

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

**Original Application No. 44/2014 (CZ)**

**CORAM:**

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

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

**BETWEEN:**

1. Jagat Ram Chicham S/o Malhare Chicham,  
R/o Village & Post Semikol, Badhar,  
District Mandla, Madhya Pradesh

**.....Applicant**

**Versus**

1. The State of Madhya Pradesh  
Through the Principal Secretary,  
Forest & Environment Department,  
Vallabh Bhawan, Bhopal (M.P.)
2. Principal Chief Conservator of Forest,  
Satpura Bhawan, Bhopal (M.P.)
3. District Collector,  
Mandla District (M.P.)
4. M.P. State Forest Development Corporation,  
Divisional Manager Mohgaon Project Mandal,  
District Mandla, (M.P.)
5. SDO Forest, West Circle Forest Division,  
Mandla District, (M.P.)

**.....Respondents**

**Counsel for Applicant:**

**None.**

**Counsel for Respondents 1,2,3&5:**

**Shri Sachin K.Verma,  
Advocate  
Shri Ayush Dev Bajpai,  
Advocate**

**Counsel for Respondents 4 :**

**Shri Ajay Gupta, Advocate  
with Shri Ravindra Nath  
Saxena, M.D., MPFDC**

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**Dated : May 8<sup>th</sup>, 2014**

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**J U D G E M E N T**

Initially this petition was filed as Public Interest Litigation (PIL)  
before the Hon'ble High Court of Madhya Pradesh Principal Seat at

Jabalpur in Writ Petition No. 3219/2013 with a prayer to issue Writ of Mandamus to the Respondent Nos. 1 & 2 and restrain the functioning of Respondent No. 4 Madhya Pradesh Forest Development Corporation (in short MPFDC/Corporation) and from cutting the trees in the forest. The relief prayed by the petitioner is reproduced below.

- i. *A writ of Mandamus to Respondent No. 1 and 2 to stop the functioning of Respondent No.4 and conducting the inquiry against the Respondent No.4 for causing damage to the forest area.*
- ii. *A command to Respondent No. 1 and 2 to abolish Respondent No. 4 and permit the Forest Department to look after the forest area in accordance with Indian Forest Act.*
- iii. *A command to Respondents 1 and 2 to cease (seize) all the machinery (used) for felling the trees.*
- iv. *Any other relief deemed fit in the circumstances*

1. The case was listed on 8<sup>th</sup> April, 2013 and the Hon'ble High Court passed an interim order restraining the Respondent No. 4 from felling of trees until further orders. The interim orders of the Hon'ble Court are reproduced hereinunder : -

*“By way of ad-interim relief the Sub-Divisional Officer (Forest), West Circle Forest Division, Mandla, the Respondent No. 5 herein, is directed to prevent transportation of any fallen timber from outside the Division and to ensure that there is no further felling of trees until further orders.”*

2. Subsequently, in consonance with the orders of Hon'ble Supreme Court in the case of *Bhopal Gas Peedith Mahila Udyog Sangathan and Others Vs. Union of India & Others (2012) 8 SCC 326*, the Writ Petition was transferred to the Central Zone Bench of the National Green Tribunal (NGT) at Bhopal to deal with it under the National Green Tribunal Act, 2010 and the case is registered as Original Application No. 44/2014. Notices were issued on 12<sup>th</sup> March, 2014 and the case was heard on 28<sup>th</sup> March, 2014, 21<sup>st</sup> April, 2014 and finally on 24<sup>th</sup> April,

2014. Neither the Applicant appeared in person nor through his counsel on all the aforesaid dates of hearing.

3. The Applicant averred that he is the President of Regional Forest Samiti and has taken up the cause of the local inhabitants who are tribals. He stated that he has filed the petition in public interest and also for the cause of protection of environment so that the flora and fauna of the area is conserved and ecological balance is maintained. The Applicant alleged that indiscriminate cutting of trees in the forests at Machharaiya, Khursipar, Kutali, Badhar, Ghurwada, Semikol, Jargi and adjoining forest circle is being carried out by Respondent No. 4 MPFDC. He stated that valuable trees of different varieties such as *Sagoan, Saaja, Dhama, Timsa, Saal, Gunja, Kaiker* and others are felled by the Respondent No. 4 causing severe damage to the forest which is getting depleted. He stated that as long as the forest was under the control of the State Forest Department, it was being maintained and protected with the help of local population but once the area was handed over to the Respondent No. 4, the forest is getting damaged as there is a large-scale cutting of trees and smuggling of wood and despite repeated requests made to the authorities, they have not paid any heed to their requests to stop the cutting of trees and hence this PIL has been moved before the Hon'ble High Court for redressal of their grievances.

