

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.102/2022/EZ

Mirjum karba,

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 03.05.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Kallol Basu, Adv. a/w
Ms. Joyee Maiti, Adv. (in Virtual Mode)

For Respondent(s) : Mr. Anil Shrivastav, Adv. (in Virtual Mode) a/w
Mr. Ashok Prasad, Adv. for R-2,3,4,6,7 & 8,
Mr. Surendra Kumar, Adv. for R-6,

ORDER

1. Affidavit dated 29.04.2023 has been filed by the Respondent No.2, Chief Secretary, Government of Arunachal Pradesh; same is taken on record.
2. Counter-affidavit dated 28.04.2023 has been filed by the Respondent No.4, Principal Secretary, Arunachal Pradesh; same is taken on record.
3. Counter-affidavit dated 02.05.2023 has been filed by the Respondent No.5, Deputy Commissioner, Lower Siang District, Government of Arunachal Pradesh; same is taken on record.
4. Counter-affidavit dated 02.05.2023 has been filed by the Respondent No.7, District Revenue & Settle Officer, Lower Siang District; Arunachal Pradesh; same is taken on record.
5. Affidavit dated 29.04.2023 has been filed by the Respondent No.9, State Environment Impact Assessment Authority (SEIAA), Arunachal Pradesh; same is taken on record.

6. Reply-affidavit dated 01.05.2023 has been filed by Principal Chief Conservator Forests Office, Zero Point, Arunachal Pradesh, on behalf of the Respondent Nos.3 & 8; same is taken on record.
7. Mr. Dharmendra, Chief Secretary, Government of Arunachal Pradesh and Mr. Jitendra Kumar, Principal Chief Conservator of Forests, Arunachal Pradesh are present (in Virtual Mode). Their personal appearances are dispensed with for future unless specifically required by this Court.

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

May 03, 2023
Original Application No.102/2022/EZ
BD

NGT

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.102/2022/EZ

IN THE MATTER OF:-

MIRJUM KARBA,

Son of Shri Tamir Karba,
Residing at Village:- Sipu, Post Office-Koyu,
Police Station:- Nari, Lower Siang District,
Arunachal Pradesh-791125,

.....Applicant(s)

Versus

1. UNION OF INDIA,

Serviced through the Secretary of Ministry of Environment,
Forest & Climate Change, Govt. of India,
Having its office address at Indira Paryavaran
Bhawan, Jorbagh Road, New Delhi-110003,

2. CHIEF SECRETARY AND SECRETARY TO THE CABINET,

Arunachal Pradesh, Govt. of Arunachal Pradesh,
Civil Secretariat, Itanagar-791111,

3. PRINCIPAL SECRETARY OF ENVIRONMENT,

Forest and Climate Change (Arunachal Pradesh)
Having its official address at PCCF office Complex
Itanagar, PIN-791111,

4. PRINCIPAL SECRETARY,

Home (Arunachal Pradesh)
Having its official address at Civil Secretariat,
Itanagar, PIN-791111,

5. DEPUTY COMMISSIONER,

Lower Siang district, Government of Arunachal Pradesh,
Having its address at Deputy Commissioner Office,
Likabali, Lower Siang District,
Arunachal Pradesh-791125,

6. MEMBER SECRETARY,

Arunachal Pradesh, State Pollution Control Board,
Having its office at Parayavaran Bhavan,
Yupia Road, Arunachal Pradesh-791110,

7. DISTRICT LAND REVENUE & SETTLEMENT OFFICER,

Lower Siang District,
having its official address at Deputy Commissioner

Office Likabali, Lower Siang District, PIN-791125,

8. DIVISIONAL FOREST OFFICER,

Likabali Forest Division, Likabali, Arunachal Pradesh,
Having its official address at Deputy Commissioner Office,
Likabali, Lower Siang District, PIN-791125,

**9. STATE ENVIRONMENT IMPACT
ASSESSMENT AUTHORITY (SEIAA),**

Represented by its Member Secretary,
Dept. of Environment & Forest, Pradesh,
Having its official address at PCCF Office Complex,
Itanagar, P Sector, Arunachal Pradesh, PIN-791111,

