

ITEM NO.1

COURT NO.5

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s).202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS.

Respondent(s)

[1] INTERLOCUTORY APPLICATION NO. 107443/2021 (CEC REPORT NO. 11) [APPLICATION FOR DIRECTIONS FILED BEFORE CEC BY DR. P.C. PRASAD AND ADITYA PRASAD, APPLICANTS] IN RE : DELHI METRO RAIL CORPORATION (DMRC)AND

[2] INTERLOCUTORY APPLICATION NOS. 31095/2019,31104/2019 AND 31118/2019[APPLICATIONS FOR IMPLEADMENT, DIRECTIONS AND EXEMPTION FROM FILING OFFICIAL TRANSLATION]WITH INTERLOCUTORY APPLICATION NOS. 59646/2021[APPLICATION FOR EXEMPTION FROM FILING OFFICIAL TRANSLATION IN R/O ANNEXURES FILED BY MR. SUNNY CHOUDHARY, ADV.] IN RE :REFUND OF NPV PAYMENT INTO COMPENSATORY AFFORESTATION MANAGEMENT AND PLANNING AUTHORITY (CAMPA) FUNDS AND

[3] INTERLOCUTORY APPLICATION NOS. 47044/2021, 68566/2021, 109098/2021 AND 139401/2021[APPLICATIONS FOR DIRECTIONS ON BEHALF OF STATE OF H.P.] AND INTERLOCUTORY APPLICATION NO. 76495/2021[APPLICATION FOR DIRECTIONS ON BEHALF OF HIMACHAL PRADESH TRANSMISSION CORPORATION LIMITED (HPPTCL)] IN INTERLOCUTORY APPLICATION NO. 3840 (Disposed of) [APPLICATION FOR PERMISSION FOR CARRYING OUT SILVICULTURAL FELLING OF TREES]

IN RE : SILVICULTURE FELLING OF TREES IN THE STATE OF HIMACHAL PRADESH IN WRIT PETITION (CIVIL) NO. 202/1995"ONLY" ARE LISTED IN W.P.(C) No. 202/1995 "ONLY" ON 09.12.2021

I.A. NOS. 160157/2021, 160159/2021 AND 161312/2021 (APPLICATIONS FOR APPROPRIATE ORDERS/DIRECTIONS)

Date : 09-12-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

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IA 95844/1995
in IA 3840/2014

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IA 107443/1995

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IA 153667 &
153673/21

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Mr. Prashant Kumar, AOR
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IA 31095/19, 31104/19,
31118/19 Mr. Nakul Dewan, Sr. Adv.
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Mr. Kamendra Mishra, AOR

UPON hearing the counsel the Court made the following
O R D E R

IN RE: SILVICULTURE FELLING OF TREES IN THE STATE OF H.P

I.A.No.47044 of 2021:

This I.A is filed by the State of Himachal Pradesh seeking permission for diversion of forest land under the Forest (Conservation) Act, 1980 (in short 'FCA') for construction of certain projects as mentioned in para 12 of the application, and are reproduced below:

Sl.No.	Name of projects	Name of user agency	No. of cases	Forest involved (in ha.)
1	Roads	HPPWD	16	50.2407

2	Road	NHAI	1	17.0961
3	Electric Projects	Hydel, HPPTCL, HPSEB & Solar	4	24.9672
4	Airport	Airport Authority of India	1	5.051
5	Anaj Mandi & Subji Mandi	Director, Agriculture Krishi Bhawan, Boileauganj, Shimla	2	2.28
6	College Buildings	Director of Higher Education, Shimla	2	4.2836
7	Hospital	Directorate, Medical Education Research, HP	1	0.8514
8	Bus stand	HRTC	1	0.2144
		Total:-	28	104.9844

State of Himanchal Pradesh is seeking a further direction for diversion of forest land under Scheduled Tribes and other Traditional forest Dwellers (Recognition Of Forest Rights) Act, 2006 (in short 'FRA') for construction of 54 projects as mentioned in para 13 of the application and are stated below:-

Sl. No.	Activities	No. of cases	Area involved in ha.	No. of trees involved	Population to be benefited
1	Roads	47	22.1103 224	224	13,653
2	Schools	2	0.4662	0	2,050
3	Tanks and	1	0.3515	30	2,930

	other minor water bodies				
4	Water/Rain water harvesting structures	1	0.0384	0	260
5	Dispensary	1	0.02	4	2500
	Total:-	54	23,5726	262	21,902

On 11.03.2019, this Court stayed the felling of trees even in cases where approval has been given by the DFOS. The exercise of power by DFOS under the FRA is a point for consideration at a future date.

In the meanwhile, this application filed for permission of diversion of forest land for public purpose has been examined by the CEC. A recommendation has been made by CEC for clearance of the above mentioned projects. CEC further recommended that in respect of the projects falling under the FRA, permission can be granted to schools and other minor water bodies, rain water harvesting structures and dispensaries. In so far as 47 roads mentioned in para 13 are concerned, Mr. A.D.N. Rao, learned Amicus Curiae submitted that clearance can be granted provided they are not part of the linear project. In other words, roads for a short distance connecting the main roads or otherwise can be cleared. The clearance of the aforementioned projects is subject to the State of Himachal Pradesh taking steps for identification of land for reafforestation as per the earlier directions of this Court.

The State of Himachal Pradesh is directed to file an affidavit giving particulars of the land identified for re-afforestation and the steps taken in accordance with law for the reafforestation.

The Interlocutory application alongwith I.A.No.68566/2021, I.A.No.109098/2021, I.A.No.139401/2021 stand disposed of.

I.A. No.76495 of 2021:

In view of the aforementioned order this I.A. also stands disposed of accordingly.

I.A.No.160157/2021, I.A.No.160159/2021 & I.A.No.95844/2021

List on 14.12.2021.

IN RE: DELHI METRO CORPORATION:

I.No.107443 of 2021 (CEC Report No.11), I.A. No. Dy. 161311/2021 & I.A.No.161312/2021

List on 14.12.2021.

IN RE: ANDHERI TIGER RESERVE, MAHARASHTRA:

I.A.No.93836/2021 (Report No.7)

List on 14.12.2021.

REFUND OF NET PRESENT VALUE PAYMENT INTO CAMPA FUNDS:

**I.A.No.31095 of 2019, I.A.No.31104 of 2019, I.A.No.31118
of 2019.**

List on 08.02.2022.

**In the meanwhile, the State of Maharashtra and
Union of India are at liberty to file their affidavits.**

**(B.Parvathi)
Court Master**

**(Anand Prakash)
Court Master**