

# FOREST CASE UPDATE

Issue 69, August and September 2011

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### **Highlights of the Central Empowered Committee (CEC) hearing on 2<sup>nd</sup> August 2011**

One of the first matters (Application No.1323) heard on this day was from the state of Rajasthan. It was related to the direction to grant and extend the direction of status quo granted by the High Court of Rajasthan related to mining in the Aravalli hills. The CEC clarified from the applicant that at the last hearing they had referred to two letters of the state government, one allowing and one disallowing mining activity to take place. This matter is essentially linked to establishing whether or not mining activity by leaseholder Gurpreet Singh Soni is located within or outside the Aravalli hills in the state. The counsel for the applicant referred to site inspection report and the letter of the state government. Based on the arguments the CEC indicated that it will forward its recommendations to the Supreme Court.

The next matter heard was I.A.2777-78 related to seeking permission to the applicants for cutting khair trees in Teeka Sukret Thara Jhilka village in Pathankot tehsil of Gurdaspur district in Punjab. In the last hearing the state government was not present. The CEC

observed that construction activity has started without approvals. The trees have also been cut without any permit and felling is continuing. The CEC asked the applicants whether they disagree with the state government's contention that violation has taken place. The applicant showed the CEC a license granted to them whereby 38 trees were allowed to be cut. When clarified as to whether these trees are on the same land as what is in the applicant's possession, it was agreed to that it is in the same village. The applicant also raised that since the actual area of the village is not correctly shown and the land in question is not forest area. The CEC asked the applicants to file their response to the state government's affidavit. It was highlighted that the *jamabandi* was done in 1971-72 and according to the state government the area in question is forest land. However, the project authorities have sought permission indicating otherwise. The issue to resolve before the CEC is whether or not the area in the village where trees need to be felled is forest land or not. The CEC asked both the applicant to give their contentions in writing. It also said that if the applicants don't want to file anything further, then the CEC will sent its report to the Supreme Court.

In the next case I.A.2914 the CEC mentioned that they would be a meeting with the Ministry of Defence in the coming week and take a decision. This was related to the requirement of forest land by the Ministry. No further details were discussed.

Application No.1294 was listed next. It relates to the appeal by the Devasthan Management Committee in Kolhapur, Maharashtra. It was mentioned that the state has sought time to file their response. At the last hearing, the CEC had mentioned that they would not intervene as far as the disputes in the High Court are concerned, if it relates to an appeal against the decision of the Forest Advisory Committee. No further discussion happened on this.

Next was Application No.1313 to stop illegal felling of trees and encroachment of forest land in Haryana filed by The Earth Saviour Foundation. It was highlighted that there has been unauthorized construction and illegal tree felling that has taken place. The CEC enquired from the representative of the state government if there has been a suspension of activity as mere filing of an FIR is not enough. The CEC reiterated that at the last hearing they had asked that the state be represented in the matter by a senior official. The applicant filed an additional document.

Application 1316 from Bihar followed. Filed by the Wildlife Trust of India it is regarding the construction and widening up of roads in Valimiki Wild Life sanctuary and Tiger Reserve. It was highlighted that Central Public Works Department (CPWD) and not the state government are carrying out the work in the area and what is being constructed is a national highway. The CEC asked if the National Highways Authority of India (NHAI) is involved. The state government representative said that on record it is the CPWD. The CEC says the reply of the state shows that the allegations are correct. The state government representative brought to light that the source of information for the

allegation is not really mentioned and it relies on a newspaper report. Once the state government recorded the allegations, action has been taken against those involved. The CEC mentioned that this is a serious matter as the violations have also carried on despite the CEC letter to the Chief Secretary before 2005. A violation of the Supreme Court's orders has also taken place. It also appears that the violation appears to be by Government of India and not state government. The CEC asked the applicant as to how they would like to revise the application based on these facts and whether they would like to make the CPWD and the NHAI as parties in the matter. The next hearing was fixed for 5<sup>th</sup> September 2011, provided the CEC receives a amended appeal in a week or so after the present hearing.