10. NATIONAL BOARD FOR WILDLIFE,

Represented by its Member Secretary,
Having its official address at Indira Parayavaran
Bhaban, Jorbagh Road, New Delhi-110003,

.....Respondent(s)

Date of hearing: 03.05.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Kallol Basu, Adv. a/w
Ms. Joyee Maiti, Adv. (in Virtual Mode)

For Respondent(s) : Mr. Anil Shrivastav, Adv. (in Virtual Mode) a/w
Mr. Ashok Prasad, Adv. for R-2,3,4,6,7 & 8,
Mr. Surendra Kumar, Adv. for R-6,

ORDER

1. This Original Application has been filed by the Applicant alleging that *Siji* District Headquarter of Lower Siang District is coming up in an area which is only 4-6 kilometers away from the *Kane Wild Life Sanctuary in Lower Siang District*.
2. It is also alleged that the *Kane Wild Life Sanctuary* is spread over an area of 31sq km around *Likabali* and *Siji* area. The *Kane Wildlife Sanctuary* is surrounded in the North by the confluence of *Siri River* and its tributary and the boundary runs along the ridge in an easterly direction till it meets the source of the tributary of *Yanchi Nallah* and then follows the same tributary downstream till it meets

the *Yanchi Nallah* upto the confluence of *Siji Nallah*. It further falls along with *Siji Nallah* downstream till it meets a foot path leading to *Likabali – Along road* at 18 Km post from *Likabali* near *Hanuman Mandir (Akashi Ganga)*. The Kane Wildlife Sanctuary is stated to be surrounded in the East by *Likabali – Along road* towards *Likabali* up to 15 Km and in the South, along the Western most rivulent of *Nilakh Nullah* upstream up to its source and then along with the ridge “*Bardam Modi*” and in the West, along the *Siri River* upstream up to the starting point.

3. It is further alleged that the proposed *Siji District* Headquarter of *Lower Siang* district is proposed to be an extension of *Likabali Township*, located at *Likabali tehsil* comprising of an approximate area 414 hectares surrounded by *Kane Wildlife Sanctuary* and other dense forest area. The proposed location is surrounded in the North by Hill area; to the South by *Siji River*; in the East by *Bokso stream* and in the West by *Sui River*.
4. It is further alleged that the proposed District Headquarter area shares its boundary with the forest of the “*Kane Wildlife Sanctuary*” and its *Eco Sensitive Zone* which is rich in biodiversity and home to various flora and fauna and there is also an Elephant Corridor around *Siji, Magi* and *Kane area*. It is stated that the proposed District Headquarter at *Siji* is in the heart of a virgin tropical semi evergreen forest to moist subtropical forest area and that the establishment of the District Headquarter at this place will lead to destruction of the forests in question.
5. A supplementary-affidavit dated 05.12.2022 has been filed by the Applicant, stating therein that after the filing of the present Original Application a notification dated 25.10.2022 has been issued by the

Secretary (Land Management), Government of Arunachal Pradesh, declaring that land measuring 3226400 Square Kilometres (322.64 Hectares) located at Jaji, Rijo, Lopin, Birko and Boko area at Siji-Magi, have been voluntarily donated by the villagers of Siji-Magi, Likabali area free of cost to the District Administration, Government of Arunachal Pradesh, for “Establishment of Lower Siang District Headquarter at Siji under Likabali Circle of Lower Siang District, Arunachal Pradesh”. Copy of the notification has been filed as “Annexure-S-1” to the affidavit and in the Schedule therein, specification of land has been mentioned which reads as under:-

SCHEDULE

(Specification of Land)

