

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

Original Application No. 10/2014 (CZ)

CORAM:

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

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

BETWEEN:

Babu Lal Jajoo
S/o Shri Balur Ram Jajoo,
Aged about 50 years,
R/o Jajoo Bhawan,
Bhilwara, C/o Tiger House,
Jadon Nagar -A,
Jaipur - 18

Versus

1. The Chief Secretary,
Government of Rajasthan,
Secretariat, Jaipur,
Rajasthan.
2. The Principal Secretary
Department of Environment & Forest,
Government of Rajasthan,
Secretariat, Jaipur (Rajasthan).
3. The Principal Chief Conservator of Forests (HoFF),
Rajasthan, Van Bhawan,
Jaipur, Rajasthan.

.....Respondents

Counsel for Applicant :

**Dr. M.S.Kachhawa, Advocate
Shri Lokendra Singh Kacchawa, Advocate**

Counsel for State of Rajasthan

**Shri Sachin K.Verma, Advocate
Shri Prem Singh Shekhawat, OIC**

Counsel for Rajasthan State Pollution Control Board :
Shri Sandeep Singh, Advocate

Counsel for NHAI
Shri Om Shankar Shrivastav, Advocate

Dated : February 24th, 2015

Delivered in the open Court by
Hon'ble Mr. Justice Dalip Singh, Judicial Member

1. This Original Application was filed by the Applicant under Section 18 read with Section 14, 15, 16 and 17 of the NGT Act, 2010 on the issue of utilisation of CAMPA funds with the prayer that the Tribunal would be pleased to direct the Respondents to use and spend the amount deposited under the head of CAMPA in the State of Rajasthan for its rightful purpose of afforestation, development and conservation of forests and wildlife. The Applicant alleged that in fact the CAMPA funds were being diverted for purposes other than what they were meant for in terms of the judgement of the Hon'ble Supreme Court in the case of T.N. Godavarman V/s Union of India & Ors in the order dated 12.03.2014 as well as earlier order dated 10.07.2009.
2. Vide our order dated 28.01.2014, notices were ordered to be issued to the Respondents. Subsequently vide order dated 19.08.2014, the National Highway Authority of India (for short 'NHAI') was also ordered to be impleaded as party and notices issued. The Respondents, including the NHAI, submitted their response by way of replies. On 29.09.2014, the State of Rajasthan was directed to submit the response and file data with regard to the utilisation of CAMPA funds and details of the works which had been carried out in the State of Rajasthan. On 28.10.2014, the

Additional PCCF, Rajasthan dealing with the CAMPA fund was directed to appear personally to explain the entire position and accordingly on 15.12.2014, Dr. Suresh Chandra, Additional PCCF, Forest Department, State of Rajasthan holding additional charge of CAMPA, appeared before the Tribunal and submitted that in fact the funds being allocated under the CAMPA to the State of Rajasthan were being utilised in accordance with the directions of the Hon'ble Supreme Court and there had been no diversion of funds. Accordingly, the Respondent was directed to file the affidavit in this behalf and also furnish information with regard to the action plan for utilisation of the funds and the manner in which the shortfalls occurred with regard to utilisation of funds and how the achievement of targets shall be complied with.

3. Today, Learned Counsel for the State of Rajasthan has submitted the reply on behalf of Respondent No. 3 on the points raised in the previous order. Copy of the reply has been furnished to the Learned Counsel for the Applicant.
4. We have heard the Learned Counsel for the Applicant as well as the Learned Counsel for the State of Rajasthan and NHAI. So far as the first issue with regard to utilisation of the CAMPA funds is concerned, Learned Counsel for the State submitted along with the reply filed today, a copy of the letter dated 29.01.2015 issued by the MoEF and Climate Change, Government of India containing the Minutes of the Meeting and the directions pursuant to the proceedings of the 5th meeting of the National CAMPA Advisory Council on the utilisation of CAMPA funds. It has been submitted by the Learned Counsel for the State that henceforth the State Government shall be utilising the CAMPA funds in terms of the directions issued after the 5th Meeting of the National CAMPA Advisory