Matter relating to the deforestation, encroachment and vanishing of atleast 1,23,505 ha of forest land from Jharkhand was heard next. This was Application number 1319 filed by Narendra Mishra, IFS officer and had been discussed at length at a previous hearing of the CEC and also highlighted in the Forest Case Update. The CEC stated that they have received additional affidavit with 5 annexures to give evidence about the disappearance of forests. However, they instead show area under encroachments. It is not clear how the figures in the annexures relate to the application. In the last hearing the CEC had specifically asked for examples of the contention made in the application, as they were too vague. The counsel for the applicant mentioned that to ascertain this, a detailed survey would be required. However, the CEC stated that the disappearance of forest couldn't be alleged without evidence. It was also stated that this matter would be heard as and when the applicant provides additional information.

Application 1322 was not heard, as there was no one present. It has been filed with a request to cancel the quarry leases of granite and related crushers in Karimnagar, Andhra Pradesh as forest and catchment areas of feeder channels and streams are being destroyed.

WBI 2339 from Orissa was heard next. It relates to the relocation of licensed saw mills in the state pursuant to the orders of the Supreme Court dated 16.8.2010. The applicant, Orissa Woodbased Industries Council remarked that he had not received a copy of the state government's affidavit. The CEC sought a few clarifications related to the time frame within which these saw mills will be relocated. In the last hearing the counsel for the state had given a period of 3 weeks as the deadline and this should not be delayed further. The matter was fixed for hearing on 5<sup>th</sup> September 2011 and the CEC directed that something clear and concrete should emerge in this case prior to that.

Application WBI 1906 seeking permission for establishment of the proposed Special Imported Timber Processing Zone in Thane district of Maharashtra was listed next. It has been filed by the Maharashtra Timber Industry Promoters. The CEC highlighted that the main issue has remained unanswered which relates to the fact as to whether the state government wants to grant license or not. The state has not filed its response in this case. It was also enquired as to how the industrial estate will work in a transparent manner and whether it will be state owned or private. The state government representative mentioned that this process would require the 1981 saw mills rules in the state and possibly a cabinet decision. The CEC asked the state government of Maharashtra to

discuss it and submit a proposal for it. It was enquired whether there is an agreement of on the proposal of the forest department. Further is the proposed industrial zone only for existing saw mills or new ones also. The Chief Secretary has only mentioned relocation but this needs to be reconfirmed. If it is only relocation then the question to take CEC permission does not arise, as it only requires an amendment in the state rules. The CEC also remarked that the Chief Conservator of Forests cannot file separate letters before the CEC as if he is independent of the state. If he has been authorized by the state then that authorization needs to be added. However, irrespective of this, the main issue in the case still needs to be resolved on whether this is meant for existing saw mills or new licenses also. The CEC will not permit the grant of new licenses as timber availability is less in the state as compared to the present capacity of the saw mills. The State government has also filed a separate IA asking for permission to new mills based on imported timber which has been rejected. The counsel for the state submitted documents to justify their position but the CEC was not convinced that they clarify and asked the state government to take a clear and firm decision on what the industrial zone is meant for. If it does include unlicensed saw mills then a substantial IA needs to be filed in the Supreme Court. It was listed for 5<sup>th</sup> September 2011 for a final hearing and decision.

The last application of the day's proceedings was Application 1325 from Andhra Pradesh seeking an interim and ex-parte order to allow the petitioners, to carry on its export of iron ores from state of Orissa and Jharkhand as well as other sources which is not connected mining leases under dispute. This matter is being heard in detail in the Supreme Court and a specific issue had come up for which CEC's intervention has been sought. The applicant had mentioned in court that the applicant has entered into agreements for which they should be allowed to follow through their commitments by transporting ore and using the berthing space at the Vishakapatnam (Vizag) port. The CEC enquired as to how many agreements have entered into by the applicant with buyers, which are likely to be jeopardized if transportation of ore is not allowed. The response of the applicants only pointed to expression of interest and not formal agreement that had been entered into. It was highlighted by the applicant that since there is an embargo on them they have not entered into any agreements but have several buyers seeking ore from them. They said that they would not use the ore from their own mines, which is being debated upon in court, but export it from other states and supply it. The CEC also asked for details of purchase agreements with mine owners from Orissa and Jharkhand. The applicant highlighted that they had already purchased 60000 tonnes of ore from Jharkhand but there is an embargo on the transport to they are facing difficulty. The CEC sought details regarding the mines from which purchases have been made, which were provided at the time of the hearing. The CEC said that they also need to know whether the said mine owner has transportation permissions or not from the PCCF of Jharkhand. However, the CEC strongly remarked that the counsel for the applicant had made a statement in court that the applicant has several export commitments for which the transportation of iron ore from other mines is required. Since the applicant's mines have been closed, he requires ore from elsewhere to fulfill his commitments. However, the averments don't tally with the statements in the court, said the CEC. Keeping this in mind the CEC sought additional information as to whether there are any firm agreements with overseas buyers, beyond expressions of interest and what are the quantities of ore purchased from both Orissa and Jharkhand. It is critical to establish the "prior export