<i>Sl No.</i>	<i>District</i>	<i>Location</i>	<i>Purpose</i>	<i>Area in Sqm</i>	<i>Boundary description</i>
<i>1</i>	<i>Lower Siang</i>	<i>Jaji Rijo, Lipin, Birko, Bokso</i>	<i>“Establishment of Lower Siang District Headquarter at Siji under Likabali circle of Lower Siang District, Arunachal Pradesh”</i>	<i>3226400 Sqm</i>	<i>North: Hill area & Takam Nallh</i> <i>South: Siji river & Majum Nallah</i> <i>East: Bokso Stream</i> <i>West: Majum Strea, Mache Stream & Siji River</i>

6. Along with the affidavit, the Applicant has also filed as “Annexure-S-2”, the Minutes of the 43rd Meeting of Expert Committee on Eco-Sensitive Zone (ESZ), held on 20.11.2020. Item No.2 thereof deals with Eco-Sensitive Zone around ‘Kane Wildlife Sanctuary’, Arunachal Pradesh and states that draft notification for declaration of ESZ around ‘Kane Wildlife Sanctuary’ was re-notified on 09.06.2020 for seeking public comments:-

Area of Protected Area: 31.0 square kilometres;

Proposed ESZ are: 6.8302 square kilometres;

Proposed Extent: 0.05 kilometres to 0.50 kilometres;

The presentation made by the Principal Chief Conservator of Forest, PCCF (WL&BD), Government of Arunachal Pradesh before the Expert Committee has been noted and it was stated by the PCCF that 'Kane Wildlife Sanctuary' is located in Lower Siang District of Arunachal Pradesh and is home to species like Leopard, Wild dogs, Asian elephant (*Elephus maximus*), Asiatic Wild Dog (*Cuon alpinus*); it is also an abode of rich floral diversity.

7. The draft notification of the MoEF&CC dated 09.06.2020 (Page-328 of the Paper Book) defines the extent and boundaries of the Eco-Sensitive Zone to the 'Kane Wildlife Sanctuary' to be an extent of 0.05 kilometres to 0.50 kilometres around the boundary of 'Kane Wildlife Sanctuary' and the area of the Eco-Sensitive Zone is 6.8302 square kilometres.
8. The Arunachal Pradesh State Pollution Control Board, Respondent No.6, in its affidavit dated 25.01.2023 has stated that the MoEF&CC has notified the Eco-Sensitive Zone area around the 'Kane Wildlife Sanctuary' vide notification dated 08.04.2021 and has notified the Eco-Sensitive Zone of the 'Kane Wildlife Sanctuary' having an area to an extent of 0.05 kilometers to 0.50 kilometres around the boundary of the 'Kane Wildlife Sanctuary' in West Siang District in the State of Arunachal Pradesh as the 'Kane Wildlife Sanctuary Eco-Sensitive Zone' and the area of the Eco-Sensitive Zone is 6.8302 square kilometres. The notification further mentions that there are no villages inside the proposed Eco-Sensitive Zone of the 'Kane Wildlife Sanctuary'. The notification further envisages

that a Zonal Master Plan for the Eco-Sensitive Zone shall be proposed by the State Government in such manner as is specified in the notification and also in consonance with the relevant Central and State Laws and the Guidelines issued by the Central Government, if any. The notification further envisages a Monitoring Committee for regulating the development in the Eco-Sensitive Zone, adhering to prohibited and located activities listed in the Zonal Master Plan.

9. The Applicant has filed a further supplementary-affidavit dated 19.04.2023, stating that SEIAA, Arunachal Pradesh, has not received any proposal for grant of Environmental Clearance (EC) for proposed activity with regard to the construction of the Siji District Headquarter of Lower Siang District.
10. The Chief Secretary, Government of Arunachal Pradesh, has filed his affidavit dated 29.04.2023 in pursuance of the previous order of the Tribunal, explaining the delay in filing the affidavit by the State Respondents and it is stated that show-cause notices have been issued to the various Officers for delay in filing the affidavits. It is further categorically stated in the affidavit that no developmental activity has been carried out (in respect of Lower Siang District Headquarter) after receipt of the stay order of this Tribunal dated 06.01.2023.
11. The Principal Secretary, Government of Arunachal Pradesh has filed affidavit dated 28.04.2023 also stating that no developmental activity has been carried out at the notified area in view of the stay order passed by the Tribunal on 06.01.2023.
12. The Deputy Commissioner of Lower Siang District has also filed his affidavit dated 02.05.2023, stating therein that no developmental

activity has been carried out after the stay order of the Tribunal dated 06.01.2023 and orders have been issued to the Executive Engineer, Rural Works Department, Likabali Division and Public Works Department, to comply with the stay order of the Tribunal.

