

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH,
KOLKATA**

.....
**REVIEW APPLICATION No. 07/2022/EZ
(I.A. No. 175/2022/EZ)**

**In
ORIGINAL APPLICATION No. 23/2022/EZ**

IN THE MATTER OF:

- 1. State of Odisha,
Through Chief Secretary,
Govt. of Odisha,
Lok Seva Bhawan, Bhubaneswar,
District-Khurda, Odisha,
Pin – 751001,**
- 2. Additional Chief Secretary,
Forest, Environment and Climate Change Department,
Govt. of Odisha
Kharavel Bhawan, Bhubaneswar, District-Khurda,
Odisha – 751001,**
- 3. Principal Chief Conservator of Forest,
Govt. of Odisha,
Aranyabhawan, Chakdrasekharapur, Bhubaneswar,
Pin – 751016,**
- 4. Collector & District Magistrate, Balasore,
At/P.O./Dist.-Balasore,
Pin – 764059,**
- 5. Additional District Magistrate, Balasore
At/P.O./Dist.-Balasore,
Pin – 764059,**
- 6. District Education Officer, Balasore,
At/P.O./Dist.-Balasore,
Pin – 756001,**
- 7. Tahasildar-Soro,
At/P.O./Dist.-Soro, District-Balasore,
Pin – 764076,**

**8. Divisional Forest Officer, Balasore Wildlife Division,
Khurda, Balasore, At/P.O.-Dist.-Balasore,
Pin – 756056,**

**9. Engineer-in-Chief,
Department of Water Resources, Odisha,
Rajib Bhawan, Bhubaneswar,
Pin – 751001,**

....Applicant(s)

Versus

**1. Trishakti Yuba Bikas Parisada,
Through its President Sashikanta Panda,
At-Durgapur, P.O.-Pakhar, P.S.-Soro,
District-Balasore,
Pin – 756046,**

**2. The Secretary,
Ministry of Environment, Forests and Climate Change,
Indira Paryavaran Bhawan, Jorbagh,
New Delhi – 110003,**

....Respondent(s)

COUNSEL FOR APPLICANT:

**Mr. Ashok Kumar Parija, Sr. Advocate & Advocate General, a/w
Mr. S.K. Nayak, AGA, Mr. Shakti Panda, AGA & Mr. Tarun
Pattnaik, ASC**

COUNSEL FOR RESPONDENTS :

Mr. Sankar Prasad Pani, Advocate for R-1,

With

**EXECUTION APPLICATION No. 01/2022/EZ
In
Original Application No. 23/2022/EZ**

IN THE MATTER OF:

**Trishakti Yuba Bikas Parisada,
Through its President Sashikanta Panda,
At-Durgapur, P.O.-Pakhar, P.S.-Soro,
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Pin – 756046,**

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- 1. State of Odisha,
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Department of Water Resources, Odisha,
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Pin – 751001,

....Respondent(s)

COUNSEL FOR APPLICANT:

Mr. Sankar Prasad Pani, Advocate

COUNSEL FOR RESPONDENTS :

Mr. Ashok Kumar Parija, Sr. Advocate & Advocate General, a/w
Mr. S.K. Nayak, AGA, Mr. Shakti Panda, AGA & Mr. Tarun
Pattnaik, ASC, for State of Odisha,

JUDGMENT

PRESENT:

HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JIDICIAL MEMBER)
HON'BLE MR. SAIBAL DASGUPTA (EXPERT MEMBER)

Reserved On:- September 26th, 2022
Pronounce On:- September 29th, 2022

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| 1. Whether the Judgment is allowed to be published on the net? | Yes |
| 2. Whether the Judgment is allowed to be published in the NGT Reporter? | Yes |
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JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

Heard the learned Counsel for the parties and perused the documents on record.

2. This Review Application has been filed by the Review Applicants, State of Odisha Respondents in Original Application No. 23/2022/EZ, seeking review of the judgment and order of this Tribunal dated 20.05.2022.

3. The Original Application No. 23/2022/EZ was filed by the Applicant (Respondent No.1 herein), alleging therein that Forest Land is being utilized for construction of a college known as 'Odisha Adarsha Vidyalaya' on Plot No. 1867, Khata No. 393, Kisam-Puratan Patit, which, according to the Applicant, is recorded as DLC Forest, measuring about 8.68 acres in Nandigaon-Mouza under Soro Tahasil of District-Balasore, Odisha.

