

Vir Singh Rana vs Ministry Of Environment Forest And ... on 30 November, 2022

Item No. 4

(Court No. 2)

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(Through Physical Hearing with Hybrid VC Option)

Original Application No.264/2022

Vir Singh Rana

...Applicant

Versus

Ministry of Environment,
Forest and Climate Change & Ors.

...Respondents

Date of hearing: 30.11.2022

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.

Applicant: Mr. Vir Singh Rana, in person.

Respondents: Mr. Akshay Amritanshu, Mr. Divyansh Singh and Sanyak
Jain, Advocates for respondents no. 1 to 3.
Mr. Rajesh Kumar Singh, Advocate for respondent no. 4.

Application under Section 18 read with Sections 14 and 15 of the
National Green Tribunal Act, 2010.

ORDER

1. The grievances in the present application filed under section 18 read with sections 14 and 15 of the National Green Tribunal Act, 2010 are that in the month of December, 2021, the applicants came to know that the land bearing Khata no. 121, Khatauni No. 133 min and Khasra No. 210 measuring 01-89-04 hectares as per Jamabandi 2015-2016 situated at Hadbast No. 48/6, Mohal Rakrial, Mouza Jhaniara, Tehsil and District Hamirpur, Himachal Pradesh would be used for the construction of Flats for the staff of Himachal Pradesh Service Selection Commission (HPSSC), and O. A. No. 264/2022 Vir Singh Rana Vs. MoEF&CC for that purpose, approximately 150 trees would

be cut down. The applicants have further alleged that there is an old reservoir adjoining the above said land and the construction of proposed building will certainly lead to depletion of the only natural water resource.

2. Vide order dated 27.04.2022, notices were ordered to be issued to respondents no. 1 to 4. Replies were filed by respondents no. 1 to 3 and respondent no. 4 vide emails dated 04.08.2022 and 06.09.2022, respectively.

3. However, in view of replies being evasive vide order dated 11.10.2022, this Tribunal constituted a Committee comprising of Principal Secretary, Jal Shakti Vibhag, Government of Himachal Pradesh, Principal Chief Conservator of Forests (HoFF), Government of Himachal Pradesh, State PCB and Deputy Commissioner, Hamirpur and directed the same to submit its report within one month.

4. In compliance thereof, the Joint Committee has submitted report vide email dated 23.11.2022. Relevant part of the report is reproduced as under:-

"Joint Inspection Report in Compliance to the order dated 11.10.2022 passed by Hon'ble National Green Tribunal (in Original Application No. 264 of 2022 titled as Vir Singh Rana V/s Ministry of Environment, Forest and Climate Change & Ors.

x x x x x x

B. Meeting, and spot visit of the Joint Committee on dated 05.11.2022

In compliance to the aforementioned orders dated 11.10.2022, the Joint Inspection of the site comprising of Khata No. 121, Khatauni No. 133, Khasra No. 210 in Village Rakarial, Mauza Jhaniara, Tehsil & Distt. Hamirpur (HP) was carried out on 05.11.2022 by the representatives of Jal Shakti Vibhag of GoHP, Forest Department of GoHP, HPSPCB & Deputy Commissioner Hamirpur along with the stakeholders/officials and the following were present: -

1. Additional Deputy Commissioner Hamirpur.

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2. The Secretary, HP Staff Public Service Commission Hamirpur (Project Proponent).

3. The Divisional Forest Officer Hamirpur as representative of Principal Chief Conservator of Forests (HoFF) GoHP.

4. The Superintending Engineer, Jal Shakti Circle Hamirpur as representative of Principal Secretary, Jal Shakti Vibhag, GoHP.

5. The Regional Officer, HPSPCB Una (Nodal Agency)
6. The Senior Hydrogeologist, Ground Water Organization, Jal Shakti Vibhag Una.
7. Sh. Vir Singh Rana, Petitioner.

During the site visit, it was found that the land in question comprised in Khata No. 121, Khatauni No. 133, Khasra No. 210/1 in Village Rakarial, Mauza Jhaniara, Tehsil and Distt Hamirpur (HP) is a Govt. Land under allottable pool and has been transferred to Personnel Department (Gol-LP) through HP Staff Selection Commission (HPSSC) Hamirpur along with Khasra No. 150 for the construction of staff residential colony. During the site inspection, no site development or construction work was found in progress at Khasra No. 210, however, an unpaved ramp was found developed for vehicular access to the said plot from the adjacent link road. In particular, the Joint Committee observed that no felling of the trees have been done/executed on the land in question for which the permission has been granted by the Forest Department. More than one hundred trees of different species were found standing/uncut at the site in question.

The Joint Committee has found that there is no water body existing within and adjoining the land comprising of Khata No. 121, Khatauni No. 133, Khasra No. 210/1 in Village Rakarial, Mauza Jhaniara, Tehsil & Distt. Hamirpur (HP) so, it is concluded that the allegations made by the petitioner in this regard are false.