commitments” which the applicant had highlighted in the court. The counsel for the applicant said that since they have been in the business for a long time, there are several in - principle commitments without entering into formal agreements. The CEC strongly stated that the documents filed before the CEC do not substantiate the categorical statements made in the court. Only if this is resolved can one also look into the requirement of the applicant for the berthing space at the Vizag port. The CEC mentioned that the term “interest” does not match with the contentions that have been made strongly in court. The CEC warned the applicants that they should substantiate their position else, they will have to tell the Supreme Court that a false statement was made by the applicant.

**Supreme Court Order related to deletion of 2105.42.41 hectares forest area in Gujarat towards settlement of rights under Indian Forest Act, 1927 and intervention of ABG Cement (dated 22<sup>nd</sup> July 2011)**

**I.A. NOs. 2881 & 3026-3027 IN W.P. (C) NO. 202/1995**

The State of Gujarat has filed an application before the Central Empowered Committee (“CEC”) seeking permission to delete 2105.42.41 hectares forest area in 57 villages in four districts of Gujarat State under Section 4 of the Indian Forest Act, 1927 (hereinafter referred to as “the Act”). Details of which are furnished along with the application. CEC placed that application with a report before this Court seeking appropriate orders on the request made by the State of Gujarat.

CEC in its report dated 23.6.2010 endorsed the deletion of the areas approved by the Forest Settlement Officer after acknowledging the rights of the villagers in response to the areas notified under Section 4 of the Act. Further it was also reported that the areas have by and large being decided to be excluded on genuine grounds as mentioned in the above mentioned Act. C.E.C, however, imposed following conditions.

1. No area will be deleted on the ground of its allotment done after the issue of notifications under Section 4 of the Indian Forest Act;
2. None of the deleted area will be allowed to be used for mining without obtaining approval under the Forest (Conservation) Act, 1980;
3. For deletion of the area approval under the Forest (Conservation) Act,1980 will be obtained. However, no NPV or compensatory afforestation charges will be payable as the areas are to be deleted for settlement of rights as per the provisions of the Indian Forest Act, 1927 and
4. The balance areas will be notified as Reserved Forest under Section 20 of the Indian Forest Act, 1980.

Being aggrieved by condition no. 2, stated herein before, ABG Cement Limited has approached this Court seeking intervention and stated that its rights are effected by condition no.2 suggested in CEC report.

Mr. Andhyarujina, learned senior counsel appearing for the intervenor submitted that ABG Cement Limited had made an application before the Government of Gujarat for the grant of the mining lease in certain tracts of barren land aggregating 730.60 hectares of land in Village Nani Ber for limestone mining. Further it is stated that after the order passed by the Forest Settlement Officer, the State of Gujarat has granted approval to the ABG Cement

Limited for lime stone mining of 730.60 hectares of land in Village Nani Ber and by letter dated 30.6.2007 called upon the ABG Cement Limited to make the payment of Rs.32,94,500 towards the prospecting charges.

Learned senior counsel has further submitted that once the land is deleted on the proposed forest under Section 4 following the procedure under Section 11 of the Act, such land seized to be forest land and therefore provisions of Section 2 of the Forest (Conservation) Act, 1980 do not apply and there is no requirement of obtaining prior approval of the Central Government under that Act. Learned senior counsel has submitted that C.E.C has wrongly relied upon the Ministry of Environment and Forests (MoEF) guidelines, which was annexed as Annexure R-4 and stated that these guidelines do not refer to lease which are deleted under the Notification under Section 4 of the Act. Reference was also made in the judgment of this Court in Union of India vs. Abdul Jalil, 1954 4 SCR 158.

Mr. P.S. Narasimha, learned amicus curiae and the learned counsel appearing for the State of Gujarat submitted it is unnecessary to examine those contentions at this stage and the application preferred for intervention itself is premature. Further in the reply affidavit filed by the State of Gujarat it is stated that no lease has formerly been granted to the ABG Cement Limited in any of the areas notified under Section 4 of the Act and certain proposal regarding deletion of the lease submitted by the Government of India is pending consideration before the Ministry of Environment and Forests (MoEF). Further, it was also pointed out that ABG Cement Limited had also made an application for seeking approval under the Forest (Conservation) Act, 1980 before the concerned Ministry.

