

Item No. 11

Court No. 1

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

E.A. No. 39/2024

In

Original Application No. 58/2013

Sonya Ghosh

Applicant

Versus

Govt. of NCT of Delhi & Ors.

Respondent(s)

Date of hearing: 17.02.2025

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Raj Panjwani, Senior Advocate (Amicus Curiae) and Mr. Aayushman Aeron, Advocate in E.A No. 39/2024

Respondent: Ms. Suhasini Sen, Ms. Masooma Rizvi & Ms. Surabhi, Advs. for MoEF & CC
Mr. Gigi. C. George, Adv. with Mr. Raghubir Singh, ACP, Mehrauli & S.H.O. Maidan Garhi, Delhi Police
Ms. Jyoti Mendiratta, Adv. for PCCF

ORDER

1. This Execution Application (EA) has been filed by the applicant seeking compliance of the order dated 15.01.2021 passed in OA No. 58/2013.
2. By order dated 15.01.2021, Tribunal had disposed of the OA along with connected matters concerning conservation and protection of Delhi Ridge which is an extension of Aravali Range extending from Tughlaqabad and branching out in Wazirabad in the north and also other part of Delhi.
3. The tribunal took note of the urgent need to protect the ridge by finalizing the notification under Section 20 of the Indian Forest Act, 1927

for reserve forest and protection by appropriate measures. Tribunal, therefore, while disposing of the OA and connected matters by order dated 15.01.2021 had issued the following directions:-

“xxx.....xxx.....xxx

15. *We are thus of the view that there is urgent need to take necessary steps to protect the Ridge by taking necessary steps to finalise the notification under section 20 of the Forest Act for reserved forest and protection by appropriate measures. The land about which there is clarity can be included in such notification and the remaining process can be undergone separately but expeditiously. No non-forest activity is permissible in Ridge area.*
16. *In view of above, we direct that the Delhi Government through the Chief Secretary, Delhi to ensure that requisite Notification under Section 20 of the Indian Forest Act, 1927 is issued within three months in respect of the area about which there is no controversy. Further actions to be taken by the Delhi Government may include suitable protection by fencing/wall and vigilance. Identification of the remaining area and action plan for removing the encroachments be ensured within next three months. Execution of the action plan will be primarily under the Chief Secretary Delhi, who is also the Chairman of the Ridge Management Board.*
17. *We direct constitution of an Oversight Committee (OC) to be headed by DG Forest, MoEF&CC, Government of India with the Secretaries Revenue and Forest, Delhi Govt., the PCCF, Delhi, the concerned Deputy Commissioners, Delhi and the nominees of Police Commissioner, Delhi and the Forest Survey of India, Dehradun as members. Main function of the OC will be to oversee progress with regard to the removal of encroachments from the Ridge, its protection by way of fencing/boundary wall and preparation of management plan for its restitution. The Committee will be free to co-opt any other authorities/Experts. The Nodal agency will be the PCCF, Delhi for coordination and compliance. First meeting of the Committee may be held within one month and thereafter review may be undertaken periodically preferably at least once in a month till the action plan is executed.”*

4. In term of the above directions, Delhi Government through Chief Secretary, Delhi was required to ensure that requisite Notification under Section 20 of the Indian Forest Act,1927 is issued within three months in respect of area about which there is no controversy.

5. Response in this EA on behalf of respondents nos. 1 and 2 has been filed, summarizing the position as under:-

“7. That the Present Reply has been divided in the following parts:

a. PART I: STATUS OF NOTIFICATION UNDER SECTION 20 OF IFA, 1927.

b. PART II: STATUS OF BOUNDARY WALL CONSTRUCTION/ FENCING TO PROTECT RIDGE FOREST LAND.

C. PART III: STATUS OF ENCROACHMENT REMOVAL FROM THE FOREST LAND IN THE NCT OF DELHI”.

6. It is not in dispute that so far as part one is concerned that relates to undisputed portion of the ridge has been filed by respondent nos. 1 and 2.

7. It is not in dispute that the order dated 15.01.2021 of the Tribunal to finalise the notification under Section 20 of the Forest Act, 1927 in respect of the undisputed portion of the ridge has not been complied with. The order was passed by the Tribunal more than four years back, and the ridge in question acts as the green lungs of Delhi and has an active role in maintaining the air quality in Delhi. Thus, compliance with the order within time would have contributed to improvement of air quality in Delhi, yet the order has not been complied with and no clear reasons are given by GNCTD in its affidavit for non-compliance of the order. Counsel appearing for the GNCTD also submits that she has no instruction in this regard.

8. NGT Act 2010 provides for requisite action that may be taken to ensure compliance with the order of the Tribunal. Relevant provisions of the Act in this regard are quoted below:-

“Section 26. Penalty for failure to comply with orders of Tribunal.

(1) Whoever, fails to comply with any order or award or decision of the Tribunal under this Act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twentyfive thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention:

Provided that in case a company fails to comply with any order or award or a decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five crore rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code.

28. Offences by Government Department.

(1) Where any Department of the Government fails to comply with any order or award or decision of the Tribunal under this Act, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under this Act and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.”

9. Thus, we give two weeks to respondent no. 1 to file a fresh affidavit and explain why action be not initiated against concerned authorities/officers of respondent no. 1 in terms of the provisions of NGT Act, 2010.

10. List on 09.04.2025.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

February 17, 2025
E.A. No. 39/2024
In Original Application No. 58/2013
JG..