4. The Applicant further stated that in the Mohgaon Project Area of the Mandla District where such alleged large-scale illegal felling of a variety of trees is being carried out by the Respondent No. 4, there is a Regional Forest Samiti constituted by the State Forest Department and he is the head of the Samiti. The Respondent No. 4 in the garb of protecting healthy trees and removing the diseased trees, is destroying the forest

and cutting both healthy as well as diseased trees and selling the produce in the market causing huge loss to the public exchequer. He averred that he made a series of representations to various authorities and the local villagers also protested against the felling of trees by the Respondent No. 4. Before the Respondent No. 4 was allowed to cut the trees in the area, the local Forest Department was taking care of the area and protecting the forest. He stated that the Respondent No. 4 not only indulged in the cutting of valuable trees such as teak but also failed to replant the area. A number of protests were organized by the villagers but despite all these protests and representations made to the higher ups, no action was taken. He contended that the said forest area where such large-scale felling of trees is taken up by the Respondent No. 4, is adjoining the Kanha National Park and it falls in the buffer zone of the Park. Commercial activity of the Respondent No. 4 is also leading to smuggling of wood and depletion of forest cover much against the commitment made by the local tribals in protecting the forest. Finally, he requested to conduct a detailed enquiry into the matter and issue directions for handing over back the forest area to the Forest Department removing it from the control of the MPFDC.

**5.** As stated *supra*, stay granted by the Hon'ble High Court vide its order dated 8<sup>th</sup> April 2013, is still under operation.

**6.** The Respondent No. 4 MPFDC filed reply dated 10<sup>th</sup> August, 2013 denying the allegations made in the petition. It was stated in the reply that the petition itself is misconceived being devoid of any substance and is based on false and incorrect facts. The forest area which has been handed over to the Respondent No. 4, is not adjoining the Kanha National Park. The aerial distance from the Park is about 33 km. and by

road it is 70 km. away and does not fall within the buffer zone of the Park. The forest area was handed over to the Respondent No. 4 by the MP Forest Department in the year 2007 as per the State government orders with a condition that unless the Working Plan is prepared and approved by the competent authority no activity shall be taken up there. Besides the above, a number of other conditions were also stipulated while handing over the forest area to the Respondent No. 4. A copy of the Forest Department order dated 1<sup>st</sup> May, 2007, transferring the Compartment wise extent of Forest area to the MPFDC has been filed at Annexure R-4/2 of the reply. सत्यमेव जयते

7. It was also stipulated that once the forest area is handed over to the Respondent No. 4, it is the responsibility of the Respondent No. 4 to protect and manage it as per the provisions under the law. It was squarely denied by the Respondent No. 4 that there is any violation of the provisions of Indian Forest Act, 1927 and whatever activity that is taken up by the MPFDC in the forest area handed over to them, it is in consonance with the rules and regulations and conditions stipulated by the Government. The MPFDC is strictly implementing the prescriptions of Working Plan while working the forest area which is located in Mohgaon Project Division, District Mandla. The Mohgaon Project Division Working Plan has been approved by the Ministry of Environment of Forests (in short MoEF), Government of India under the provisions of the Forest (Conservation) Act, 1980 (in short FC Act) vide their letter dated 27<sup>th</sup> October, 2009 for a period of 10 years i.e. from 2008-09 to 2017-18. Copy of the approved Working Plan has been filed at Annex. R-4/3 with the reply.

8. The Respondent No.4 further contended that after taking possession of the area from the Forest Department, a detailed survey was conducted and out of the total area of 1374.499 ha, 459.00 ha area was demarcated and 83,710 trees were marked out of which 55,980 trees were found damaged to some extent and this damage was caused by the villagers residing adjacent to the forest. Out of these 55,980 damaged trees in case of 28,552 trees, only stumps were found left implying that the produce was removed/smuggled. The forest handed over to the Respondent No. 4, is relatively degraded mainly due to biotic interference and is having about 0.4 or less crown density. Out of the total of 83,710 trees, only 14,779 trees were silviculturally available for felling and therefore it was proposed that after cutting these marked trees the area will be regenerated by planting trees at the rate of 2000 per ha which earlier consisted on an average only 182 trees per ha. Thus the Respondent No. 4 claims that the degraded forest having such low density of about 182 trees per ha is improved by planting 2000 trees per ha. It was further stated by the Respondent No. 4 that in the MoEF letter dated 27<sup>th</sup> October, 2009, clear instructions were issued apart from the guidelines prescribed in the approved Working Plan on the modalities of the working of the handed over forest area and the same are followed. The orders of the Hon'ble Supreme Court issued in the case of *T.N. Godavarman vs. Union of India* and the provisions of the FC Act are strictly followed.

