

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

INTERLOCUTORY APPLICATION NO.191338 OF 2019
WITH
INTERLOCUTORY APPLICATION NO.55071 OF 2020
AND
INTERLOCUTORY APPLICATION NO.121109 OF 2020
AND
INTERLOCUTORY APPLICATION NO.130847 OF 2020
AND
INTERLOCUTORY APPLICATION NO.87648 OF 2020
IN
Writ Petition (Civil) No.202 OF 1995

IN RE: T.N. GODAVARMAN THIRUMULPAD **Petitioner(s)**

VERSUS

UNION OF INDIA & ORS. **Respondent(s)**

ORDER

1. The Government of Himachal Pradesh has come up with these applications praying for various reliefs including the relief of diversion of small extents of forest land for the purpose of carrying out certain public welfare projects. Some of these projects are already cleared under FCA and FRA, but some are not. The application numbers and the reliefs sought

are presented in a tabular column for easy reference:

Interlocutory Application Number	Prayer
191338/2019 (Application for directions)	<ul style="list-style-type: none"> • Relax the restriction imposed on diversion of forest land under the Forest (Conservation) Act, 1980 vide order dated 11.3.2019 • Relax the restriction imposed on diversion of forest land under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 vide order dated 11.3.2019 • Permit the State Himachal Pradesh, to issue formal orders for diversion of forest land under the Forest Act, 1980 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 for construction of projects mentioned in para-5 of the application and, to issue formal order also in respect of project mentioned in para 6 of the application after receipt of final approval from Govt. of India under FCA, 1980.
55071/2020 (Application for Directions)	<ul style="list-style-type: none"> • Relax/remove the restriction imposed on diversion of forest land under the Forest (Conservation) Act, 1980 vide order dated 11.3.2019 • Relax/remove the restriction imposed on diversion of forest land under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 vide order dated 11.3.2019 ▪ Permit the State Himachal Pradesh, to issue formal orders for diversion of forest land under the Forest Act, 1980 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 for construction of projects mentioned in para 8 & 9 of this application and other projects which may be envisaged by the State in future, in accordance with law i.e. strictly in accordance with the provisions of Forest (Conservation) Act, 1980 and Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
87648/2020 (Application for directions)	<ul style="list-style-type: none"> • Allow the State of Himachal Pradesh to carry out silviculture felling of Khair (Acacia catechu) trees in the forests areas of the State in accordance with the approved Working Plans
121109/2020 (Application for directions)	<ul style="list-style-type: none"> • Allow the State of Himachal Pradesh to issue formal orders for diversion of forest land under the Forest (Conservation) Act, 1980 [FCA] and Scheduled Tribes and Other Tradi-

	tional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [FRA] for construction of projects mentioned in paras 12 & 13 of this application and other projects that may be envisaged by the State in future in accordance with law i.e. strictly with the provisions of FCA and FRA.
130847/2020 (Application for directions)	<ul style="list-style-type: none"> Allow the State of Himachal Pradesh to issue formal orders for diversion of forest land under the Forest (Conservation) Act, 1980 for construction of projects mentioned in Para 13 and detailed in Annexure A-6 for all other projects that may be envisaged by the State in future, in accordance with law i.e. strictly with the provisions of Forest (Conservation) Act, 1980 or the Scheduled Tribes and Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or other Statutes governing the field.

2. We have heard Shri Tushar Mehta, learned Solicitor General and Shri Ashok Sharma, learned Advocate General for the State of Himachal Pradesh, appearing for the applicant and Shri A.D.N. Rao, learned Amicus Curiae appointed by this Court. From the submissions made by Shri A.D.N. Rao, learned Amicus Curiae, it can be deciphered that some of the reliefs sought by the State of Himachal Pradesh can be straight away granted and some other reliefs can be granted subject to certain clearances. The projects for which permission may be granted and projects which can be permitted subject to certain conditions are also given in a tabular column as follows:

Interlocutory Application Number	Projects	Projects permitted with or without condition
	(I)	