We are of the view that, at this stage, it is unnecessary to examine various contentions raised by the learned senior counsel for ABG Cement Limited, since we are only concerned with the question whether the application preferred by the State of Gujarat for deletion of forest land be granted or not. CEC report is in favour of the deletion subject to certain conditions. The Ministry of Environment and Forests (MoEF) in its letter dated 7.1.2010 produced as Annexure R-3 before this Court has stated that the application be considered favourably under such circumstances we are of the view that the request made by the State of Gujarat for deletion of the area as shown in its application is justified. We therefore allow the application as prayed for.

However, with regard to the condition no.2 imposed by CEC, we express no final opinion specially in view of the stand taken by the State of Gujarat that no lease has formerly been granted to ABG Cement Limited in any of the areas as notified under Section 4 of the Act. ABG Cement Limited therefore would be aggrieved by the condition imposed by CEC, only if the State Government executes a lease deed in its favour or grants permission for mining, which is yet to happen. We therefore leave that question open.

Learned senior counsel has further submitted that he would be permitted to move an application before the Ministry of Environment and Forests (MoEF) seeking approval for the grant of lease and also to make a plea before the Ministry of Environment and Forests (MoEF) for permission under the Forest (Conservation) Act, 1980 and also to challenge the condition No.2. ABG Cement Limited, if so advised may raise all those contentions before the Ministry of Environment and Forests (MoEF) and it is for the MoEF to

consider with which we express no final opinion. I.A.No.2881 of 2009 preferred by State of Gujarat for deletion stands allowed, as above.

I.A.Nos.3026-3027 filed by ABG Cement Limited are accordingly disposed of.

***[See also Section on orders in August 2011]***

### Some Orders in the Godavarman Case in August 2011

**[Note: We are aware that some orders in this section do not give full details of the either the issue at hand or from which state they emanate. We will share additional details on these as soon as we have it. Some orders in this section related to W.P. (C) 337 of 1995 which relates to Centre for Environment Law v/s Union of India. They are being heard as part of the Godavaraman case pursuant to the order of the Godavarman bench seeking permission for felling of trees protected areas]**

#### Orders dated 19.8.2011

- **I.A. NOS. 83-84 IN W.P.(C) NO. 337 OF 1995: Regarding denotifying forest area in Tarai Central Forest Division, Haldwani, Uttarakhand**

*This application is preferred seeking denotifying 3 1/8 acres of forest land situated at plot no. 150 between pillar nos. 130 and 131 in Tanda Forest Block of Tarai Central Forest Division, Haldwani, District Nainital. When the matter came up for hearing on 14.11.2007, this Court in I.A.Nos. 83 to 85, passed an order permitting the applicants to make an application before the*

*Forest Advisory Committee and the Committee was directed to submit its report within six weeks.*

*Learned Counsel appearing for the applicant submits that the applicant had already moved the Advisory Committee but no decision has been taken so far.*

*Under such circumstances, we direct the Forest Advisory Committee to submit its report before this Court within three weeks. Counter affidavit, if any, by the State shall be filed before that time.*

*List after three weeks.*

*Communicate this order to MOEF and Forest Advisory Committee.*

- **I.A. NOS. 3096-3098; I.A. NOS. 3099-3101; I.A. NOS. 3102-3104; and I.A. NOS. 3105-3107: Related to Saw Mills in District Almora, Uttarakhand**

*Applicants have approached this Court seeking directions to the State to grant necessary permission to relocate their saw mill from Village Dhanan, Tehsil Ranikhet, Distt. Almora. Learned counsel appearing for the CEC referred to this Court's order dated 5.5.1998 and other latter orders and submitted that the applicants can move the State Level Committee of the State of Uttarakhand. Considering the facts and circumstances of this case the applicants, if so advised may move the State Level Committee and the Committee shall examine and take a decision within two months from the date of receipt of this order taking into consideration, the various orders passed by this Court.*

*All the applications are disposed of as above.*

- **I.A. NO. 972 IN I.A. 757 WITH 789-790, 962, 986, 1042-1045, 1217- 1219, 1536-1538, 2660-2661, 2064, 2255-2256 AND 2949 IN 757: Related to Mount Abu Ecologically Sensitive Area (ESA)**