4. The Original Application No. 23/2022/EZ was disposed of by the Tribunal by its judgment and order dated 20.05.2022 staying all construction activities on DLC Plot No. 1867, Khata No. 393, situated in Nandigaon-Mouza, Tahasil-Soro, District-Balasore, with a further direction that if any construction has been made by the Odisha Adarsha Vidyalaya on DLC Forest Land on the said plot in question, the same shall be removed within 15 days and that in future such construction of Adarsha Vidyalaya in DLC Forest Land will only be taken up after obtaining prior permission of the Central Government as required under Section 2 of the Forest

(Conservation) Act, 1980. Paras 11 & 12 of the judgment read as under:-

“11. This report , in our opinion appears to be a cover up of illegal acts by the respondents authorities. It does not state categorically whether Plot No.1867 Khata No.393 in Nandigaon Mouza, is DLC lease land or not. The Divisional Forest Officer in Para-8 of his affidavit categorically states that Plot No.1867 has been included in the DLC Forest lease, and alienation/transfer of such land is not possible without prior permission of the Central Government as required by the provisions of Section-2 of the Forest (Conservation) Act, 1980 whereas the Joint Inquiry Report states that the land is not coming under DLC Forest Land. However, in view of the specific averment made by the DFO, Balasore, in his affidavit that the land in question is coming under DLC Forest Land, we direct that there shall be complete stay on all construction activities on the said land, until such time as the prior permission from the Central Government under Section-2 of the Forest (Conservation) Act, 1980 is sought through proper application made in that regard and will be subject to any order which may be passed by the Central Government. We also direct that if any construction has been made by the Odisha Adarsh Vidyalaya on Plot No.1867, Khata393, Mouza-Nandigaon, Tehsil-Soro, the same shall be removed within of 15 days hereof and cost of such removal shall be borne by the District Administration, Balasore.

12. We further direct that in future such construction of Adarsh Vidyalaya in DLC forest land will only be taken up after obtaining prior permission under Section-2 of the Forest (Conservation) Act, 1980 in accordance with law.”

5. Mr. Ashok Parija, learned Senior Counsel & Advocate General, Odisha, assisted by Mr. S. K. Nayak, learned Additional Government Advocate, Mr. Shakti Panda, learned Additional

Government Advocate and Mr. Tarun Patnaik, learned Additional Standing Counsel, appearing on behalf of the Review Applicants, submitted that even according to the Applicant of the Original Application the area of the land recorded as DLC Forest Land on Plot No. 1867, Khata No. 393 situated in Nandigaon-Mouza under Soro-Tahasil of District-Balasore, is 8.68 acres.

6. The learned Advocate General referred to the document filed as Annexure-I/7 (page no. 65 of the Original Application) to the counter-affidavit of the Tahasildar-Soro, filed on 17.03.2022, which is a letter dated 17.09.2013 and which contains a list of DLC Forest Lands not recorded as Forest Kissam land in the Record of Rights ('RoR' for short), with a request to incorporate the entry 'DLC Forest' in the remarks column of RoR of all lands included in DLC report as Forest Land but not categorized as Forest Land in the 'Kissam' of the land.

7. The learned Advocate General also referred to the document filed at page no. 67 of the paper book, which is a continuation of the letter dated 17.09.2013 and pointed out that the DLC Forest Land in Nandigaon-Mouza is shown as 5 hectares or 12.36 acres on Plot Nos. 1754, 1867 & 1868 of which the total DLC Forest Land of Plot No. 1867 comprises of 3.68 acres which, when combined with the DLC Forest Land of Plot No. 1754 and Plot No. 1868, comes to 12.36 acres.

8. Learned Advocate General further submitted that even as per the letter of the Divisional Forest Officer, Balasore Wildlife Division,

dated 17.09.2013, the total DLC land was only 5 hectares or 12.36 acres and referring to the Review Application it is further submitted that a Joint Committee submitted a report on 03.03.2022 supported by a Trace Map pointing out that out of the total area of 8.68 acres recorded as Plot No. 1867, an area of only 3.68 acres falls under the DLC list and the rest 5 acres is not covered under the DLC list. It is also stated that in the DLC list available in the Office of the Divisional Forest Officer, Balasore Wildlife Division, it has been mentioned that Plot No. 1868, Plot No. 1754 and Plot No. 1867, having a total area of 5 hectares i.e., 12.36 acres, is covered under the said list. Although the total area of the aforesaid three plots is 19.19 acres of which 12.36 acres is DLC Forest Land.