9. It was further contended by the Respondent No.4 MPFDC that their organization was established in the year 1975 with the objective of managing the forest cover by planting the trees and improving the productivity of the forests and thus developing low economic value

forests into high economic value forests to fulfill the demand for timber, bamboo and firewood besides providing employment and increasing the forest cover in degraded forest areas as per the MP State Forest Policy.

**10.** Further, in its reply the Respondent No. 4 contradicted the averment made by the Applicant that the interest of Applicant as well as that of local villagers is not taken care of. In fact it is other way round as the illegal activities of the local inhabitants who resort to illicit cutting of trees in the forest area are checked after the forest was handed over to the MPFDC by the Forest Department and therefore the Applicant filed this petition with malafide intention before the Hon'ble High Court as it became difficult for the villagers residing in his area to continue to resort to illicit cutting of trees and there are several forest offence cases registered against the local residents. Therefore, the petition has been filed with ulterior motive to stop working of the forest by the Respondent No. 4 so that the local residents can continue with their illegal activities unhindered. In the above circumstances it was prayed by the Respondent No. 4 that the petition may be dismissed as the allegations do not have any substance and are based on incorrect and false facts.

**11.** The Applicant filed rejoinder dtd. 15.12.2013, to the reply filed by the Respondent No. 4 rebutting the averments made by the Respondent and stating that the activities taken up by the Respondent No. 4 are contrary to the Working Plan prescriptions and they are not bonafide.

**12.** The Respondent Nos. 1, 2, 3 & 5 filed combined reply on 19<sup>th</sup> September, 2013 stating that and they do not have anything more to add and whatever stand that has been taken by the Respondent No. 4

MPFDC is admitted by them and they may be allowed to adopt the return filed by the Respondent No. 4.

**13.** After transfer of the case to NGT from the Hon'ble High Court, it was taken up for hearing and in spite of giving fresh notice, the Applicant failed to appear either in person or through his counsel. As per the orders dated 28<sup>th</sup> March, 2014 of the Tribunal on which date the Managing Director of the MPFDC himself appeared in person and explained the position, the MPFDC has filed additional return on 27<sup>th</sup> March, 2014 and as stated by the counsel for the Respondent No. 4, a copy of the additional return was served upon the Applicant on 17<sup>th</sup> April, 2014. But the Applicant again failed to appear either in person or through his counsel on the next date of hearing i.e. on 21<sup>st</sup> April, 2014 and subsequently on 24<sup>th</sup> April, 2014 also. Thus sufficient opportunity was given to the Applicant and in spite of clearly stating in the order dated 28<sup>th</sup> March, 2014 that in case the Applicant does not appear on the next date of hearing, the matter shall be heard *ex parte*, the Applicant failed to appear either in person or through his counsel on 21<sup>st</sup> April, 2014 as well as on 24<sup>th</sup> April, 2014.

**14.** The Respondent MPFDC in their additional return dated 27<sup>th</sup> March, 2014 while enclosing various supporting documents as Annexure R-4/1 to R-4/15, clearly explained the provisions and objectives of establishing the MPFDC wherein the main objective is for developing low economic value forests into the forests of high economic value. It was explained by the MPFDC that forestry works in the Anjanika and Kanchangaon Ranges of Mohgaon Project Division have been stopped as per the stay granted by the Hon'ble High Court, resulting in continuous loss of revenue to the State Exchequer and for the past one year the staff of Anjanika and



Kanchangaon Ranges are lying idle without any work leading to infructuous expenditure of about Rs. 22.98 lakhs. It was further stated that the MPFDC has taken up various forestry operations on the principle of Sustainable Forest Management (in short SFM) and only the degraded forest areas are handed over to them by the State Forest Department for working on scientific basis not only to increase the productivity of the forests but also to earn revenue to the State and share the profits with the local communities. No forest area is worked without getting the Working Plan prepared and approved by the MoEF, Government of India as per the National Working Plan Code, 2004 and as per the provisions made under Section 2 (iv) of the Forest (Conservator) Act, 1980. Various forestry operations like marking and felling of the trees, accounting and disposal of the forest produce such as timber, bamboo and firewood are taken up strictly both in letter and spirit as per the prescribed norms and as stipulated in the Working Plan.