*Learned counsel appearing for the State of Rajasthan submitted that in view of the notification issued by the Ministry of Environment and Forests (MoEF) on 25.6.2009, they are taking speedy steps to finalize the Zonal Master Plan for the Eco-sensitive Zone of Mount Abu. Learned counsel appearing for some of the citizens submitted that they may be given opportunity to submit their response while finalizing the Zonal Master Plan. Learned counsel for the State of Rajasthan submitted that all interested parties could place their response to the Zonal Master Plan before the appropriate authority and the Zonal Master Plan would be finalized after considering their response.*

*We direct this final Zonal Master Plan be finalized within two months, be placed before this Court.*

*In the meanwhile, if there is any grievance, with regard to the repair, renovations, alteration, demolition etc. of the houses, shops and other buildings, the same may be made to the Monitoring Committee as provided in the notifications and the Committee would consider the same and pass appropriate orders within six weeks from the date of receipt of the petitions*

**Orders dated 26.8.2011**

- **IA Nos. 1433 & 1477: Related to the protection of Wild Buffalo in Chhatisgarh**

*Mr. P.S. Narasimha, learned Amicus Curiae moved this Court highlighting the necessity to protect the Wild Buffalo, considered to be an endangered animal. The Central Empowered Committee submitted its report on 10.9.2008 on the applications. The State of Chhattisgarh has also filed a detailed affidavit stating that the State has entered into a Memorandum of Undertaking with the Wildlife Trust of India on 21.3.2005 for protection and preservation of Wild Buffalo.*

*Mr. P.S. Narasimha, learned Amicus Curiae referring to page 155 of the reply of the State Government submitted that for effective and proper implementation of the project, sufficient funds have to be generated. We are of the view that the Central Government and the State Government would put their heads together and find out sufficient funds for the successful implementation of the project. This may be done within one month from today. Status report be filed by both the parties thereafter.*

*Post these I.As. after one month*

- **I.A. 2777-2778**

*None is present on behalf of the applicants.*

*These applications are preferred seeking direction to the respondents to grant permission to the applicants to cut more trees from the land in question which, according to the applicants, belongs to them. The Forest Department has taken a view that this is the forest land.*

*The applicants, if so advised, may approach the Central Government for seeking permission under Section 2 of the Forest (Conservation) Act, 1980.*

*These applications stand disposed of accordingly*

- **I.A Nos. 12-13, 14-15:**

*The Central Empowered Committee and Ministry of Environment and Forests are directed to examine the whole matter and submit a report to this Court within two weeks from today.*

*Respondents are permitted to file their reply. The impugned judgment and the steps taken thereunder would stand stayed for a month.*

*Post these I.As. after two weeks.*

- **IA No. 972 in IA 757, 1042-1045 in 757 and IA No...in IA NO. 757:Related to Mount Abu Ecologically Sensitive Area (ESA)**

*Mr. S.K. Jain, learned counsel appearing for the applicant commenced his arguments at 3.30 p.m. and was on his legs when the Court rose for the day leaving the matter as part-heard.*

*List these I.As in the next week.*

- **I.A. No. 145: Seeking diversion of forest land from Eturunagaram Wild Life Sanctuary, Andhra Pradesh for widening of existing road**

*This is an application preferred by the State of Andhra Pradesh seeking permission for diversion of forest land for widening of existing road from Eturunagaram Wild Life Sanctuary.*

*Ministry of Environment and Forests has already accorded permission vide its order dated 31.12.2009.*

*I.A. No.145 is, accordingly, allowed subject to the condition that the applicants would take permission under Section 2 of the Forest (Conservation) Act, 1980 as well as from the Chief Wildlife Warden, Andhra Pradesh as mentioned in para 6 of the aforesaid order*

- **IA NO.146 : For diversion of 12.892 hectares of forest land in Chennur and Yenchapally Reserve Forests (Pranahitha Black Buck Sanctuary) for formaion of rod on NH-16 etc**

*Learned senior counsel appearing for the applicant seek permission to place on record the missing page.*

