands. It is denied that wildlife is likely to be disturbed due to the projects or any part thereof. On these grounds, the Respondent Nos.2 to 6, sought dismissal of the petition.

**5.** As stated before, none appeared for the Applicants.

**6.** We heard learned AGP, Mr. A.S. Mulchandani for the Respondent Nos.2 to 6. We have also gone through

the affidavit of RaghunathSanap, Assistant Conservator of Forest (ACF), Jalgaon. We wanted to know *juxta* position of the projects. Therefore, the affidavit in reply is filed by UttamGanpatraoKadalag, Deputy Conservator of Forest. We have perused the said affidavit. His affidavit shows that first two (2) projects to be commissioned as “BhagpurSinchanYojana” and “JunoneSinchanYojana” have not yet started. They have been approved. A large number of seedlings are planted, though the trees are yet not cut. It is stated that 502200 seedlings are planted for implementation of “BhagpurSinchanYojana” , whereas 754714 seedlings are planted for “JunoneSinchanYojana”. Survival percentage as on February 28<sup>th</sup>, 2014, is said to be 56% and 52 % respectively. The remaining work except project No.10, have been completed. The plantation of seedlings is also done. The Respondent Nos. 2 to 6 have not, however, undertaken plantation of seedlings in respect of “Handya-Kundya” Project. It is proposed that 5706 trees will be cut for implementation of that project. The affidavit of Deputy Conservator of Forest, is accompanied by communication of the MoEF, which go to show that Forest Clearance (FC), was granted from time to time for diversion of forest lands while implementing the projects in question. It cannot be said, therefore, that diversion of forest lands is illegally made by the Respondent Nos.2 to 6.

7. Perusal of record shows that the Respondent Nos.2 to 6, have taken due care to seek FC from the competent authority, as and when required. These FC's are issued with specific conditions including compensatory afforestation; transfer of non-forest areas for the compensatory afforestation, obtaining Environmental Clearance, if required etc. However, it is not brought on record whether MoEF has reviewed the compliance of its own conditions specifically enumerated while issuing the FC.

8. It is also seen from the affidavit that forest department have planted seedlings and survival rate is varying from 19 to 64%. Still, however, it is needed that there shall be proper monitoring of plantation and care for rearing of the plants, so as to ensure that they will become trees in future. This Tribunal in its Judgment in the matter of Application No.135/2013 (***ShobhataiPhadnavisVs State of Maharashtra &Ors***) has deliberated in detail the need of public disclosure in matters related to forest diversion and compensatory afforestation, and the relevant orders are also applicable in the present case. This Tribunal is of the opinion that if the information related to Forest Clearance granted for such cases and efforts made for compliance of conditions stipulated therein will be placed in public domain it will help to develop awareness and thereby reducing such

disputes. Under the circumstances, we deem it proper to dispose of the Application by giving following directions:

1. The Application is disposed of with directions that the Respondent Nos.2 to 6, shall monitor plantation of adequate number of trees, as far as possible of 1:8 ratio and make serious endeavor to protect the plants to improve survival rate of the trees.

2. The projects shall be implemented *peripasu* with the process of plantation, proper maintenance, rearing, monitoring, watering and protecting of plants, so as to ensure that when the projects are completed, the plants will be transformed as trees.

The Application is accordingly disposed of. No costs.

....., **JM**  
(Justice V. R. Kingaonkar)

....., **EM**  
(Dr. AjayA. Deshpande)