

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

Original Application No. 332/2014 (CZ)

CORAM:

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

**Hon'ble Mr. Ranjan Chatterjee
(Expert Member)**

BETWEEN:

Nizamuddin Qureshi
S/o Shri Babbu Khan,
Aged about 55 years,
Proprietor M/s Qureshi Bone Factory,
Ranthambore Road, RIICO Industrial Area,
Sawai Madhopur (Rajasthan).

.....**Applicant**

1. The State of Rajasthan
Through District Collector & Chairman,
District Level Monitoring Committee
(Constituted under Eco Tourism Policy),
Sawaimadhopur (Rajasthan).
2. Forest Department,
Government of Rajasthan,
Through the Deputy Conservator of Forests &
The Deputy Director (Core),
Ranthambore Tiger Project,
Sawaimadhopur.
3. Principal Secretary,
Forest Department,
Government of Rajasthan,
Jaipur (Rajasthan).
4. Ministry of Environment and Forest,
Union of India,
New Delhi.

.....**Respondents**

Counsel for Applicant :
Counsel for Respondent No. 1, 2&3 :
Counsel for Respondent No.4 :

Dr. M.S.Kachhawa, Advocate
Shri Sandeep Singh, Advocate
Shri Om S.Shrivastav, Advocate

Dated : 26th May , 2015

1. Whether the judgment is allowed to be published on the net? - Yes
2. Whether the judgment is allowed to be published in the NGT Reporter?- No

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

1. This Original Application has been filed by the Applicant alleging that the Applicant has a plot of land in Sawai Madhopur and applied for grant of permission to construct a hotel on the land situated in Village Alanpur, District Sawaimadhopur. It is submitted that the land in question falls within the purview of the Rajasthan Industrial Area Allotment Rules, 1959 and the site plan of the land has also been filed before us. As per the site plan which was filed on 25.11.2015 along with affidavit and marked as Annexure 32, it has been submitted that the land of the Applicant on which he proposes to raise construction of the hotel is surrounded by industrial plots towards the North and North-East of RIICO which have been leased out to various industrial units. Towards the South there a land of the Indian Oil Corporation and towards the West, there are warehouses of the Food Corporation in existence. The area in question is commonly known as the Ranthambore Industrial Estate. It is further submitted that in the vicinity of the land of the Applicant, sufficient similar activity in the form of hotels and lodges are in existence and in operation.