*List this I.A. after two weeks.*

### **Some Orders in the Godavarman Case in September 2011**

**[Note: We are aware that some orders in this section do not give full details of the either the issue at hand or from which state they emanate. We will share additional details on these as soon as we have it. Some orders in this sectio related to W.P. (C) 337 of 1995 which relates to Centre for Environment Law v/s Union of India. They are being heard as part of the Godavaraman case pursuant to the order of the Godavarman bench seeking permission for felling of trees protected areas]**

#### **Orders dated 2.9.2011**

- **I. A. Nos. 2,9, 11-13, 16-20, 23, 24,28,29, 33-34, 37 of 2011 & CP (C) Nos. 290-292/1998 and IA Nos. 1117-1118: Related to Environment Awareness Forum v/s State of Jammu and Kashmir decisions prior to the 12.12.1996 order in the Godavarman case**

*It is unfortunate that despite number of opportunities, the State of Jammu and Kashmir has not responded to the various averments made in these I.As.*

*As a last chance, three weeks' time is granted to the state of Jammu & Kashmir to file its response.*

*Post these IAs. and Contempt Petition after four weeks.*

- **I.A. Nos. 3118-3120**

*Central Empowered Committee is directed to file its report within four weeks.*

*Ministry of Environment and Forest is directed to produce the detailed report of the National Board for Wild Life including the dissenting views expressed by two of its members and the relevant files. Issue notice to the State of Gujarat.*

*Ms. Jesal, advocate accepts notice on behalf of State of Gujarat. Counter-affidavit, if any, be filed within two weeks.*

*Post these IAs after four weeks*

- **IA No. 972 in IA 757, 1042-1045, 2949 in 757 and IA NO....in IA 757: Related to Mount Abu Ecologically Sensitive Area (ESA)**

*Mr. S.K. Jain, learned counsel appearing for the applicant - Jan Kalyan Samiti resumed his submissions at 12.50 p.m. and was on his legs when the Court rose for the day leaving the matter as part-heard.*

*List on 9.9.2011 as part-heard.*

- **I.A.NOS.2202-2203,I.A.NOS.2601 & 2915-2917 In I.A.NOS. 2202-2203, 2602, 2929-2931 WITH 1606 2002-2004, 2011, 2062-2063 IN 1220 IN 548: Related to Pachmarhi Madhya Pradesh (I.A. 548 which is about the removal of dead, diseased, dying or wild fallen tree, drift wood and grasses etc from any National Park or game sanctuary)**

*Mr. Vivek Tankha, learned Additional Solicitor General appearing for the State of M.P. seeks time to put concrete proposal with regard to the suggestions made by Central Empowered Committee. He may file his proposal within four weeks.*

*Post these IAs. after four weeks.*

#### Orders dated 16.9.2011

- **I.A. NOS. 142-143 IN W.P. (C ) No. 337/1995**

*Appellant seeks de-reservation of certain areas which fall under the Reserve Forest. Learned counsel appearing for the applicant submits that even though they had approached the State*

*Government vide letter dated 9.11.2009, they were advised to approach this Court for getting clearance for de-reservation of the forest land.*

*Learned Senior Counsel Mr. Punjwani appearing before us referred to the letter of the Tamil Nadu Forest Department dated 12.5.2010 stating that the District Forest Officer has reported that only an extent of 10.67 acres of land is being utilized by the Trust and the balance area of 29.33 acres mostly consist of plantations and wild jungle growth.*

*We find it not necessary to express our opinion on the various questions raised before us. We feel it appropriate that the matter be examined by the State Government after conducting proper inquiry and taking note of the opinion expressed by the Forest Department. If the State Government finds that The matter requires approval under the Forest (Conservation) Act, then it may be referred to the Central Government and the Central Government will examine the same and pass appropriate orders in accordance with law.*

*Since the matter is pending before the State Government for a considerable long period, we direct the State Government to pass appropriate orders within three months from the date of receipt of copy of the order.*

*Applicant is also permitted to file proper application to the State Government within a period of two weeks from today.*

*I.As stand disposed of accordingly.*

- **I.A. NO. 146 IN W.P.(C ) NO. 337/1995: For diversion of 12.892 hectares of forest land in Chennur and Yenchapally Reserve Forests (Pranahitha Black Buck Sanctuary) for formation of road on NH-16 etc.**

*This is an application by State of Andhra Pradesh for formation of road = NH 16 from Nizamabad to Jagdalpur to connect the missing links from Km 199/059-300, 213/300-890 & km 216/220 to 216/670 on the National Highway No. 16 which passes through the forest area of RF Chennur and Pranahitha black buck sanctuary in Mancherial Division, Adilabad Circle in Adilabad District of the State.*