**15.** A copy of the approved Working Plan of the Mohgaon Forest Division of the MPFDC has been enclosed by the Respondent at Annexure R-4/7. Photographs and other documents depicting various forestry operations undertaken by the MPFDC wherein low quality degraded forest areas are worked and improved into well-stocked forests with high crown density, have been placed at Annexure R-4/8. It was stated that no operation is being carried out by the MPFDC which is detrimental to the cause of forestry and maintenance of ecological balance, as alleged by the Petitioner. It was further stated that the area in question does not harbour any rare, endangered or threatened or endemic species of flora. Therefore the question of loss of biodiversity does not arise and no forest area is worked without getting the Working Plan

approved by the competent authority as per the orders of the Hon'ble Supreme Court dated 22<sup>nd</sup> September, 2000 passed in *T.N. Godavarman vs. Union of India* case. It was further stated that the local communities are involved in the forestry operations of the MPFDC and they are not only provided with employment but the revenue generated by the corporation is shared with them as per the Government of Madhya Pradesh resolution on Joint Forest Management (in short JFM) issued in Notification No. 604 dated 22<sup>nd</sup> October, 2001 (filed at Annexure R-4/13 with the reply). Further, a Circular bearing Rc. No. 1991/10/2 dated 18<sup>th</sup> February, 2005 was issued by the State Forest Department on the mechanism of sharing the benefits with the JFM committees (placed at Annexure R-4/14 of the reply). Details of such profit sharing by the MPFDC for the past 3 financial years is filed at Annexure R-4/15 of the reply. The Respondent MPFDC pleaded that stoppage of any such operations not only leads to loss of revenue to the State Exchequer but the local communities will also be deprived of their rightful share of benefits they would have otherwise earned. It was further stated by the MPFDC that the local communities living adjoining the forest areas are entitled for *Nistar* privileges under which there is a provision to supply forest produce free of cost or at subsidized price for their domestic use. The details of the produce supplied under the *Nistar* rights are also provided by the MPFDC.

**16.** Having perused the reply and heard the Managing Director of the Respondent No. 4, MPFDC on 28.03.2014 it was directed to file an affidavit with supporting documents as to what measures the MPFDC is taking up for involving the local communities in various activities undertaken by the MPFDC and in protecting their interest as well as the

Corporate Social Responsibility (in short CSR) activities that are implemented by the MPFDC.

17. The Respondent no. 4 accordingly filed an additional affidavit dated 15-4-2014 stating that no indiscriminate or unlawful tree felling has been carried out in the Mohgaon Project Division. A set of photographs depicting the successful establishment of plantations by the MPFDC in various forest divisions under its control, have again been placed on record by the Respondent No. 4. It was contended that the MPFDC is creating great ecological and economic wealth to the State of Madhya Pradesh by establishing plantations in the degraded forest areas on a large scale strictly in conformity with the Working Plan prescriptions and thus converting the low quality degraded forests into highly productive and high economic value forests.

18. The Respondent No. 4 reiterated that they are taking adequate measures for implementing the CSR activities by involving the local communities. A copy of the letter dated 29.03.2014 issued by the Managing Director to the Divisional Manager, Mohgaon Project Division was placed at Annexure R-4/5 of the affidavit. It was stated that in accordance with the aforesaid letter, the Divisional Manager, Mohgaon Project Division conducted meeting with the Chairpersons and Secretaries of the JFM committees falling under the Mohgaon Project Division and various issues, particularly the measures required to be taken for the welfare of the villagers, have been discussed and Minutes recorded. Further, it was brought out in the affidavit filed by the Respondent no. 4 MPFDC that the local communities residing near the forest area in question in Mohgaon Project Division are already being provided with *Nistar* facilities by supplying them with fuel wood, poles,

bamboo etc. for which the MPFDC has established 2 *Nistar* depots and a statement showing the details of supplies made under *Nistar* facilities during the past 3 years has been filed at Annexure R-4/10 of the affidavit.

### **Observations and Directions**

19. From the aforesaid averments made by the parties and documents placed before us by the MPFDC, the following issues, which emerged out of the petition filed by the Applicant, are required to be examined and addressed in this case.

