

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

O.A. No. 161/2016/EZ

INDIGENOUS PERSPECTIVES

VS

STATE OF MANIPUR & ORS

CORAM: Hon'ble Mr. Justice S.P.Wangdi, Judicial Member
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

PRESENT: Applicant : Ms. Aindreela Chakraborty, Advocate
Respondents No. 1-4 : Mrs. Poushali Banerjee, Advocate
Respondent No. 5 : Mr. Anirban Das, Advocate
Respondent No. 6 : Mr. Dipankar Saha, Advocate
Respondent No. 7 : Mr. Gora Chand Roy Chowdhury, Advocate
Mrs. S. Ray, Advocate

Date & Remarks	Orders of the Tribunal
Item No. 4 18 th July, 2017.	<p>Show causes issued against the respondents No. 5 and 6, viz., Joint Forest Management Committee, Thangmeiband, Sinam Leikai, Imphal West and the Manipur State PCB respectively, in terms of our order dated 21.2.2017 filed on 26.5.2017 are ordered to be taken on record.</p> <p>Affidavits-in-opposition on behalf of the respondent No. 6, State PCB and respondent No. 5, Joint Forest Management Committee, Thangmeiband, Sinam Leikai, Imphal West, filed by Mr. Dipankar Saha</p>

and Mr. Anirban Das, Ld.advocates, are also ordered to be taken on record.

Mr. Gora Chand Roy Chowdhury, Ld. advocate for the respondent No. 7, MOEF, prays for further time to do so since, as per him, it is in transit.

Although the Id. advocate for the applicant pays for time to file affidavits-in-reply to the affidavits-in-opposition filed by the respondents, we do not understand as to what further facts would be brought before us considering the clear admission that the respondent No. 5 has set up the children's club in the reserve forest area and that no clearance under the Forest (Conservation) Act, 1980, has been obtained before doing so.

The affidavit filed on behalf of the State respondents on 26.5.2017 taken on record today contains the following in averment in para 16 :

"16. That the answering respondent most respectfully submits that there is no threat to the environment by the children club. The children club has been giving recreation and education about the importance of forest to the public. It is further submitted

that the Maniwood Children Club was established for recreation, education, promotion of eco-tourism and strengthening of joint forest management mechanism for better protection of the part of Langol RF assigned to committee. Dismantling of the structures at this stage may damage the good rapport that has been developed between Forest Department and the JFMC, Thangmeiband Sinam Leikai. If necessary, the committee will be asked to obtain forest clearance for the area of 0.2 ha under the Forest Conservation Act 1980 from the competent authority.”

We may also refer to the report of the DFO, Central Forest Division, respondent No. 4, filed in compliance of our order dated 25.1.2017, where we find the above averments of the State respondents stated in verbatim in paragraph 6 thereof.

Although in the affidavit-in-opposition filed by the respondent No. 5, it is stated that the main objective of formation of the JFMC was to protect the existing forest crop of about 100 ha of Langol Reserve Forest assigned to the committee on sustainable basis in order to restore the ecological balance, the establishment of children’s club which is a major non-forest activity and

which obviously could not have been done without denudation of large patch of forest area is clearly incongruous and conflicting. While we do appreciate the object of establishing the children's club as being noble, one cannot be oblivious of the fact that in its effort to achieve such object, the laws prescribed therefor have to be complied with. In the present case, it is surprisingly stated by the DFO, respondent No. 4, that the activity of the JFMC was allowed as Langol Reserve Forest does not form any part of National Park or Wildlife Sanctuary or Conservation Reserve or Community Reserve which are defined as Protected Areas under the provisions of the Wildlife Protection Act, 1972.

There is no denial of the fact that the children's club has been established in the midst of a reserve forest and no Forest Clearance under Sec. 2 of the Forest (Conservation) Act, 1980, has been obtained. It is, however, remarkably stated in the affidavit of the Joint Secretary, Forest & Environment Deptt., Govt. of

Manipur that “if necessary the committee will be asked to obtain forest clearance for the area” under the Forest (Conservation) Act, 1980.

In our view, therefore, there is a clear contravention of the Forest (Conservation) Act, 1980, making the respondent No. 5 and the concerned authorities of the Forest Department, Govt. of Manipur, liable for penalty as provided in Sec. 3 of the Forest (Conservation) Act, 1980.

It may also be relevant to note that under section 3B, the authorities mentioned in clauses (a) and (b) therein shall be “deemed to be guilty of the offence” and shall be liable to be proceeded against and punished accordingly.

Having regard to the fact that the infraction on the part of the concerned respondents and the officers of the Forest Deptt. do not require any adjudication in view of their clear admissions, the affidavit of the MOEF, respondent No. 7 may not be necessary. However, if it is filed, it may be taken on record but the

affidavit should specifically indicate as to whether forest clearance has been sought for either by the respondent No. 5 or anyone else for use of the area in question which admittedly falls within the reserve forest for establishment of children club and, therefore, a non-forest activity.

The DFO, who was directed to file an affidavit in support of the report filed on 27.3.2017, shall do so on the next date without fail.

Mrs. Aindreela Chakraborty, Id. advocate for the applicant, states that she has not received the report of the DFO as well as the annexures to the affidavit filed with the affidavit-in-opposition of the Govt. respondents. We find that those have also not been filed in court. Although this is unfortunate and calls for stringent action, we grant the State respondents an opportunity to file the missing documents indicated above, both in court and also serve copies on the other side without fail before the next date. Copies of affidavits-in-opposition filed by the respondents which,

as per the Ld. counsel for the applicant, have not been served upon her, be also handed over to her.

Since Mr. Swapan Biswajit Meitey, leading advocate for the respondent No. 5 is not present today, adjournment has been sought for. In view this, disposal of the OA shall be considered in the light of our observations above on the next date.

List on 21.8.2017 for hearing and final disposal.

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Justice S.P.Wangdi, JM
18-7-2017

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Prof. (Dr.) P. C. Mishra, EM
18-7-2017