9. It is further stated that as per the report of the Divisional Forest Officer, Balasore Wildlife Division, dated 31.05.2022, the built-up area of the Odisha Adarsha Vidyalaya is 1.10 acres which falls within the 5 acres of the Non-DLC Forest Land of Plot No. 1867 under Khata No. 393 as indicated in the table given in para 6 (page no.6 of the paper book), of the Review Application which reads as under:-

<i>Mouza</i>	<i>Khata No.</i>	<i>Plot No.</i>	<i>Area</i>	<i>DLC Area</i>
<i>Nandigaon</i>	<i>393(AJA)</i>	<i>1754</i>	<i>Ac. 5.97</i>	<i>Ac. 4.68</i>
		<i>1867</i>	<i>Ac. 8.68</i>	<i>Ac. 3.68</i>
		<i>1868</i>	<i>Ac. 4.54</i>	<i>Ac. 4.00</i>
			<i>Total</i>	<i>Ac. 12.36 dec.</i>

10. Mr. Sankar Prasad Pani, learned Counsel appearing for the Respondent No.1, (Applicant in the O.A.), on the other hand, submitted that admittedly in the Revenue Records, RoR, the Plot No. 1867 has been shown as DLC Forest Land and, therefore, even if a part of it is Non-Forest Land, the Trace Map does not reflect the same through different plot numbers as it should have in the RoR and, therefore, the entire Plot No. 1867, Khata No. 393 should be treated as DLC Forest Land.

11. However, we may note that as far back as 17.09.2013 the Divisional Forest Officer, Balasore Wildlife Division, had pointed out that the DLC Forest Land of Plot No. 1867, 1868 and 1754 situated in Nandigaon-Mouza under Soro-Tahasil of Balasore District, to be 5 hectares i.e., 12.36 acres. This document has been filed in the Original Application itself which is a Joint Enquiry conducted by the Forest and Revenue Officials regarding DLC Forest Land of Odisha Adarsha Vidyalaya at Nandigaon, Tahasil-Soro, District-Balasore, at page no. 70 of the paper book, which mentions that the DLC Forest Land i.e., 5 hectares i.e., 12.36 acres in area falling in the 3 plots with an area of 3.68 acres in north side of Plot No. 1867, 4.00 acres in south-east side of Plot No. 1868 and 4.68 acres in south-west side of Plot No. 1754, totaling 12.36 acres i.e., 5 hectares, out of a total of 7.76 hectares i.e., 19.19 acres. Out of the remaining 6.83 acres ($19.19 - 12.36 = 6.83$) of Non-DLC land in all the three plots, an area of 5.0 acres Non-DLC land is available in Plot No. 1867.

12. Further, out of 5 acres of Non-DLC Forest Land in Plot No. 1867 only 1.10 acres is coming under the built-up area of Odisha Adarsha Vidyalaya. It is further stated that the built-up area as well as the vacant land is not coming under the DLC Forest Land.

13. Thus, from the documents of 2013, we find that the entire Plot No. 1867 with area of 8.68 acres has been shown as DLC in the Revenue Records but in the RoR it only shows 5 acres of the same area as Non-DLC Forest Land and the Odisha Adarsha Vidyalaya is said to be constructed on Non-DLC land of Plot No. 1867.

14. So far as the objection of Mr. Sankar Prasad Pani is concerned, we are of the view that there may be an error in the Revenue Records which require to be updated to separate the DLC Forest Land from the Non-Forest Land but for this mere error, in our opinion, removal of the Odisha Adarsha Vidyalaya from the Non-DLC part of Plot No. 1867 till Forest Clearance is granted by the Central Government as required under the Forest (Conservation) Act, 1980, would not be proper or in the interest of justice and in the facts and in the circumstances of the case, Forest Clearance would not even be required, the Odisha Adarsha Vidyalaya land not being DLC Forest Land. So far as the correction in the RoR is concerned, that matter should be taken up by the State Government with the concerned Revenue Authorities and necessary corrections in the RoR shall be made accordingly and expeditiously preferably within two months hereof.

15. Considering the facts on record, we review our order dated 20.05.2022 accordingly.

16. The Review Application No. 07/2022/EZ is disposed of.

17. The I.A. No. 175/2022/EZ is also disposed of.

18. There shall be no order as to costs.

(EXECUTION APPLICATION NO. 01/2022/EZ):-

1. This Execution Application has been filed by the Applicant in the Original Application No. 23/2022/EZ, seeking execution of the order of the Tribunal dated 20.05.2022.

2. Since the order of the Tribunal dated 20.05.2022 has now been reviewed, this Execution Application has become infructuous and the same is accordingly dismissed.

3. There shall be no order as to costs.

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B. AMIT STHALEKAR , JM

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SAIBAL DASGUPTA, EM

Kolkata
September 29th, 2022,
Review Application No.07/2022/EZ
(I.A. No. 175/2022/EZ)
In
Original Application No. 23/2022/EZ
With
Execution Application No. 01/2022/EZ
In
Original Application No. 23/2022/EZ
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