- (I) Whether the State Forest Department is competent to transfer the notified forest areas to the Respondent no. 4 MPFDC and if so under what authority and whether the MPFDC is competent and authorized to take up forest management practices in the said forest land?
- (II) Whether the MPFDC is undertaking the forestry operations in consonance with the Forest policy and the guidelines stipulated by the government on allotment of forest land as well as whether the provisions under various laws particularly with reference to FC Act and the State Forest Act are followed and whether any irregularities / deviations are noticed in the working of these transferred forest areas by the MPFDC?
- (III) Whether the MPFDC is involving the local communities in the forest management and has taken up the CSR activities for the benefit of people, particularly those villagers who are mostly tribals residing in the vicinity of the transferred forest

areas and also whether the Working Plan approved by the MoEF deals with the provisions of sharing benefits with the local communities who are organized into JFM committees / Van Samrakshan Samiti (in short VSS)?

Now we may examine each of the above 3 issues in detail:

**Issue No. (I)**

(i) As per the Recommendation of the National Commission on Agriculture 1976, Forest Development Corporations were established in the country under the provisions of the Companies Act with the main objective of developing low economic value forests into high economic value forests and to enhance the productivity of the forests by undertaking scientific forest management practices so that the output from the forests is increased to meet the domestic and industrial needs of forest produce such as timber, bamboo, firewood, etc. MPFDC is one of them. As the Forest Officers working in Territorial units of the Forest Departments are mainly concerned with the protection and conservation of forests and wildlife, it was felt necessary to establish a specialized body exclusively to deal with the production aspects of the forestry under the scientific forest management practices. Accordingly, the Government of Madhya Pradesh in their Circular No. 11/79/10/2 dated 14.11.1979 (filed at Annexure R-4/4 of the affidavit dated 27-3-14) issued detailed guidelines on transfer of notified forest areas to the MPFDC by the State Forest Department on lease rental basis for working such areas on long term basis.

(ii) In tune with the aforesaid guidelines issued by the Government of MP, the State Forest Department is transferring the

forest areas to the MPFDC for working them in a phased manner and for converting the degraded forests into high economic value forests over a period of time. The forest produce harvested from such transferred areas is accounted and disposed by the MPFDC by paying dividend apart from the lease rent to the State Government on an annual basis. Therefore, the averments made by the Applicant that the MPFDC is not competent to take up forestry activities such as cutting of trees and replanting the area and only the Forest Department is required to take up such activities, is incorrect. The MPFDC is a Government Undertaking bound by the provisions of the Companies Act and is a responsible organization manned by officers trained in forestry who are competent to undertake scientific forest management practices in the allotted forest area. Officers from the Forest Department are also sent on deputation basis to work in the Forest Corporations.

(iii) A detailed policy has been framed by the State Forest Department with regard to handing over of the forest areas to the MPFDC for working them under scientific forest management practices and certain guidelines have been issued vide Reference No. F-5/2003/10/11/1177 dated 03.05.2003 prescribing the provisions on various aspects such as the Forest Compartment being the basic unit of transferring the area to the FDC, procedure of selection of those areas that harbour teak forest but got degraded over a period of time due to various biotic factors leading to low quality coppice forest so that such areas could once again be restocked and restored with high quality teak forest. The policy also states that good mixed forest should not be handed over to the MPFDC for raising teak plantations but only those degraded forests which turned into low quality coppice forests due to biotic interference, shall only be

transferred to the MPFDC for clearing the existing growth followed by artificial regeneration. It also lists the procedure of handing over such forest areas to the MPFDC wherein areas which are already allotted to Village Forest Committees (in short VFC) shall not be transferred. However, those forest areas under the control of Forest Protection Committees popularly known as VSS can be handed over to the MPFDC. Wherever such VSS areas are handed over to the MPFDC, the Executive Committee of such VSS have to be converted into Forest Development Committees and they are eligible for benefit sharing as per the existing rules and regulations of MPFDC. The guidelines further state that the benefits particularly with reference to the yield that is obtained by felling the existing coppice growth from the handed over forest areas, shall be shared with the VSS which are converted into Forest Development Committees. It is categorically stated in the guidelines issued by the Forest Department that once the forest areas are handed over to the MPFDC it is the responsibility of the MPFDC to protect, administer and manage such areas. The State Government vide Gazette No. F.30-6-2001-X-3 dated 8<sup>th</sup> December, 2006 empowered the officers of MPFDC on par with the officers of the Forest Department for exercising powers under Indian Forest Act, 1927. Similarly, vide Gazette No. F.30-6-2001-X-3 dated 8<sup>th</sup> December, 2006 the State Government has empowered all the Divisional Managers of MPFDC as “Wildlife Warden” under the Wildlife (Protection) Act, 1972 to deal with wildlife cases. Therefore, the officers of the MPFDC are competent to deal with offence cases under the Forest Act as well as under the Wildlife (Protection) Act and they are responsible for protection of