Council contained in the letter dated 29.01.2015. One of the issues raised in the application pertains to the diversion of CAMPA funds for activities other than afforestation for which primarily the funds based upon the NPV were deposited and were required to be utilised for afforestation, management and development of forests . We find that this Tribunal need not go into the said issues as the National CAMPA Advisory Council in their 5th Meeting has itself discussed the aforesaid issue and alongwith letter dated 29.01.2015 Annexure 'A' has been appended giving "A *Compilation of items of work in which the States have been advised that such expenditure is not permissible out of the CAMPA funds*". For ready reference, we may incorporate the aforesaid impermissible works under CAMPA funds which are as follows :

1. *Administrative expenditure like travelling allowance to regular forest staff, expenditure on telephones, electricity, furniture, computer, Laptop, printers, Xerox Machine, AMC charges for office equipment, POL, stationery, electronic security/surveillance system for offices, etc;*
2. *Expenditure on eco-tourism, which is not permissible on two counts, viz.,*
 - (i) *not covered by guidelines ;*
 - (ii) *as pointed out by the Regional CCF Bangalore in meeting of the Andhra Pradesh State Steering Committee, at Hyderabad, this amounts to non forest activity and therefore requires clearance under FCA;*
3. *POL expenditure on vehicles, even if purchased under CAMPA funds in the past;*
4. *Expenditure on strengthening of infrastructure at hqrs;*
5. *Construction / repairs / renovation of office / residential building / forest rest house / ministerial staff quarters / public parks forest inspection Bungalow above RFO level (the Guidelines permit such facilities to staff at forest range and below level, alone)*
6. *Purchase of vehicles – particularly for use by officers. Purchase of vehicles for patrol duty is, however, permitted;*

7. *Participation of forest officers in all-India Forest Sports Meet.*
 8. *Expenditure on honorarium / salary to officials / wages (which are of recurring nature) ;*
 9. *Field excursion visits;*
 10. *International trainings or visits ;*
 11. *Publications / Cultural operations / exposure visits of Foresters ;*
 12. *Remuneration charges for non official members of Executive, Steering Committees ;*
 13. *Expenditure on GPS equipment / satellite maps (which are to be provided Centrally by the Forest Survey of India, who have been provided with funds for the purpose)*
5. Learned Counsel for the State of Rajasthan submitted that in fact all the State Governments in the country are now bound not to divert the CAMPA funds for any of the aforesaid activities as has been mentioned in Annexure 'A' to the letter dated 29.01.2015 and National CAMPA Advisory Council having dealt with the issue, we are of the opinion that no separate directions need to be issued by this Tribunal.
6. Though, the issue has not been specifically raised before us, but which has come to light and to our knowledge after pursuing the Annexure-8 of the reply filed by the state is that the State level Governing Body of the CAMPA headed by the Chief Minister met only once on 22.09.2010. Thereafter, for the past 5 years, no meeting of the Governing Body of the State CAMPA has been convened and only the meetings of the State level Steering Committee have been held on 01.09.2011, 19.07.2012, 19.07.2013, 22.07.2014 and 11.12.2014. We are of the view that it is of utmost importance that the Governing Body of the State CAMPA headed by the Chief Minister also meets at regular intervals for bringing to the notice of the Chief Minister on the helm of affairs, working and directions to be issued with regard to the projects to be taken up and review the

implementation of Annual Plan of operations & utilisation of funds and achievements done and the above efforts can also be appreciated. We would therefore, emphasise that the meeting of the Governing Body which has not met for the last 5 years should be convened immediately so as to take stock of the issues involved as discussed in the judgement of the Hon'ble Supreme Court with regard to establishment of CAMPA fund and its utilisation as also the achievement as a result of the same and for fixing of future plans and targets.

