

Item No.08

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH**

(By Video Conferencing)
Original Application No.576/2022

Bharat Prakash Rai

...Applicant

Versus

State of West Bengal

...Respondent

Date of hearing: 07.09.2022

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

Applicant: None.

Application is registered based on a letter Petition received by post.

ORDER

1. Mr. Bharat Prakash Rai has sent the present letter petition, which is treated and registered as original application, complaining about mass tree felling in Saureni Tea Garden situated at the distance of 47 kms from Darjeeling District Headquarter. The applicant has submitted that when contacted, the Tea Garden owner and his manager produced a letter of permission accorded by the Darjeeling District Magistrate. How a District Magistrate in his capacity could issue permission for felling down 515 green trees at a particular area remains a big question. Around four hundred trees (conifer) have been chopped down from 17.04.2022 – 21.04.2022 at Saureni Bhanjang within Tea Garden. They would have cut down more trees if there was no hue and cry. Before cutting down such huge number of trees, Environment Impact Assessment ought to have been made by the National Green Tribunal or any other competent authority empowered by the Ministry

of Environment, Forest and Climate Change. Due to the massive tree felling on the vertical slope, the tea garden has become imminent landslide zone. After the intervention of the Darjeeling District Magistrate further felling of trees has been stopped. Earlier, more than 300 hundred indigenous trees were chopped off a few months ago at Manju block by Saureni Tea Garden in connivance with Land and Land Reforms Department and Forest Department. Such huge felling of trees has destabilized the micro climate of the region. Surely water bodies will be dried up within a few days throwing many people in the dire need of drinking water. The applicant has accordingly prayed for taking of stringent action against the violators.

2. This Tribunal is empowered to take cognizance of the cases involving questions relating to environment arising out of the implementation of enactments specified in First Schedule of the National Green Tribunal Act, 2010 *suo moto* as held by Hon'ble Supreme Court in **Municipal Corporation of Greater Mumbai V/s. Ankita Sinha and others 2021 SSC Online SC 897**. This Tribunal can also take cognizance of such cases on the basis of letter petitions in accordance with settled principles of law governing Public Interest Litigation.

3. *Prima facie*, the averments made in the application raise questions relating to environment arising out of the implementation of the enactments specified in Schedule I to the National Green Tribunal Act, 2010. In view of the averments made in the application, we consider it appropriate that a Joint Committee be constituted to verify the factual position. Accordingly, we constitute a Joint Committee comprising of representative of Principal Chief Conservator of Forests, State of West Bengal, State PCB and Collector, Darjeeling and direct the same to meet, undertake visits to the site, look into the grievances of the applicant, associate the applicant and representative of the concerned project proponents, verify the factual position and submit its report within one month by e-mail at judicial-ngt@gov.in preferably in the

form of searchable PDF/OCR Supported PDF and not in the form of Image PDF. The State PCB will be the nodal agency for coordination and compliance.

4. In case the Joint Committee observes any violation of consent conditions/environmental norms, then it shall forward a copy of its report to:-

(i) the concerned Project Proponents to enable them to comply with the recommendations in the report of the Joint Committee or file objections against observations/recommendations in the same and file their response before this Tribunal as desired within one month from the date of receipt of a copy of the report of the Joint Committee; and

(ii) the concerned Statutory Authorities including State PCB and Collector, Darjeeling to enable them to take appropriate remedial action by giving notice to/hearing the project proponents and following due process of law in accordance with Statutory provisions mandating them to take remedial action for prevention, control and abatement of environmental pollution/degradation and for protection and improvement of environment and submit their action taken reports within one month from the date of receipt of a copy of the report of the Joint Committee.

The reports be submitted by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

5. List for further consideration on 21.12.2022.

6. A copy of this order, along with a copy of the application and documents attached with the same, be forwarded to the Principal Chief

Conservator of Forests, State of West Bengal, State PCB and Collector,
Darjeeling by e-mail for compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

September 07, 2022
AG