forests and wildlife in the forest areas handed over to them by the State Forest Department.

(iv) Further, before undertaking the forestry operations in the areas allotted to them, the MPFDC is required to obtain permission from the Central Government in MoEF under Section 2 (iv) of the FC Act and no forest is to be worked without getting the Working Plan approved by the Government of India.

This answers the issue no. (I) that the State Forest Department is competent to transfer the forest land to the Respondent No. 4 which is empowered to take up the forest management practices in such forest land.

**Issue No.(II)**

(i) The Hon'ble Supreme Court had undertaken an extremely pro-active role in conserving the Forest / Wildlife resources of the country. Consequent to the same, it had laid a lot of thrust on preparation of Working Plans/Management Plans for the Sustainable Management of the Forest/Wildlife resources of the country. The Hon'ble Supreme Court has directed that the harvesting of forest produce in any form should not exceed the annual incremental cut allowed in the Working Plan prescriptions and the harvested areas should be immediately regenerated during the next planting season without keeping the areas blank. The orders of the Hon'ble Apex Court have been followed by issuing appropriate guidelines and codal provisions by the Central Government at periodic intervals. Therefore, it has become mandatory to prepare and implement Working / Management plans for the Forest / Wildlife areas, so that the Central Government can give approval for implementation of



various centrally sponsored schemes as per the prescriptions of the approved plans. Further, the implementation of the Hon'ble Apex court orders with appropriate implementation methodology issued by the Central Government takes care the issue of SFM of forest resources.

(ii) Since the preparation of Working Plan has become mandatory for management of all categories of forests, guidelines for the preparation of the Working Plans were issued by the Central Government in the form of National Working Plan Code. In addition to the forest areas under the direct control of the Forest Department, Working Plans shall also be prepared for the JFM / VSS areas. For all such areas MoU's should be entered with the Community stipulating the prescriptions of the appropriate Working Circles, so that the prescriptions find place in the JFM/VSS level Micro Plan.

(iii) The Working Plan is a policy implementation document, where the vision of the implementing authority for a specific period which may be generally for 10 years, is reflected in clear statement of objectives with several mandatory actions and measurable indicators for gauging the progress towards achieving the objectives which should be in consonance with the 1988 Forest Policy. Working plans are necessary for protection of physical features and scientific management of forests in a systematic manner so as to ensure a steady and continuous supply of timber, fuel and other forest produce. Working plans are revised periodically to keep them up-to-date in the light of changed conditions of the forest or the demand for forest produce. The records placed before us by the Respondent MPFDC make it clear that no activity related to harvesting and regeneration of forest is taken up by the MPFDC without the approval of the Working Plan by the Central Government. In this

particular case of Mohgaon Project Division, District Mandla the Working Plan is prepared and approved by the MoEF for a period of 10 years from 2008-2009 to 2017-2018. Perusal of the Working Plan reveals that it is divided into various chapters with full details of the forest area handed over to the MPFDC, compartment history, forest type, crop density, species composition, status of natural regeneration etc. The forest area proposed to be worked by the MPFDC is constituted into different Working Circles by giving full details such as area earmarked for working annually, expected yield, regeneration technique etc..

