

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

Original Application No.164/2023/EZ

IN THE MATTER OF:-

All India Anti Corruption Organization (Regd.),

Having branch office at Qtr. No. RIII/81, Bidhannagar
Housing Colony, Durgapur, Paschim Bardhaman, West Bengal,
Pin – 713206,

Represented by Sri Subrata Mallick, Addl. Director Crime,
S/o D.C. Mallick, Qtr. No. RIII/81, Bidhannagar Housing Colony,
Durgapur, Post Office-ABL Township, P.S.-New Township,
District-Paschim Bardhaman, West Bengal,
Pin – 713206,

...Applicant(s)

Versus

1. **Union of India,**
Ministry of Road Transport and Highways,
Service through the Secretary, Govt. of India,
Department of Road, Transport and Highway,
Transport Bhawan No.1, Parliament Street,
New Delhi – 110001;
2. **The Chief General Manager (Environment),**
National Highway Authority of India,
Having its office at G5&6, Sector-10,
Dwarka, Delhi,
Pin – 100075; (deleted vide order dtd.20.11.2023)
3. **The Deputy General Manager (Environment),**
National Highway Authority of India,
Having its office at G5&6, Sector-10,
Dwarka, Delhi,
Pin – 100075; (deleted vide order dtd.20.11.2023)
4. **The Director/Scientist F,**
Ministry of Environment Forest & Climate Change,
Indira Paryavaran Bhawan, Jor Bagh Road,
Aliganj, New Delhi,
Pin – 110003; (deleted vide order dtd.20.11.2023)
5. **The Director, IA-III, Government of India,**
Ministry of Environment Forest & Climate Change (IA UI Division),
Indira Paryavaran Bhawan, New Delhi,
Pin – 110003; (deleted vide order dtd.20.11.2023)

6. **The Central Pollution Control Board,**
Service through its Chairman,
Parivesh Bhawan, CBD-cum-Office Complex,
East Arjun Nagar, Delhi,
Pin – 110032;
7. **The Chairman,**
National Highways Authority of India,
5&6, Sector-10, Dwarka, New Delhi,
Pin – 110075;
8. **The Chief General Manager (Tech) & Regional Officer, NHAI,**
Synthesis Business Park, Wing-C,
8th Floor, CBD/1, JL-23,
Action Area-II, New Town Police Station, Rajarhat,
Kolkata – 700156; (deleted vide order dtd.20.11.2023)
9. **The Project Director, Project Implement Unit, NHAI Complex,**
Sector-2(A), Bidhannagar,
Durgapur, Pin – 713212,
10. **The Chairman,**
West Bengal Pollution Control Board,
Paribesh Bhawan, 10A,
Block-LA, Sector-III,
Bidhannagar, Kolkata,
Pin – 700106;
11. **The Managing Director,**
West Bengal Waste Land Development Corporation Limited,
10A, Auckland Road,
Eden Gardens, Kolkata,
Pin – 700037, (deleted vide order dtd.20.11.2023)
12. **The Additional Chief Secretary,**
Department of Forests, Government of West Bengal,
Aranya Bhawan, Block-LA, Sector-III,
Salt Lake City, Kolkata,
Pin – 700106; (deleted vide order dtd.20.11.2023)
13. **The Divisional Forest Officer, Durgapur,**
Shastri Avenue, Aranyapally,
Durgapur, Pin – 713212;
14. **IRB Infrastructure Developers Limited,**
Through its Managing Director,
11th Floor/1101, Hiranandani Knowledge Park,
Technology Street, Hill Side Avenue,
Powai, Mumbai,
Pin – 400076; (deleted vide order dtd.20.11.2023)
15. **Adani Corporate House,**
Through its Managing Director,
Shantigram, Near Vaishnodevi Circle SG Highway,
Ahmedabad – 382421; (deleted vide order dtd.20.11.2023)

16. **Ministry of Environment, Forest and Climate Change,**
Service through the Secretary,
Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi,
Pin – 110003;
17. **The District Magistrate & Collector, Paschim Bardhaman,**
Office of the District Magistrate, Additional Administrative
Building, Kanyapur, P.O.-Ramkrishna Mission, Opposite DAV
Public School, Pin – 713305

...Respondent(s)

Date of hearing: 06.12.2024

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

For Applicant(s) : None

For Respondent(s) : Mr. Ashok Prasad, Adv. for R-1, 7 & 9, (in Virtual Mode)
Mr. Surendra Kumar, Adv. for R-6, (in Virtual Mode)
Mr. Dipanjan Ghosh, Advocate for R-10,
Mr. Rajib Ray, Adv. for R-13 & 17, (in Virtual Mode)
Ms. Rashmi Singhee, Adv. for R-16, (in Virtual Mode)