13. A similar affidavit has been filed by the Deputy Chief Conservator of Forests dated 01.05.2023 and in Paragraph-2 thereof it is stated that the 'Kane Wildlife Sanctuary' has been declared under Wildlife (Protection) Act, 1972, by the Government of Arunachal Pradesh, vide Notification dated 11.10.2007; the Siji District Headquarter area is outside the 'Kane Wildlife Sanctuary'; the shortest distance of Siji area from the boundary of the 'Kane Wildlife Sanctuary' is 6.2 kilometres. The Eco-Sensitive Zone of 'Kane Wildlife Sanctuary' is yet to be notified; till issuance of final notification of the Eco-Sensitive Zone, the extended zone of 10 kilometers from the boundary of Wildlife Sanctuary is to be considered as the Eco-Sensitive Zone as per the Guidelines issued by the Ministry on 09.02.2011 and order passed by the Hon'ble Supreme Court of India in (2011) 15 SCC 791 (*Goa Foundation Versus Union of India*) dated 04.12.2006.
14. It is further stated that the District Headquarter of Lower Siang District does not fall within the 'Kane Wildlife Sanctuary' but the proposed area falls in the extended Eco-Sensitive Zone of the Sanctuary. It is also stated that the Divisional Forest Officer, Lika Bali Forest Division vide his letter dated 25.04.2023 has informed that as per approved Working Plan/Working Scheme Book of Likabali Forest Division, the proposed area for District Headquarter of Lower Siang District at Siji area falls under Siji USF (Un-classed State Forests) area covered with 'agri-horti cultivation' of Siji

Village. Copy of the letter dated 25.04.2023 has been filed at Page-469 of the Paper Book.

15. Mr. Dharmendra, Chief Secretary, Government of Arunachal Pradesh, is present (in Virtual Mode) in pursuance of our previous order dated 24.04.2023 and Mr. Jitendra Kumar, Principal Chief Conservator Forests, Arunachal Pradesh, is also present (in Virtual Mode). The Officers specifically inform the Tribunal on a statement made that till date no construction has been made with regard to the Siji District Headquarter of Lower Siang District and that the notification of the MoEF&CC with regard to the Eco-Sensitive Zone of the 'Kane Wildlife Sanctuary' in Lower Siang District dated 08.04.2021 is not yet final. The Officers also stated that till date no 'Forest Clearance' has been granted by the MoEF&CC for the proposed construction of the Siji District Headquarter of Lower Siang District and directions have been given that no construction should be made in view of the order of the Tribunal. The Officers also stated that no construction will be permitted till the Eco-Sensitive Zone is finally notified by the MoEF&CC with regard to the 'Kane Wildlife Sanctuary' and till 'Forest Clearance' has been granted by the MoEF&CC.
16. In view of the averments made in the affidavit of Principal Chief Conservator of Forest filed on behalf of the Respondent Nos.3 & 8 and the statement made by the Chief Secretary, Government of Arunachal Pradesh and Principal Chief Conservator of Forest, we direct that the interim order granted by this Tribunal shall continue till such time as appropriate notification is issued by the MoEF&CC, and Forest Clearances with terms and conditions therein are obtained by the State Respondents before proceeding

with the proposed construction of the Siji District Headquarters in Lower Siang District of Arunachal Pradesh.

17. With the aforesaid directions, the Original Application No.102/2022/EZ is accordingly disposed of.
18. Interlocutory Applications, if any, stand disposed of accordingly.
19. There shall be no order as to costs.

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

May 03, 2023
Original Application No.102/2022/EZ
BD

NGT