191338/2019	S.No	Activities	No. of cases	Area involved in ha.	
	1	Hydro Electric Projects	3	7.3566	Permission granted
	2	Roads	27	64.2176	
	3	Indian Institute of Technology	1	124.61	
	4	Degree College	2	5.9239	
	5.	Model School	1	2.08	
	6.	Construction/upgradation of Electric Sub-stations	2	0.8529	
	7.	Transmission line	1	36.4344	
	8.	Hybrid Power Project (Solar+wind+battery storage)	1	5.5942	
	9.	Extraction of river bed minerals	1	1.3918	
	10.	Car parking	1	0.154863	
		Total	40	248.616263	
(II)					
	S.No.	Activities	No. of cases	Area involved in ha.	Permission granted subject to the following rider:
	1	Anganwadis	02	0.028	<p><i>"If the permission of DFOs is granted prior to 11.3.2019, the project can be implemented. However, if the permission is not granted till 11.03.2019, the concerned DFO is allowed process, examine and decide grant of permission and if permission is so granted, such projects can be</i></p>
	2	Community Centers	13	1.0529	
	3	Dispensary or hospital	09	1.5648	
	4	Drinking water supply and water pipeline	12	3.0341	
	5.	Roads	191	101.6577	
	6.	Schools	49	10.7082	
	7.	Skill upgradation or Vocational Training Centers	05	2.6992	
	8.	Tanks and other minor water bodies	05	0.8826	
	9.	Fair price shop	01	0.02	
	10.	Electric and Tele/Line	01	0.92	

	11.	Minor Irrigation Cannel	01	0.12	<i>implemented and allowed to commence and complete.”</i>
		Total	289	122.7475	
55071/2020	(I)	34 projects under FCA, 1980 for which final approval given by Central Government, mentioned in Annexure A-9			permitted
	(II)	96 projects under FRA, the proposals for which were received after 11.03.2019, given in Annexure A-10			DFO concerned is permitted to process, examine and decide the grant of permission and if permission is so granted, such projects can be implemented and allowed to commence and complete.
	(I)				
121109/2020	S.No	Projects	No. of cases	Forest land involved (in ha.)	Permission granted
	1	Roads	37	161.7044	
	2	Helipads	01	0.9898	
	3	Transmission Lines & Power Stations	04	51.8232	
	4	Sewerage Treatment Plants	02	1.72	
	5	Drinking Water Supply Schemes	05	71.1711	
	6	Hydro Power Projects	04	60.6863	
	7	Other Projects	06	10.6575	
		Total		59	
	(II)				

S.No	Activities (as per list at pages 63 to 68 of application)	No. of cases	Area involved in ha./No. of trees involved		
1	Anganwaris	01	0.007/0	Permission granted subject to the following rider: Proposals received after 11.3.2019. <i>“Therefore, DFO concerned is permitted to process, examine and decide granted of permission and if permission is so granted, such projects can be implemented and allowed to commence and complete.”</i>	
2	Community Centres	01	0.014/0		
3.	Roads	75	35.9618/501		
4.	Schools	01	0.512/0		
5.	Tanks and other Minor Water Bodies	01	0.3415/0		
6.	Water/Rain Water Harvesting Structures	01	0.0384/0		
	Total	80	36.8747/501		
130847/2020	Name of Project		Amount sanctioned	Sanctioned by	
	S.No	Projects	No. of cases	Forest land involved (in ha.)	
	1	Roads	02	5.3595	Permission granted
	2	Bus Stand	02	1.2323	
	3	Construction of Bridge approach	01	0.3185	
	Total	05	6.9103		

3. **IA No. 130847 of 2020**

In this application, mention is made about two projects, at page No.6 of the application.

Name of Project	Amount Sanctioned	Sanctioned by
One green corridor National Highway	1337 Crores	MoRTH
Construction of Two lane NH 20A (new NH 503)	61.48 Crores	MoRTH

The First project of Green Corridor National Highway is in two parts, for each of which separate final approval has been granted under Section 2 of the Forest Conservation Act, by Ministry of Environment and Forest, Government of India. One final approval dated 30.09.2020 is for diversion of 28.449 ha of forest land and second final approval of the even date is for diversion of 22.419 ha of forest land. Both these final approvals are attached with the affidavit filed on 06.02.2021. The said final approvals are taken on record.

So far as Second Project viz. Construction of Two lane NH20A (new NH 503) is concerned, the final approval for the same for diversion of 7.0713 ha of forest land has also been granted u/s 2 of the Forest Conservation Act by the Ministry of Environment and Forest, Government of India vide letter dated

20.06.2020. This final approval dated 26.06.2020 is also attached with the affidavit filed on 06.02.2021.

The final approvals are taken on record and the Government may act accordingly.

4. **IA No.87648 of 2020**

The aforesaid I.A. is to be adjourned for 12 weeks. The Committee appointed vide order dated 16.02.2018 may examine the contents of this I.A while filing its further report regarding result of Silviculture operations already undertaken.

5. The applications are disposed of accordingly.

.....CJI
(S.A. BOBDE)

.....J.
(A.S. BOPANNA)

.....J.
(V. RAMASUBRAMANIAN)

New Delhi
February 15, 2021