ORDER

1. No one has appeared on behalf of the Applicant. We have heard the learned Counsel for the Respondents and perused the documents on record.
2. This Original Application has been filed by the Applicant seeking directions to the Respondent Authorities for planting saplings on the side of the road along the National Highway by the National Highway Authority of India (NHAI). It is stated that the cause of action arose with the publication of the International Competitive Bidding (ICB) invited by the National Highway Authority of India (NHAI) on 23.12.2020 for 6-laning of National Corridor NH-19 from Panagarh to Kumardubi from Channel No.440, 441 to 521 in the State of West Bengal under Asansol, Jharkhand Border to be executed on BOT (Toll) basis. It is stated that Environmental Clearance (EC) was granted on 25.07.2012 and as per condition No.14, minimum five times of the number of trees cut shall be

planted as part of afforestation by the National Highway Authority of India (NHAI). It is not stated anywhere in the Application that the work of 6-laning in this area has been completed. In fact, Mr. Saheb Banerjee, learned Counsel for the Applicant submitted that the work of 6-laning is still going on.

3. It is stated that the Applicant was informed under the Right to Information Act that the total number of trees uprooted in the Barwa-Adda from Dhanbad to Panagarh for converting the existing 4-Lanes to 6-Lanes of National Highway-2, is 27,424 trees and therefore, compensatory afforestation should have been carried out to the extent of 82,272 trees but the Applicant has been informed that only 1,466 number of trees have been planted in the stretch from Barwa Adda to Panagarh which is in violation of the National Highways Authority of India Guidelines for implementing Green Highway Project dated 13.07.2017 (Annexure 'F' to the Original Application).
4. Affidavit dated 03.02.2024 has been filed by Respondent No.13, Divisional Forest Officer, Durgapur, wherein it has been stated that the Durgapur Division had issued four permissions for felling of 11,841 trees in the year of 2013 to the Project Director, National Highway Authority of India ('NHAI' for short). The NHAI deposited an amount of Rs.15,94,850/- (Rupees Fifteen Lakh Ninety Four Thousand Eight Hundred Fifty only) in favour of Ex-Officio Manager and Divisional Forest Officer, Durgapur Division, as security deposit (and not as compensation) vide Cheque No.340011 dated 17.09.2013. It is also stated that 182 hectares plantation which translates to 2,91,200 trees was created on phase by phase basis by the Divisional Forest Officer, Durgapur Division, by the fund

provided by the erstwhile West Bengal Wasteland Development Corporation Ltd. (Now Green Projects Wing). It is further stated that the fund for creation of 162 hectares plantation was directly provided to the Divisional Forest Office, Durgapur Division, by the erstwhile West Bengal Wasteland Development Corporation Ltd. and was completely utilized; for the remaining 20 hectares although the Durgapur Division supervised the plantation work, the payment was directly made by the erstwhile West Bengal Wasteland Development Corporation Ltd. to the work implementing agencies.

5. A further affidavit dated 04.05.2024 has been filed by Respondent No.13, Divisional Forest Officer, Durgapur, stating that after obtaining the permission for felling trees from the Divisional Forest Officer, Durgapur Division, an amount of Rs.15,94,850/- (Rupees Fifteen Lakh Ninety Four Thousand Eight Hundred Fifty only) was deposited. A further amount of Rs.3,07,300/- (Rupees Three Lakh Seven Thousand Three Hundred only) was deposited in the office of the Divisional Forest Officer, Durgapur Division, by the NHAI as security deposit for felling of trees. It is also stated that the plantation programme was taken up by the NHAI against felling of 14,159 numbers (11,112 in Durgapur Division + 3,047 in Burdwan Division) of trees and an amount of Rs.1,07,25,100/- (Rupees One Crore Seven Lakh Twenty Five Thousand One Hundred only) was paid by the NHAI to the West Bengal Wasteland Development Corporation Ltd., as expenses for carrying out the plantation of trees against the felling of 14,159 trees.
6. The Divisional Forest Officer, Durgapur Division, in his affidavit has further stated that an aggregate of 1,15,200 saplings were planted in the year of 2015-2016 and 2016-2017 against the felling

of 14,159 trees towards over an area of 71 hectares as would be demonstrated by the Chart extracted herein below:-

Sr. No.	Plantation Site	Area (Ha.)
1.	Plantation of DPL land Durgapur, Raghunathpur Mouza, J.L. No.87, Durgapur Ash Pond during 2016-17	65.0
2.	Plantation on DSP at Kamalpur Mouza, J.L. No.47, Tilabani Beat, Ukhra Range during 2015-16.	7.0
	TOTAL	72.0 Ha.