(iv) In the case of *T.N.Godavarman vs. Union of India* (IA No. 424 in WP (Civil) No. 202 of 1995 decided on 22.09.2000, (2007) 15 SCC 273, terms were issued with regard to felling and regeneration of forest and it was mandated that unless regeneration is taken up immediately after the felling of existing tree growth, no such areas shall be worked and left blank and it is for the State Government to provide funds for regenerating the felled areas. The records placed before us and averments made by the Respondent MPFDC show that all such precautions have been taken in the Mohgaon Project Division of the MPFDC and the activities are in terms of the Working Plan prescriptions and marking and felling of the trees is a part of prescriptions of the Working Plan. Therefore, no motive or malafide intention can be attributed to the activities of the MPFDC. Marking and felling of trees and replanting the area through artificial regeneration is a part of scientific forest management by the trained Forest officers. The apprehension of the petitioner that large scale illegal cutting of trees in Mohgaon Project Division is going on, is unfounded and not based on

any facts. Probably, the petitioner mistook the activities of the MPFDC without understanding the basic implication of forest management. The Respondents No. 1, 2 and 5 along with respondent No. 3 have agreed with the reply filed by the MPFDC and not brought out any irregularities on the part of the MPFDC after the forest area was handed over to them. No such information of unscientific marking and illegal felling of trees under the guise of removing trees infected with disease, as alleged in the petition, has been brought to our notice and the petitioner failed to produce any evidence to this effect. He has also not produced any document to the effect that the MPFDC has deviated from the prescriptions of the approved Working Plan.

We therefore hold that there is no material whatsoever to hold that the Respondent No.4 MPFDC is in any manner carrying out its activities in derogation of the guidelines or the working plan.

**Issue No. (III)**

(i) As enunciated in the National Forest Policy of 1988, no development of forest can take place without the active co-operation of the local people. Community participation will be the focal point around which all the other activities are woven. Therefore, as emphasized in the 1988 National Forest Policy the Central Government in MoEF for the first time in its Circular No. 6-21/89-P dated 1-6-1990 issued guidelines to the States on involving communities for regeneration of degraded forest lands. Salient features of the guidelines are reproduced below.

*“The National Forest Policy, 1988 envisages people’s involvement in the development and protection of forests. The requirements of fuel-wood, fodder and small timber such as house building material, of the tribals and other villagers living in and near the forests, are to be treated as first charge on forest produce. The policy document envisages it as one of the essentials of*

*forest management that the forest communities should be motivated to identify themselves with the development and protection of forests from which they derive benefits.*

*Access to forest and usufructory benefits should be only to the beneficiaries who get organized into a village institution, specifically for forest regeneration and protection. This could be the Panchayat or the Co-operative of the village, with no restriction on membership. It could be a Village Forest Committee. In no case should any access or tree pattas be given to individuals.*

*The selected site should be worked in accordance with Working Scheme, duly approved by the State Government. Such scheme may remain in operation for a period of 10 years and revised/renewed after that. The Working Scheme should be prepared in consultation with the beneficiaries. Apart from protection of the site, the said Scheme may prescribe requisite operations, e.g. inducement to natural regeneration of existing root stock, seeding gap filling, and wherever necessary, intensive planting, soil-moisture conservation measures etc. The Working Scheme should also prescribe other operations eg. fire-protection, maintenance of boundaries, weeding, tending, cleaning, thinning, etc.”*

(ii) Consequent to the aforesaid guidelines issued by the Government of India various State Governments have issued orders / notifications on participatory approach of forest management and constitution of JFM committees in their respective States duly providing modalities on constitution of committees, duties and responsibilities, benefit sharing mechanism etc. Joint Forest Management is a concept or a philosophy wherein all the Forest Dependent villagers of a given village or its hamlet/s organize themselves into a cohesive group with an objective of protecting, regenerating and managing the Forests in the vicinity of their village or hamlet/s. In continuation of the 1990 guidelines, both the Central as well as the State Governments have issued further guidelines from time to time on strengthening the institution of JFM committees. The State of Madhya Pradesh also issued notifications/guidelines in this

regard based on which the JFM committees were formed and managed in the State.

(iii) There are 8 JFM Committees in the area in question viz. Semikol, Machcharia, Sunehra, Ghurwada, Kuteli, Jargi, Kokewada and Kheri. The Petitioner in this case, Shri Jagat Ram Chicham is the Chair-person of Semikol JFM committee. It appears that the MPFDC did not consult the above committees while preparing the Working Plan and has taken up its activities in isolation causing resentment among the local communities. Thus there is a probable lapse on the part of MPFDC on this issue by not involving the local communities and not taking them into confidence while undertaking the forestry operations in the Mohagaon Project forest area handed over to them by the State Forest Department

**20.** Considering the above facts, and answering issue No. III we direct that the State Government and the Forest Department shall examine the following directions and take decisions and implement them to avoid such conflicts with the local communities in future and make them to participate in the activities of the MPFDC since it is very critical to have an effective Human Resource Development environment in the Corporation for ensuring successful implementation of their Action Plan/programmes..

