

Item No.01

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.105/2024/EZ

Rohit Choudhury

Applicant(s)

Versus

State of Assam & Ors.

Respondent(s)

Date of hearing: 29.05.2024

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Ms. Parul Gupta, Advocate

ORDER

1. Heard Ms. Parul Gupta, learned Counsel appearing on behalf of the Applicant.
2. This is an application for violation of Forest (Conservation) Act, 1980 and the allegation of the Applicant is that the Forest Department of Assam has diverted 28 hectares of reserve forest illegally for the establishment of 2nd Assam Commando Battalion in Assam-Nagaland Interstate Border Area of Geleky Reserve Forest located in Sibsagar District of Assam without any approval from MoEF&CC. The illegal permission has been granted by the then Principal Chief Conservator of Forests and Head of Forest Force, Assam, Shri M.K. Yadava who is at present the Special Chief Secretary (Forest), Govt. of Assam. It is alleged that the concerned official has misused his power and position to illegally divert a large part of the forest area without fulfilling the requirements of Compensatory Afforestation and Net Present Value which makes him personally liable for compensating and restoring the damage done to the forest.

3. The Applicant has further mentioned that the New Delhi Bench of the National Green Tribunal has *suo-motu* taken up the matter on the basis of news item titled “Assam: PCCF MK Yadava accused of illegally clearing protected forest for Commando Battalion” published in ‘Northeast News’ dated 25.12.2023 which is registered as Original Application No.61/2024 and pertains to innerline Reserve Forest in Hilakandi District. The Applicant has also referred to the order of the New Delhi Bench of the Tribunal dated 23.04.2024 which is extracted below:-

“2. In terms of the direction of the Tribunal, counter affidavit on behalf of MoEF&CC (respondent no.1) has been filed disclosing the status as under:-

“7. That the Regional Office Shillong of the Ministry vide its letter no. F.NO.- RONE/E/O.A.No.61/24/PB/S/4081 dated 12.03.2024 sent its detailed site inspection report vis-à-vis allegations of violation of statutory provisions of Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 by PCCF/HOFF, Assam. The said report has been examined in the Ministry and prima facie it has been observed that the use of forest land for non-forestry activities has been allowed without prior permission of the Central Government which is in contravention of the statutory provisions and rules under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. (Copy of the site visit Report is annexed as Annexure-R-3).

8. That taking note of the aforesaid, the answering Ministry vide its letter dated 18.03.2024 directed the State Govt. to stop and discontinue the alleged construction activities forthwith. That vide letter dated 18.03.2024 the Ministry also requested its Regional Office Shillong to initiate action as prescribed under section 3A and 3B of the Evam Van (Sanrakshan Samvardhan) Adhiniyam. (Copy of the letters dated 18.03.2024 annexed as Annexure-R4.)”

3. Affidavit clearly reflects that the construction has been done in utter violation of the norms.”

4. In support of his allegation, the Applicant has enclosed the news article published in the national daily 'Hindustan Times' dated 25.04.2024 titled as "A second commando battalion in Assam established without FC nod" as Annexure-A-1. Learned Counsel for the Applicant clarified that this case is different from Original Application No.61/2024/PB and pertains to illegal non-forestry use of 28 Ha. Geleky Reserve Forest in Sibasagar District of Assam.
5. The Applicant has alleged that in the news item published on 25.04.2024, it is mentioned that Shri Yadava has written to Officer-in-Charge, Eastern Assam Circle that construction of a police battalion can be approved "in the interest of conservation and protection of forest land" at Geleky. The letter from the PCCF's office signed off by Yadava states according to Section 2 (b) of the Forest (Conservation) Act, 1980, non-forest purpose means: "any purpose other than reforestation: but does not include work relating or ancillary to conservation, development and management of forest and wildlife, namely, establishment of and check-post, firelines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes."

"Since the proposal for 28 Ha. of forest land for establishment of commando battalion camp in the Assam-Nagaland interstate border area of Geleky RF is for protection and conservation of reserved forest land, it qualifies as an activity relating to conservation of forests mentioned under Section (2) of the Forest (Conservation) Act, 1980. Therefore, you are allowed to go ahead with the establishment of the proposed second commando battalion unit in the interest of conservation and protection of forest land."

6. We are of the opinion that the matter relates to substantial environmental issue and violation of Forest (Conservation) Act, 1980 and requires consideration.
7. Issue notice to the respondents, returnable within four weeks.
8. Ms. Malabika Roy Dey, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent Nos.1, 2, 4 and 5, State Respondents, Government of Assam.
9. Ms. Amrita Pandey, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent No.3, Ministry of Environment, Forests and Climate Change (MoEF&CC).
10. All the respondents shall file their counter-affidavits within four weeks.
11. We deem it appropriate to constitute a Committee comprising of the following officers of MoEF&CC to enquire the case comprehensively:-
 - (i) Additional Director General of Forest, MoEF&CC dealing with Forest (Conservation) Act;
 - (ii) Additional Secretary, MoEF&CC nominated by Secretary, MoEF&CC; and
 - (iii) Deputy Director General of Forests (C), MoEF&CC, Integrated Regional Office, Meghalaya.
12. The Committee shall visit the site and submit its Report on affidavit. The Additional Director General of Forest, MoEF&CC shall be the Nodal officer for filing the report on affidavit.
13. The Applicant shall serve e-copy/soft copy of the Original Application along with all its annexures upon Ms. Malabika Roy Dey and Ms. Amrita Pandey, learned Counsel for the Respondents and file affidavit of service.

List it on 09.08.2024.

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Sheo Kumar Singh, JM

May 29, 2024,
Original Application No.105/2024/EZ
MN

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Dr. Arun Kumar Verma, EM