

Item No. 3

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 652/2022

R.D. Singh Bandral

...Applicant

Versus

Union of India & Ors.

...Respondents

Date of hearing: 17.04.2023

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

Applicant: Mr. R. D. Singh- applicant in person (through VC).

Respondents: Mr. Jitendra Baarti, Advocate for respondent no. 1-
MoEF&CC.

**Application under Section 18 (1) read with Sections 14 and 15 of the
National Green Tribunal Act, 2010.**

ORDER

1. The applicant has filed the present application under sections 14 and 15 of the National Green Tribunal Act, 2010 seeking indulgence of this Tribunal in protecting the flora and fauna of the Kailash Kund-Seoz Dhar region by declaring the same as protected area and not to allow construction of the road in the said region as the same will have an adverse impact on the environment there.

2. Vide order dated 16.09.2022, notices were ordered to be issued to respondents. Pursuant to notice replies have been filed by respondent no. 1-MoEF & CC vide email dated 07.01.2023 and by respondent no. 5- the Deputy Commissioner, Doda, vide email dated 16.12.2022.

3. Vide orders dated 14.10.2022 and 21.12.2022, the Chief engineer, PWD (R & B) and the DFO, Bharderwah were directed to appear before this Tribunal physically or through VC.

4. As per office report proper communications in this regard were duly served on the Chief engineer, PWD (R & B) and the DFO, Bharderwah but they have not appeared before this Tribunal physically or through VC.

5. In the facts and circumstances of the case we consider examination of the Chief engineer, PWD (R & B) and the DFO, Bharderwah as witness in the case to be essential and accordingly summons be issued to them requiring them to appear before this Tribunal physically on 24.05.2023 with all relevant record for their examination in the case on affidavits and cross examination by the applicant and or other respondents, if so required.

6. The Registry is directed to issue summons to the Chief engineer, PWD (R & B) and the DFO, Bharderwah and send the same to the Chief Secretary, Government of Jammu and Kashmir for getting the service of the same effected on them and to send his report in this regard.

7. It is clarified that in case of non-appearance of the Chief engineer, PWD (R & B) and the DFO, Bharderwah before this Tribunal in compliance to summons, coercive measures for their production before this Tribunal by their arrest and detention by issuance of non-bailable warrant of arrest and also attachment of their salary may be taken.

8. In view of the facts and circumstances of the case and the provisions of the section 20 of the National Green Tribunal Act, 2010 which mandates this Tribunal to apply the precautionary principle it is ordered that no

further construction in respect of the road in question in the area from Chatter Gala to Kailash Kund via Seoz Dhar be made till further order to the contrary.

9. The Deputy Commissioner, Doda and the Senior Superintendent of Police, Doda are also directed to take all requisite steps to ensure that no such further construction in respect of the road in question in the area from Chatter Gala to Kailash Kund via Seoz Dhar takes place in violation of the order passed by this Tribunal.

10. List for further consideration on 24.05.2023.

11. A copy of this order be forwarded to the Chief Secretary, Government of Jammu and Kashmir, the Chief Engineer, PWD (R&B) and the DFO, Bhandarwah, the Deputy Commissioner and the Senior Superintendent of Police, Doda by e-mail for ensuring requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

April 17 2023
AG