

Item No.07

Court No. 2

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

Original Application No. 419/2023

Rampal

Applicant

Versus

State of Haryana

Respondent

Date of hearing: 23.07.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant(s): None

Respondent(s): Mr. Rahul Khurana, Advocate for Respondents No. 1 to 4

ORDER

1. This Original Application under Sections 14 and 15 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') was registered on a letter petition dated 10.03.2023 received from Rampal son of Late Bhimraj, Village Jhamuwas, Teshil Taoru, District Nuh, State of Haryana. Complainant had alleged that there is a Gouchar land in village Jhamuwas which has been illegally converted for agricultural use and several trees have also been cut illegally. Due to illegal conversion of Gauchar land, grazing area for animals and cattles has been destroyed/damaged.

2. This Tribunal took cognizance on 31.07.2023 and being satisfied that a substantial question relating to environment due to implementation of the enactments specified in Schedule I of NGT Act,

2010 has arisen, proceeded further. However, Tribunal found it appropriate first to obtain a Factual Report with regard to cutting of illegal trees and destruction of vegetation and hence constituted a Joint Committee comprising Haryana State Pollution Control Board (hereinafter referred to as '**HSPCB**'), District Magistrate, Nuh, Divisional Forest Officer, Nuh and District Development and Panchayat Officer, Nuh.

3. Tribunal also impleaded following as respondents:

- (i) State of Haryana through Chief Secretary, Govt. of Haryana,
- (ii) Principal Secretary, Panchayati Raj & RD Department, Govt. of Haryana,
- (iii) Principal Secretary, Environment, Govt. of Haryana and
- (iv) District Magistrate, Nuh

4. Notices were issued to said respondents requiring them to file their responses.

5. Pursuant to order dated 31.07.2023, Report dated 13.10.2023 has been submitted by Joint Committee stating that there was no plantation on the land in dispute at any point of time; neither land was reserved for plantation purposes nor it is a forest land under Sections 4 and 5 of Punjab Land Preservation Act, 1990; Gauchar land was converted for use of agricultural purposes which is permissible in view of provisions made in Rule 3 of Haryana Village Common Land (Regulation) Rules, 1964 and this power of conversion has been upheld by Punjab and Haryana High Court vide judgment dated 07.07.2011 in **Civil Writ Petition No.13652 of 2009, Balinder Singh & Ors. vs. State of Haryana & Ors.** and **CWP No. 7519 of 2012, Angrej Singh and others Vs. State of Haryana and others.** It is further stated that earlier also, a similar view was taken by Punjab and Haryana High Court where against **Civil**

Appeal No.1941 of 1997, Shish Ram & Ors. vs. State of Haryana & Ors., was dismissed by Supreme Court vide order dated 05.05.2000. Respondents 2 and 4 have also filed their reply dated 17.07.2024 wherein also, similar stand has been taken.

6. It is reiterated that there were no trees and flora-fauna on the land in question hence, there is no question of cutting of trees illegally and further Gauchar land has converted validly in exercise of Statutory Powers by Competent Authority, hence, there is no illegality in the entire process.

7. With regard to power of conversion of Gauchar land, relevant extract of Punjab and Haryana High Court's judgment passed in 07.07.2011 is reproduced as under:

"We have heard counsel for the parties, perused the impugned order and in view of judgment in Baljinder Singh and others v. The State of Haryana and others (Civil Writ Petition No.13652 of 2009), reject the petitioners' contention that the Gram Panchayat cannot change the user of its land whether reserved as "Charand" or otherwise. The only rider, upon the Gram Panchayat's power, as held in Baljinder Singh's case (supra), is that a Gram Panchayat is required to comply with the procedure prescribed by Rule 3 read along with Rule 8 of the 1964 Rules and prepare a land utilization plan, before it proceeds to change the use of its land. A perusal of the reply filed by the respondents reveals that the Gram Panchayat has prepared a land utilization plan. The question whether the land utilization plan is legal and valid and in accordance with Rules 3 and 8 of the 1964 Rules, is a matter for the petitioners to raise by filing a petition under Section 47 of the Haryana Panchayati Raj Act, 1994 (hereinafter referred to as 'the 1994 Act')."

8. In **Shishram versus State of Haryana, (2000) 6 SCC 84**, Supreme Court also has said as under:

“The High Court appears to have consistently held that the land vesting in the Gram Panchayat can be used for any one or more of the purposes specified in Sub-Rule (2) or Rule 3, leasing out for cultivation being one of the purposes.”

9. Further in para 7 and 8 of the judgment, Court has also discarded an attempt on the part of appellant before Supreme Court to make distinction between charand land and shamlat deh and has said as under:

“7. Learned counsel for the appellants then tried to make a distinction between the charand land and shamlat de. In support of his contentions he referred to Annexures I and II wherein the land, the subject matter of the dispute, has been defined to be charand land. The definition of shamlatdeh provides that it shall include “lands described in the revenue record as shamlatdeh or (charand –in Haryana) excluding abadideh”. Relying upon the Khushi Puri’s case the High Court in the impugned judgment was, therefore, right in holding that there did not exist any distinction between the charand and shamlatdeh and the contention of the appellants that the charand could not vest with the Gram Panchayat under the act was based upon wrong assumptions.

8. Reliance placed by the learned counsel for the appellants upon the judgment in Bhagat Ram's case is misplaced besides being without any basis. Despite our insistence, the learned counsel for the appellants could not refer to any averments in the writ petition filed in the High Court regarding the alleged violation of Article 31A of the Constitution.”

10. In view thereof, we do not find that there is illegal cutting of trees and Conversion of Gauchar land for agriculture purpose is also by exercising statutory power by Competent Authority and it also warrants no interference.

11. Original application is accordingly dismissed.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

July 23, 2024
Original Application No.419/2023
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