7. It is also stated that plantation over 72 hectares of land was done by the Divisional Forest Office, Durgapur Division, against the present Project i.e. 6-laning of Barwa-Adda-Panagarh section of NH-2 from Km.398.240 to Km.521.120 including Panagarh Bypass which translates into a plantation of 1,15,200 saplings.
8. The Central Pollution Control Board in its affidavit dated 13.05.2024 has stated that the Environmental Clearance 2012 was issued by the Ministry of Environment, Forests and Climate Change for the project of widening and improvement of existing 4-lane to 6-lane of NH-2 from Barwa-Adda in Dhanbad District, Jharkhand to Panagarh, West Bengal.
9. The Applicant has filed rejoinder affidavit dated 24.06.2024 disputing the averments made in the affidavit of the State Respondents and all that has been stated is that the trees which have been planted by the Forest Department are not the same as the trees which have been felled. It is stated that the Respondent No.13 has planted the following trees:-
- A. Arjun
 - B. Sirish
 - C. Jarul
 - D. Simul

E. Krishnachura

F. Radhachura

G. Akashmoni

H. Gamar

I. Minjiri

J. Chatim

K. Shonajhuri

L. Karanja

M. Sissoo

N. chikrasi

It is alleged that the species of trees which have been felled have not been replaced through new planation. It is further stated that the amount of money which has been allocated for reforestation is wholly inadequate.

10. The National Authority of India (NHAI) has filed counter-affidavit dated 27.07.2024 wherein it is stated that the MoEF&CC at Point No.14 of the Specific Conditions stipulated in the Environmental Clearance dated 25.07.2012 has stipulated for 3 (three) times plantation in lieu of the trees felled and, therefore, the contention of the Applicant that 5 (five) times the number of trees felled should have been planted through reforestation is absolutely misconceived. It is reiterated that the NHAI has paid an amount of Rs.1,08,00,000/- (Rupees One Crore Eight Lakh only) to the West Bengal Wasteland Development Corporation Ltd. towards expenses for carrying out the plantation of trees against the felling of 14,159 trees during the 6-laning works. It is also stated that 24,515 trees were felled along the entire stretch of Barwa Adda in the State of Jharkhand to Panagarh in the State of West Bengal. The

Concessionaire executing the 6-laning works from Barwa Adda to Panagarh including Panagarh Bypass has done 25,935 avenue plantations since in this section of NH-2 from Barakar to Panagarh, there was limited availability of land for accommodating the stipulated compensatory afforestation and, therefore, compensatory afforestation has been carried out departmentally on mutually agreed terms and conditions through the concerned Divisional Forest Officers at plantation sites identified by them. It is further stated that the fund of Rs.1,08,00,000/- (Rupees One Crore Eight Lakh only) paid by NHAI to the West Bengal Wasteland Development Corporation Ltd. towards plantation of trees against felling of 14,159 trees has been utilized towards plantation of 1,15,200 saplings in the year 2015-2016 and 2016-2017 over an area of 72 hectares in Durgapur and Burdwan Forest Divisions for 6-laning of Barwa Adda-Panagarh section of NH-2 and utilization certificate has also been issued by the Green Projects Wing (erstwhile West Bengal Wasteland Development Corporation Ltd.). Thus, 1,41,135 number of trees have been planted against 24,515 trees which were felled along the entire stretch of NH-19 from Barwa Adda to Panagarh including Panagarh Bypass.

11. Condition No. 14 of the Specific Conditions of the Environmental Clearance dated 25.07.2012 reads as under:-

“14) Minimum of three times the number of trees to be cut shall be planted. It shall be ensured that the trees planted as a part of the afforestation shall be looked after by NHAI. Tree plantation shall be of the same species/local species and survival shall be monitored. Transplantation of trees shall be carried out wherever possible. The tree plantation shall be taken up on the extreme end of the road.”

12. From the averments of the affidavits filed by the Respondents there is absolutely no doubt that plantation has been carried out on a

total of 182 hectares of land which translates to 2,91,200 trees of species on phase by phase basis; 1,41,135 number of trees have been planted against 24,515 trees which have been felled along the entire stretch of NH-19 from Barwa Adda to Panagarah including Panagarh Bypass; 1,15,200 number of trees have been planted over DSP land at Radhamadhabpur (Area-65 hectares) and Adda land at Banagram (Area-7 hectares) which is more than three times of the trees felled during implementation of the 6-laning Project.

13. So far as the allegation of the Applicant that the same species of trees as felled have not been planted, we are of the view that it is not required that the same species of trees as have been felled be mandatorily planted and it is for the Forest Department to decide, on a technical evaluation, considering the survivability of the species to be planted as to which trees which would survive which should be planted and local species of trees can be planted as per Condition No.14 of the Specific Conditions in the Environmental Clearance dated 25.07.2012.
14. In view of the above, nothing further remains for adjudication in the present original application and the same is accordingly dismissed.
15. 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

December 06, 2024,
Original Application No.164/2023/EZ
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