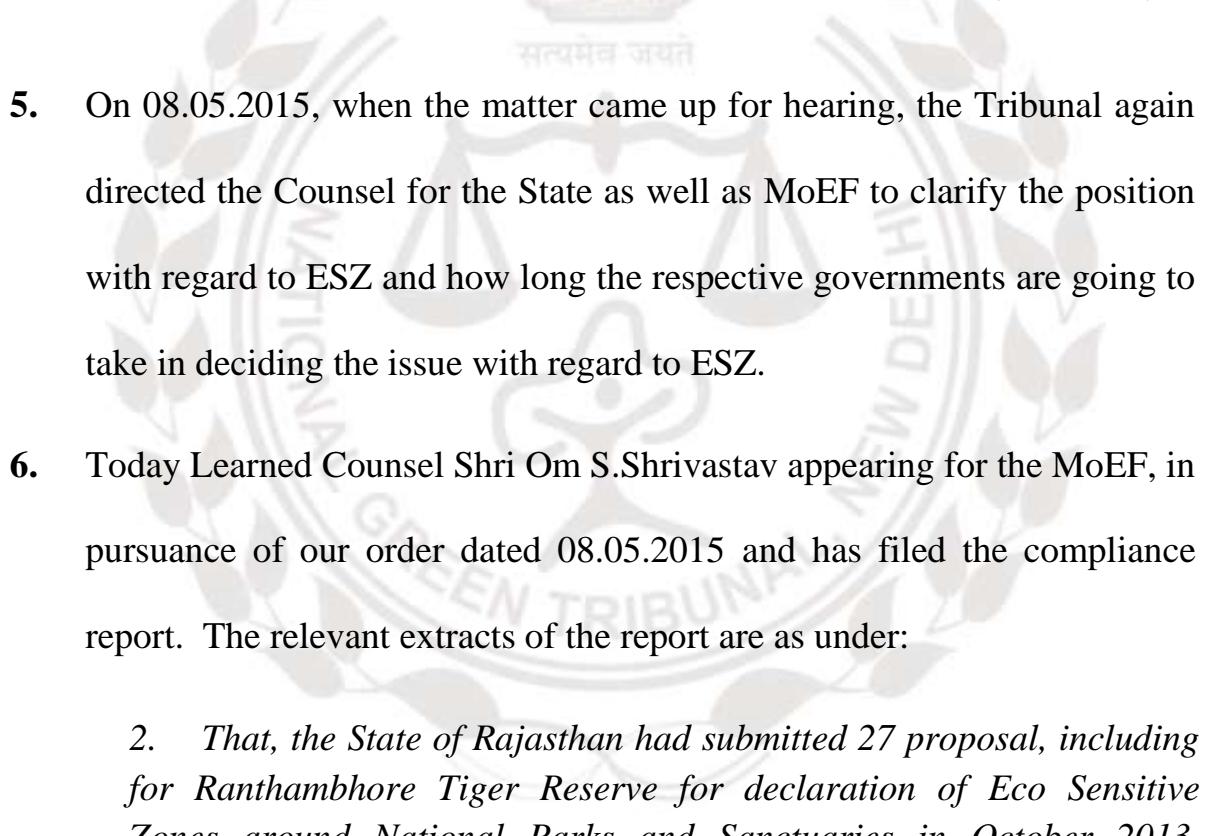
2. He submitted that the Applicant submitted an application and the same has been turned down with the comments of the Dy. Conservator of Forest and Dy. Director (Core), Tiger Project, Sawaimadhopur vide letter dated 26.07.2011 on the ground that the area in question in the draft notification dated 07.01.2011 has been included in the Eco-Sensitive Zone (ESZ) and recommended to the Central Government. On the aforesaid ground, the application of the Applicant was rejected by the Collector, Sawaimadhopur vide Annexure 22 dated 24.08.2011.
3. Based upon the aforesaid averments, notices were ordered to be issued after filing of the application before us. Counsel for the Applicant submitted that the Central Government and the State Government have failed to reach any conclusion with regard to declaration of the ESZ despite lapse of more than four years.
4. When the matter came up for hearing on 24.02.2015, this Tribunal issued directions asking the Counsel for the MoEF as well as the State to clarify the position and submit the outcome with regard to declaration of the ESZ. The order dated 24.02.2015 is as under :

“Essentially the issue involved is for granting permission to construct a hotel by the Applicant which depends upon the notification under ESZ. We feel that response of the MoEF and State Government on the issue of declaration of ESZ, is quite important.

Another issue which is important here is that the land in question falls within the RIICO Industrial Area already notified by the State Government and the plot of the Applicant in question is also a developed plot of the RIICO, the Government Undertaking on which earlier an industry was set up. As a result of the closure of the industrial activity on the plot, the Applicant now wishes to construct a hotel and has applied for permission for the same. It is further submitted that there are plots as indicated in the site plan (Annexure-32) having industrial units located adjacent to the forest land

comprising plot nos. F1 to F12, F14 to F18, H19 to F32 and the disputed plot of the Applicant falls beyond these industrial plots away from boundary of the forest land. In such situation there are already existing industries situated and running and located between the forest land and the plot of the Applicant. Therefore, whether it would be permissible to declare the ESZ either for existing ones or to the proposed one, is to be determined by the MoEF in consultation with the State Government to grant permission to the Applicant.

Shri Om Shankar Shrivastava, Learned Counsel appearing for the MoEF and Shri Sachin K. Verma, Learned Counsel for the State are directed to ensure that the ESZ proposals if already sent by the State Government in this behalf to the MoEF are pursued by the representative or officials of the State Government with the MoEF and MoEF to take the decision on the same within two months from today.”

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5. On 08.05.2015, when the matter came up for hearing, the Tribunal again directed the Counsel for the State as well as MoEF to clarify the position with regard to ESZ and how long the respective governments are going to take in deciding the issue with regard to ESZ.
 6. Today Learned Counsel Shri Om S.Shrivastav appearing for the MoEF, in pursuance of our order dated 08.05.2015 and has filed the compliance report. The relevant extracts of the report are as under:

2. *That, the State of Rajasthan had submitted 27 proposal, including for Ranthambhore Tiger Reserve for declaration of Eco Sensitive Zones around National Parks and Sanctuaries in October 2013. Thereafter, those proposals were scrutinized by the answering Respondent and were referred back to the State Government seeking certain clarification and details by letter dated 07.02.2014. Thereafter the State Government has submitted the revised proposals in April 2014 and it was found while scrutinizing with respect to these revised proposals which still lacked essential requirements. Subsequently a meeting with the representatives of State Government was held on 12.02.2015 under the chairmanship of Inspector General (Forest & Wild Life) and after discussion it was found that the essential documentation were still wanted with respect to Ranthambhore Tiger Reserve and other proposed areas.*

3. *That, it is submitted by the answering Respondent that, Ministry has also sought comments of National Tiger Conservation Authority*

(NTCA) on the ESZ proposals of Ranthambore Tiger Reserve. The copy of letter dated 23.02.2015 is enclosed as Annexure R-1.

4. That, the NTCA vide their letter dated 12.05.2015 has mentioned that 'No Eco Sensitive Zone has been provided in the South East of the Ranthambore Tiger Reserve and entire buffer has not been included in the proposal for ESZ of the area. In the said light the proposal cannot concurred by this authority.' The copy of Office Memorandum dated 12.05.2015 is enclosed as Annexure R-2."

7. A perusal of the above goes to show that no decision has been arrived at and every time the MoEF is asking for certain clarifications and the State Government replies to the same and more clarifications are being sought.
8. The Learned Counsel for the Applicant submitted that his proposal for construction of the hotel needs to be examined in the light of the fact that even today the land in dispute is situated within the industrial hub created for the aforesaid purpose and being operated through the catalyst agency of the industrialisation namely RIICO and it is surrounded by the various industrial units in the area including those of Government of India under takings like Indian Oil and Food Corporation of India. Learned Counsel has also relied upon the Notification issued by the Government of India, Ministry of Environment and Forests containing the guidelines for declaration of the ESZ around National Park and Wild Life Sanctuaries issues along with letter dated 09.02.2011 wherein it has been pointed out from the schedule appended as Annexure-1 with the heading 'Identification of Activities' where under item no. 5 it has been provided for the establishment of hotels and resorts as a regulated activity with the remark '*as per approved master plan which takes care of habitat allowing no restriction on movement of wild animals*'. The contents of the said Annexure-1 clearly specifies as follows"

'while some of the activities could be allowed in all ESZ others will need to be regulated /prohibited. However, each activity can be regulated or prohibited and to what extent would have to be protected area specific. A broad list of activity if (this may need supplementation) which could be allowed promoted, regulated or prohibited is given in the table'.

9. It is in this context that item no. 5 of the table that establishment of the hotel and resort and as regulated activity has been mentioned.
10. While we can understand that the Applicant intends to take up a commercial venture for the construction of hotel in the industrial area established by the State Government where already industrial activity is being carried out both by the private parties as well as by the State run undertaking. There is, however, a need to also take into account the issues pertaining to declaration of ESZ particularly in the proximity of the National Parks and Tiger Reserves which are continuously being threatened and encroached upon. The changing scenario and the present conditions prevailing, both must be kept in mind as also the requirements for the protection of the wild life and the environment. Such long delays in coming to conclusion and deciding the extent of ESZ and other areas like buffer etc. need to be addressed expeditiously and long correspondence as in this case of several years does not merit the cause for which the ESZ etc. have been prescribed and so also the declaration with regard to creation of Wild Life Sanctuaries and National Parks.
11. We would accordingly direct that the MoEF to decide the issue with regard to determination of the limits of the ESZ within a period of 3

months from today. In case the limits are prescribed within 3 months the case of the Applicant will be decided by the concerned authorities based upon the decision of the MoEF in this regard to the creation of the ESZ at Ranthambhore, Sawai Madhopur failing which the local authorities shall take decision in the matter objectively on the basis of the prevailing conditions in and around where the disputed plot is situated, including the aspects with regard to the operation of similar activity and other commercial activity and the fact that the area is already declared as a industrial area run by the State agency namely RIICO.

12. The Applicant would be free to submit an application along with the new guidelines, if so framed, failing which, without the same along with the copy of this order to the concerned authorities for taking a decision objectively in the matter.
13. **With the aforesaid directions, the Original Application No. 332/2014 stands disposed of. No order as to cost.**

(Mr. Justice Dalip Singh)
Judicial Member

(Mr. Ranjan Chatterjee)
Expert Member

Bhopal:

May 26th, 2015