7. We have noted from the above reply that as regards the main issue raised in the application on alleged diversion of funds, the State has submitted that in fact no diversion at all took place and now that the position having been cleared in terms of the directions given in letter dated 29.01.2015 of the Inspector General of Forests (FC) and Chief Executive Officer, Ad-hoc CAMPA, MoEF & CC that the question of any diversion of CAMPA funds does not arise and whatever misgivings may have been there, now stand clarified. It is for the authorities concerned to take appropriate action against the concerned if any such irregularity has taken place in the past. In view of the above, we refrain from issuing any further directions in this behalf.
8. We have noted from the reply and more particularly from Annexure 1 giving details of expenditure of CAMPA funds up to 2014-15 i.e. expenditure incurred upto January 2015 from 2009 onwards. The statement reveals that there is a gap between the allocation and utilisation of the amount received from 2009-10 to 2014-15. The allocation is Rs. 238.48 crores whereas the utilisation up to January, 2015 has been Rs. 180.33 crores. Thus there is a shortfall in utilization of allocated funds. This needs to be addressed by the State Government and more particularly the

necessity of evaluating the works done in the past so that the protection and survival rate of the plantation works undertaken under compensatory afforestation can be analysed and better steps wherever required, are put into place. We do not wish to enter into the issue as to why there has been a shortfall in the utilisation of funds and that is something which the State Government needs to look into. As we have already stated above, if the Governing Body had been meeting regularly under the Chairmanship of the Chief Minister of the State, the issue with regard to shortfall in utilising the fund would necessarily have been taken up for consideration, issues discussed and addressed therein. Hence, the necessity of convening and holding the meetings of the Governing Body presided over by the Chief Minister needs to be impressed upon and leaving the matters to the Steering Committee involving only the bureaucracy may not fulfil the requirement of achieving the desired results.

9. While dealing with the issue of utilisation of CAMPA funds as was submitted before us during the course of hearing on previous dates resulting in issuing of notice to the NHAI, Learned Counsel for the Applicant submitted that despite the expansion/widening of the highways in the State of Rajasthan resulting in felling of fully grown trees which had been in existence for more than 50 years, new roadside plantations by the NHAI or the State functionaries have yet to come up to the expectation. It was submitted before us that in many routes in the country, the NHAI itself issued work tenders to various contractors imposing conditions for plantation of trees, their upkeep, protection and growth, whereas it was submitted that such conditions may be lacking in the projects which had been taken up by the NHAI in the State of Rajasthan on account of which the aforesaid works and plantation of trees along the highways is not

visible. It was also submitted that apart from the NHAI, there are various other State agencies developing the roads and mega highways which also had developed large stretches of roads in the State and there also there are not many roadside avenue plantations. The State Government while dealing with the issue of CAMPA in the Steering Committee / Governing Body and while finalising the Annual Plan of operations, needs to address itself to the aforesaid issue of poor/lack of roadside avenue plantations in the State, identify the areas on priority basis for afforestation along the highways, District roads, country roads, areas contiguous to railway tracks, the non-forest areas / degraded forest areas for carrying out such plantation works based upon the utilisation of CAMPA funds.

10. It was brought to the notice that the CAMPA fund is the major source of budget available with the State Forest Department for carrying out afforestation works and therefore making the Forest Department to rely only on the CAMPA funds is not proper for the State Government. Hence, apart from the availability of the CAMPA funds being distributed to the State, the State Government must take necessary steps and make provisions in the annual plan allocation for Forest Department and insist the department for raising large scale successful avenue plantations along the highways, state roads ensuring proper identification of species duly giving priority to the local species which can be grown in the harsh climate suitable to local conditions and plant only tall plants of a minimum of 5' height and protected well so as to ensure 100% survival duly fixing responsibility on the concerned officers for protection and survival of the trees. It was submitted that the survival rate currently being maintained is just around 50% of the trees planted annually. We are not sure whether this figure is also correct as there is no material placed before us to either