The representative of the HP Staff Selection Commission Hamirpur apprised the Joint Committee that the Govt. Land comprising of Khata No. 121, Khatauni No. 133, Khasra No. 150 & 210/1 in Village Rakarial, Mauza Jhaniara, Tehsil & Distt. Hamirpur (HP) was transferred to HPSSC Hamirpur under 'allottable pool' for the construction of staff residential colony' by the District Collector, Hamirpur vide letter no. 6914-18 dated 18/12/2020. Copy of letter is enclosed as Annexure-I. The transfer of land was done only after prior issuance of NOC's by Forest Department, HPPWD, Jal Shakti Vibhag, RPSEBL, NHAH and concerned Gram Panchayat. Copies of the said NOC's are enclosed as Annexure-II.

The Divisional Forest Officer, Hamirpur apprised the Joint Committee that the land in question comprising of Khasra No. 150 & 210/1 is a Non Forest, Govt. Land under allottable pool and the Forest Department has accorded permission to the HPSSC for the felling of 139 trees (14 Trees on Khasra No. 150 and 125 number of Trees on Khasra No. 210/1) which are required to be fallen for the O. A. No. 264/2022 Vir Singh Rana Vs. MoEF&CC development purpose, The permission for felling of tree has been issued in accordance to the Forest Laws of the State, for the standing trees on the non-forest Govt. land under allottable pool. Copy of Permission is enclosed as Annexure-III.

The Superintending Engineer, JSV Hamirpur Circle and Senior Hydrogeologist, Ground Water Organization JSV, Una apprised that there is no water body exists on the land in question, hence the question of depletion or water does not arise at all.

Further, the Joint Committee asked the Petitioner to put his views before the Joint Committee in the matter and for suggestions, if any. The Petitioner, Sh. Vir Singh Rana, apprised the committee that the sole purpose of his petition was to ensure a sustainable development at the site, so that there will be a minimum felling of trees and damage to the forest area of their village. He requested the Joint Committee that the HPSSC Hamirpur should re-design the proposed building plan, so that the number of trees required to be felled shall be minimum. He also suggested that compensatory obligations by the Forest department must be imposed on the HPSSC against each fallen tree.

The Joint Committee inquired the DFO, Hamirpur about scope of compensatory provisions under Forest Laws in the matter. In response, the DFO Hamirpur apprised that the condition to plant ten (10) trees against each tree required to be felled shall be imposed on the HPSSC Hamirpur.

Conclusion-cum- recommendations of the Joint Committee:

After the deliberations and examining the matter on the observations made during the site inspection, the Joint Committee on the spot asked the HP State Staff Selection Commission, Hamirpur through its project executing agency i.e. HPPWD to re-design the building plan of the proposed residential colony in a manner that the number of trees required to be felled, shall be minimum. In addition to this, the HP Staff Selection Commission Hamirpur shall plant 10 times of the trees against each tree identified for felling, at any other suitable land in coordination with Forest Department. The petitioner (Sh. Vir Singh Rana) has also agreed with the decisions of the Joint Committee. The representative of HP State Staff Selection Commission apprised that all necessary steps shall be taken for the compliance of the decision made by the Joint Committee, to ensure conservation/rejuvenation/protection of the surrounding ecology.

Action Taken Report:

The HP State Staff Selection Commission, Hamirpur has informed the Joint Committee that the Executive Engineer, HP PWD Division, Hamirpur has informed that out of 125 trees of different species standing in Khasra No. 210/1, only 80 numbers of trees in Village Rakhrial, Mauza Jhanirara, Distt. Hamirpur (HP) has been identified for felling for the purpose of construction/site development of the area. The State Commission has also undertaken and assured to plant 10 times trees against 80 trees identified for felling with co-ordination of the Forest Department of HP. Copy of letter is enclosed as Annexure- IV."

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5. In its report, the Joint Committee has mentioned that the land in question is non-forest land which was transferred to HPSSC, Hamirpur under 'allotable pool' for the construction of 'staff residential colony' by the District Collector, Hamirpur after prior issuance of NoC by Forest Department, HPPWD, Jal Shakti Vibhag, BHSEBL,

NHAI and concerned gram panchayat. In the report it has been mentioned that in accordance with the recommendations of the Joint Committee, out of 125 trees of different species standing in Khasra No. 210/1, only 80 numbers of trees have been identified for felling for the purpose of construction and HPSSC has assured to plant 10 times trees against 80 trees identified for felling with coordination of the Forest Department of HP.

6. As per the report of the Joint Committee, no water body was found in the land in question and the question of its destruction does not arise. The applicant has also agreed that there is no water body/reservoir in the project site, so the question of its depletion/destruction does not arise.

7. In view of the factual position duly verified by the Joint Committee, we are of the considered view that no further action is required to be taken by this Tribunal on the present application which is disposed of accordingly with the directions that HPSSC shall make efforts for saving of as many trees as possible by selective felling and also make compensatory plantation of indigenous tree species and maintain the same for minimum seven years to ensure survival thereof. The DFO, Hamirpur should extend necessary assistance in selecting indigenous tree species and undertaking compensatory plantation.

8. A copy of this order be forwarded to the Principal Secretary, Jal Shakti Vibhag, Government of Himachal Pradesh, Principal Chief Conservator of O. A. No. 264/2022 Vir Singh Rana Vs. MoEF&CC Forests (HoFF), Government of Himachal Pradesh, State PCB and Deputy Commissioner, Hamirpur by e-mail for compliance.

Arun Kumar Tyagi, JM Dr. Afroz Ahmad, EM November 30, 2022 AVT