

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

**M.A. No. 868 of 2013
In
Original Application No. 26 of 2012**

Goa Foundation & Anr. Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER
HON'BLE DR. R.C. TRIVEDI, EXPERT MEMBER

Present: **Applicant:** Mr. Raj Panjwani, Sr. Advocate along with Mr. Rahul Choudhary, Advocate
Applicant in M.A. No. 868 of 2013: Mr. Noor Muhammed and Mr. Sunny Markose, Advocates
Respondent No.4: Mr. Pawan Kr. Bansal, Adv. For Mr. Siddhartha Bhatnagar, Advocate
Respondent No.5&17: Mr. Krishnan Venu Gopal, Sr. Advocate and Mr. Jogy Scaria, Advocate
Respondent No. 19: Mr. Roshan Lal Geol, Advocate
Respondent No. 22: Ms. Usha Nandini V. Advocate and Mohd. Sadique T.A. and Mr. Biju P. Raman, Advocates

Date and Remarks	Orders of the Tribunal
Item No. 7 November 12, 2013	<p><u>Original Application No. 26 of 2012</u></p> <p>Learned counsel appearing for the Ministry of Environment and Forests (for short 'MoEF') has placed before us today a copy of the Office Memorandum dated 19th October, 2013, which reveals that the MoEF has accepted High Level Working Group Report (HLWG) recommendations "in principle" and subject to the conditions which have been stated in this Office Memorandum. Few of the noticeable recommendations which have been accepted are as follows:-</p> <ol style="list-style-type: none">(i) The definition of the extent of the Western Ghats as demarcated by the HLWG is accepted.(ii) The Ecologically Sensitive Area (ESA) as identified and delineated by the HLWG in Western Ghats is accepted.(iii) The HLWG has identified approximately 37% of the Western Ghats as ecologically sensitive. The identified Ecologically Sensitive Area covers about

60,000 sq. km. of natural landscape of Western Ghats and represents a continuous band of natural vegetation extending over a horizontal distance of 1,500 km. The Ecologically Sensitive Area is spread across six states of Western Ghats region viz. Gujarat, Maharashtra, Goa, Karnataka, Kerala and Tamil Nadu. The ESA also includes Protected Areas and World Heritage Sites of Western Ghats.

- (iv) The recommendations of the HLWG to completely ban mining, quarrying and sand mining as also thermal power plants and Red category of industries in the Ecologically Sensitive Area are also accepted.
- (v) Hydro Power being a relatively clean source of energy has been recommended to be allowed in the ESA by the HLWG subject to stringent conditions. This recommendation is accepted by the Ministry.
- (vi) Wind energy is permitted in the Ecologically Sensitive Area subject to applicable regulations.
- (vii) New building and construction projects of over 20,000 sq. m., township and area development projects as well as other projects/activities recommended to be banned by the HLWG will be banned in the Ecologically Sensitive Area. However, projects already under consideration of the respective state level SEIAAs and SEACs of the concerned states and EACs of MoEF on the date of issue of draft notification will be considered under the then existing regulations.
- (viii) Projects/activities which are not specifically prohibited under the ESA shall be scrutinized and assessed for cumulative impacts and development needs, before granting environment clearance.
- (ix) The Forest Rights Act shall be observed in letter and spirit. The consent of the Gram Sabha for projects in ESA will be mandatory as recommended by the HLWG.

It is informed that as a follow up to “in principle” acceptance of the Dr. K. Kasturirangan Report the relevant

steps would be initiated to operationalised the recommendations and a draft notification declaring the identified region of the western ghats as an Ecologically Sensitive Area along the lines accepted by the Ministry would be issued for inputs from stakeholders. It also states that the Committee would be set up to monitor the implementation of the recommendations. Another recommendation is that lifting of moratorium in Ratnagiri and Sindhudurg Districts will be subject to certain stipulations. However, this Office Memo is silent with regard to such stipulations, the scope of the monitoring Committee as well as Notification which is contemplated to be issued, and the time frame in that regard.

Thus, we direct the MoEF to file an appropriate Affidavit answering all these issues in order to put the matters beyond ambiguity and to render help in the final disposal of this Application. Let the Affidavit be filed before the next date of hearing atleast three days in advance.

Learned counsel appearing for the Applicant is directed to file a comparative statement of the recommendations of the Prof. Gadgil Committee, Dr. K. Kasturirangan Report and the "in principle" acceptance of recommendations along with the stand of MoEF in that regard.

Learned counsel appearing for the State of Kerala has taken objection that in view of the acceptance of the Dr. K. Kasturirangan Report by the MoEF the present Application has been rendered infructuous. We shall hear the arguments in this regard on the next date of hearing.

After hearing the parties, we modify the interim order dated 20th September, 2012 to the extent that it is not mandatory for the MoEF to decide the Application for any clearances in the permissible area of the Western Ghat only with reference to Gadgil Report. They are free to take into consideration either of the Report and other relevant factors in accordance with law.

List the matter on 17th December, 2013

M.A. No. 868 of 2013

Let copy of this Application be furnished to all the Learned counsel appearing in the case who may file their respective Replies within two weeks from today.

List on 17th December, 2013.

.....,CP
(Swatanter Kumar)

.....,JM
(U.D. Salvi)

.....,EM
(Dr. D.K. Agrawal)

.....,EM
(B.S. Sajwan)

.....,EM
(Dr. R.C. Trivedi)