(1) The Government of M.P. provided a mechanism for “lease rent” determination and working relationship between the State Forest Department and the MPFDC in Circular No. 25/11/79/10/2 dated 14<sup>th</sup> November, 1979. After that it appears

that no review has been taken up in this regard and no updated/revised guidelines have been issued by the State Government though many developments such as revision of the National Forest Policy in 1988, issuing guidelines on encouraging Community Participation in afforestation and management of degraded forests under the JFM concept by constituting JFM committees, amendments to the Wildlife (Protection) Act, 1972, enacting Biological Diversity Act, 2002, making it mandatory to implement Corporate Social Responsibility (CSR) under the Companies Act, 2012 etc. have taken place after 1979. Therefore, urgent revision of the aforesaid guidelines is required. The Respondent No. 1 shall immediately convene a meeting in this regard with all the concerned stakeholders and review the existing provisions and take action to revise the guidelines in tune with the changing circumstances.

(2) The State Forest Department issued guidelines in 2003 for identification and transfer of forest areas to the MPFDC for raising the plantations. After that, further set of guidelines have been issued for transfer of forest land in 2009. These require further amendment to take care of the interest of local communities. Though JFM Committees are reported to be involved in preparation of Working Plans especially with regard to the issues pertaining to *Nistar* privileges which are discussed under the participatory approach, it is high time to make a provision that the issue of transfer of forest land to the MPFDC is discussed with JFM Committees so that their

aspirations and wishes may find place in the forest management plans. Determination of various Treatment Types to be undertaken in the handed over forest areas, may also be discussed with the local communities to ascertain *Nistar* and Non Timber Forest Produce (in short NTFP) needs of the community.

(3) The Government Resolutions on the concept of JFM have been notified in the Gazette of Madhya Pradesh in 1991, 1995, 2000 and 2001 but no role has been envisaged for the MPFDC in the above Resolutions. Thus almost 13 years have elapsed, after the latest Resolution was notified by the Government in the year 2001. Therefore the Government may review the Resolution, 2001 and insert appropriate provisions specifying the role and duties and responsibilities of the MPFDC *vis-a-vis* JFM committees in the areas handed over to the MPFDC.

(4) From the perusal of the record placed before us and the averments made during the course of hearing it is observed that though adequate provision has been made for Participatory Rural Appraisal (in short PRA) in the preparation of Micro-plans of JFM committees, these provisions are found not implemented in letter & spirit. Specific provision may be made on conducting PRA, preparation of Micro-plans of JFM committees and they shall find place in the CSR Plan of JFM committees.

(5) As per the record placed before us it is found that at present, Zonation Plan for conservation of biodiversity, demarcation and management of ecologically fragile zones, NTFP propagation etc. is not being prepared. It should be prepared before commencing the treatment of the forest area handed over to the Corporation. The ecologically fragile zones should be protected against all decimating factors.

(6) Certain percentage of the gross forest area, may be about 3 to 5%, may be earmarked for treating under biodiversity conservation plan and for NTFP propagation giving emphasis on planting of NTFP species of villagers' choice and another 3 to 5% of the forest area may be reserved for wildlife management activity including the management of riparian zones around the water bodies, rivers, streams, canals etc. so that the needs of forest dependent communities are taken care of in the long run and local biodiversity and wildlife is preserved well.

(7) It is also directed that the MPFDC should spend some amount of their profits for maintenance of wildlife corridors in case the forest areas handed over to them are falling in the corridors or located adjacent to the corridors for effective wildlife conservation. It may be examined to keep the amount at the disposal of the MPFDC by creating an 'Autonomous Fund'.

**21.** With the above directions we dispose of this OA. The interim orders passed by the Hon'ble High Court of Madhya Pradesh on 8<sup>th</sup> April 2013,



stand vacated. However, no felling and regeneration activities shall take place in the Mohgaon Project area without consulting and involving the local JFM committees. No order as to costs.

22. A copy of this judgment be sent to the Secretary, MoEF, Government of India for issuing similar guidelines to the States where such working plans are submitted seeking approval and such conditions as mentioned in para 20 may be made part of such approval. As the MoEF and Hon'ble Supreme Court have laid considerable stress on participatory approach.

**(Mr. Justice Dalip Singh)**  
**Judicial Member**

**(Mr. P.S.Rao)**  
**Expert Member**

**Bhopal**  
**May 8<sup>th</sup>, 2014**

**NGT**