*In view of the request made by the State of Andhra Pradesh, the Standing Committee of NBWL examined the proposal and granted the request and observed as follows:-*

*"The Committee after discussion Unanimously decided to recommend the proposal subject to the conditions of erecting 4 meter high wall fence to prevent any wild animal from coming to the highway to avoid accidental deaths of Black Bucks and other animals. In addition all other precautions should be taken as has been advised in the guidelines issued by Wildlife Institute of India in this regard, which are available on the website of Wildlife Institute of India."*

*A meeting was held on 12th April, 2010 and a decision is reflected in the letter dated 20.4.2010.*

*The application is allowed subject to the conditions incorporated in the letter.*

**Orders dated 29.9.2011**

- **IA NOS.141 IN IA NOS. 124-125 IN W.P.(C) NO. 337/1995: Regarding construction of a road on the Indo-Mynammar border**

*This application has been preferred by the Government of India (Ministry of Home Affairs) seeking grant of sanction/approval to the fencing and construction of road along the Indo-Myanmar border between Border Pillar no 79 to Boarder Pillar no.81. Ld. amicus curiae submitted, that in order to reduce delay in considering the application for required permission under the Forest Conservation Act 1980 and Wild life protection Act, 1972 the Ministry of Environment and Forest, has streamlined the procedure. Reference was made to Annexure I produced by the Ministry of Environment and Forest alongwith the affidavit. Some of the requests for clearance which relate to fencing and construction of roads in Border area of Indo- China and Myanmar, which are very sensitive area having National interest are pending approval for quite long.*

*Since procedure has been laid down for quick disposal of the applications we are inclined to dispose of this application with the direction to M.O.E.F. (Ministry of environment and Forest) to dispose of the application as per the procedure laid down. Applicant-Union of India may make a proper application as per procedure laid down and the application will be disposed of in the light of the procedure mentioned in Annexure I and III (copy enclosed herewith). After getting necessary permission from the MOEF the applicant may move to this Court for appropriate orders.*

*MOEF is directed to send a copy of this order to all Principal Chief Conservator of Forests (PCCF) for information. In view of this order, the IA is disposed of.*

- **I.A. No. 3209 IN IIIA 3026-3027 IN IA 2881**

*Heard learned counsel for either side. Learned counsel for the applicant has submitted that while passing order dated 22nd July 2011 this Court has referred only to the deletion of 2105.42.41 hectares forest area in 57 villages in four districts of Gujarat State but omitted to note the recommendation of CEC for the deletion of 8830.10 hectares comprising 84 villages, we find justification in the submission. We, therefore clarify the order dated 22/7/2011 and direct to the aggregate area to be deleted is 10935.2611 hectares. Ordered accordingly.*

*CEC pass appropriate orders within two months from the date of the receipt of the copy of the order.*

*IA is disposed of.*

- **SLP(C) NO.15402/2010**

*Leave granted.*

*This appeal is preferred by the State aggrieved by the positive direction given by the High Court for forming a road from N.H. 121 to the village of Jamaria. Learned counsel appearing for the*

*State submits that Executive Engineer has consented to the order without getting approval of the Government.*

*We, are of the view, the High Court, has committed an error in issuing a writ of mandamus for the constructing a pucca road in our view it is primarily for the Government to consider the request for construction of road and its necessity.*

*We are therefore inclined to set aside the judgment of the High Court with the observation that the respondent, if so advised, may file a suitable representation before the State Government, it is for the Government to consider the same in accordance with law.*

*The appeal stands allowed as above.*

- **I.A. NO.2069: Related to the removal of kenduleaf from three sanctuaries in Orissa**

*This application is preferred by the State of Orissa seeking direction for removal of kenduleaf from the sanctuaries namely Satkosia, Badrama and Sunabeda of Orissa Wildlife Sanctuary. Amicus curiae has submitted that NBWL has already denied permission sought for so far as Satkosia sanctuary is concerned.*

*Regarding other two sanctuaries, it is open to the State to make a proper application before the National Board for Wildlife as per the procedure laid down. The said authority will pass appropriate orders on that application.*

*IA is disposed of in terms of the procedure laid down as in item 301.*

**Editors: Ritwick Dutta and Kanchi Kohli**

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