

Sachin Mohapatra vs Bhubaneswar Development Authority on 12 June, 2023

Author: Adarsh Kumar Goel

Bench: Adarsh Kumar Goel

Item No. 02

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH,
FINANCE CENTRE KOLKATA

VACATION BENCH

(By Video Conference)

Original Application No. 65/2023/EZ

Sachin Mohapatra

Applicant

Versus

Bhubaneswar Development Authority & Ors.

Respondent(s)

Date of hearing: 12.06.2023

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER

Applicant: Mr. Sachin Mohapatra in person (in Virtual Mode)

Respondents: Mr. Soubhagya Ketan Nayak, AGA a/w Mr. Janmejaya Katikia, AGA for State Respondents (in Virtual Mode).
Mr. Dayananda Mohapatra, Advocate for Bhubaneswar Development Authority (in Virtual Mode).
Ms. Amrita Pandey, Advocate for MoEF&CC (in Virtual Mode).
Ms. Papiya Banerjee Bihani, Advocate for OSPCB (in Virtual Mode).

ORDER

1. Grievance in this application is against damage to the environment by construction works including earth moving, blasting of rocks, and felling of trees in Sikharchandi Hills, a part of Chandaka Wildlife Division in Khurda, Odisha.

2. According to the applicants, Sikharchandi Hill is a part of eastern ghat mountains, which is extremely rich in bio-diversity with varied flora and fauna. Various rare species of wild and medicinal plants are abundant in this hill area. There is no forest clearance for cutting of trees as per Forest (Conservation) Act.

3. We have heard the applicant in person in the presence of learned Counsel for MoEF&CC, State PCB, District Magistrate, Khurda and Bhubaneswar Development Authority, who have sought time to take instructions which we propose to grant subject to observations dealing with urgency of the situation emerging from case of the applicants.

4. The applicant has drawn our attention to photographs showing construction activities, cutting of trees and apparent damage by such activities in the context of loss of biodiversity. It is pointed out that availability of rare medicinal and wild plants in the area stands documented in reputed journals on the subject. Apart from an article and media reports annexed to the application, our attention has also been drawn to articles titled 'Documentation of medicinal plants in Sikharchandi hills, Odisha, India-A priority agenda for action'¹ and 'First record of occurrence of the tree species *Nothopegia racemosa* (Dalz.) Ramamurthy (Anacardiaceae) from Eastern Ghats in India.'² The applicant has also referred to media report dated 11.06.2023 published in The Hindu titled "Bhubaneswar's green lung in peril"

mentioning that about 10 acres of forest has been razed to the ground for the project in question.

5. Considering the above material, it does prima facie appear that the project may be in violation of Forest (Conservation) Act, 1980 and may result in damage to the bio-diversity, particularly, rare and medicinal plants and overall integrity of the hill. Thus, intervention of this Tribunal may be necessary under section 15 of the NGT Act to prevent further damage and to restore the damage already done after independent verification of facts.

6. Accordingly, with a view to independently ascertain the factual position, we constitute a four-member joint Committee to be headed by the Chief Conservator of Forest (CCF), Regional Office, MoEF&CC, Bhubaneswar with other members being representatives of CPCB, State PCB and District Magistrate, Khurda. The Committee may meet within one week, undertake visit to the site, interact with the concerned stakeholders including WATCO and after ascertaining factual position, particularly with regard to illegal felling of trees, loss of bio-diversity and other damage to environment, including cutting of the hill and submit a factual and action taken report to this

Tribunal within three weeks, i.e. on or before 03.07.2023 by email at registrarngt-kolkata@gov.in in the form of searchable PDF/ OCR supported PDF and not in the form of Image PDF. Concerned State Authorities may provide logistical support to the Committee. The Committee may also get broad demarcation of the hill to determine permissible and non-permissible activities. Having regard to the irreversible consequences of the ongoing project, we direct that the project, in question, may be held in abeyance till next date of hearing.

List for further consideration on 05.07.2023.

The applicant may serve set of papers on the Chief Conservator of Forest (CCF), Regional Office, MoEF&CC, Bhubaneswar, CPCB, State PCB and District Magistrate, Khurda and file an affidavit of service within one week.

Copy of this order be forwarded to the Chief Conservator of Forest (CCF), Regional Office, MoEF&CC, Bhubaneswar, CPCB, State PCB and District Magistrate, Khurda by email.

Adarsh Kumar Goel, CP B. Amit Sthalekar, JM Arun Kumar Tyagi, JM Dr. A. Senthil Vel, EM June 12, 2023 Original Application No. 65/2023/EZ AVT