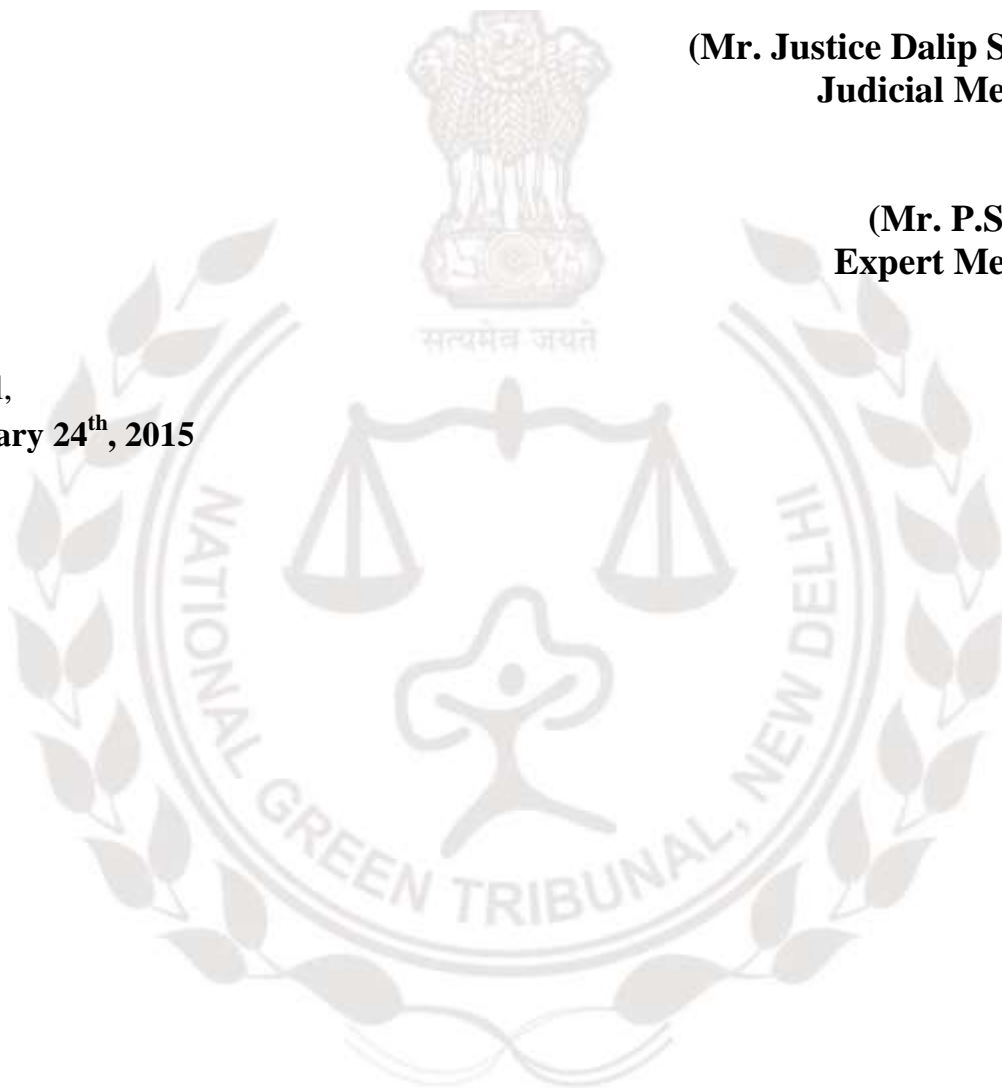
accept or reject the same but ground reality needs to be looked into by all the concerned authorities. Whatever works have been done in the past need to be reviewed with regard to survival of the trees planted earlier.

11. In view of the above, the Original Application No. 10 of 2014 stands disposed of.

(Mr. Justice Dalip Singh)
Judicial Member

(Mr. P.S.Rao)
Expert Member

Bhopal,
February 24th, 2015



NGT