

Item No.01

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)**

Original Application No. 90/2023(CZ)

IN THE MATTER OF

NARESH CHAUDHARY

A-29, Village Khanpur,
M.B. Road, New Delhi.

Applicant(s)

Vs.

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| 1 | UNION OF INDIA
Through Its Secretary
Ministry of Environment, Forests and
Climate Change, Paryavaran Bhawan,
Jorbagh, New Delhi-03 | Respondent No. 01 |
| 2 | STATE OF RAJASTHAN
Through Chief Secretary
Secretariat Office, Jaipur | Respondent No. 02 |
| 3 | DEPARTMENT OF FOREST
ENVIRONMENT AND CLIMATE CHANGE
Through Additional Chief Secretary
Secretariat Officer Jaipur Rajasthan | Respondent No. 03 |
| 4 | PRINCIPAL CHIEF CONSERVATOR OF
FORESTS (HoFF)
State of Rajasthan
Aranya Bhawan,
MG Road, Jhalana Institutional Area,
Jaipur Rajasthan | Respondent No. 04 |
| 5 | STATE OF RAJASTHAN
Through The Secretary
Forest and Environment Department
Government of Rajasthan,
Vaniki Path, Near Secretariat, Jaipur | Respondent No. 05 |
| 6 | STATE OF MADHYA PRADESH
Through Secretary Forest and
Environment Department, Vallabh
Bhavan, Mantralaya,
Bhopal, Madhya Pradesh | Respondent No. 06 |

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| 7 | STATE OF CHHATTISGARH
Through Secretary Forest and
Environment, Mahanadi Bhawan,
Atal Nagar, Nawa Raipur, Chhattisgarh | Respondent No. 07 |
| 8 | PRINCIPAL SECRETARY
Water Resources Department
State of Rajasthan
Indira Gandhi Nahar Bhawan,
Kathputli Nagar, Jyothi Nagar, Lalkothi,
Jaipur, Rajasthan | Respondent No. 08 |
| 9 | PRINCIPAL SECRETARY
Water Resources Department
State of Madhya Pradesh
Jal Sansadhan Bhawan
Bhopal (M.P.) – 462003 | Respondent No. 09 |
| 10 | PRINCIPAL SECRETARY
Water Resources Department
State of Chhattisgarh
Sector-19, Shivnath Bhawan,
Atal Nagar, Nava Raipur
Chhattisgarh | Respondent No. 10 |
| 11 | PRINCIPAL CHIEF CONSERVATOR OF
FORESTS (HoFF)
State of Madhya Pradesh
Forest Department, Satpuda Bhawan
Bhopal. | Respondent No. 11 |
| 12 | PRINCIPAL CHIEF CONSERVATOR OF
FORESTS (HoFF)
State of Chhattisgarh
Forest Department, Jai Raod, Aranya
Bhawan, Raipur Chhattisgarh. | Respondent No. 12 |

COUNSELS FOR APPLICANT(S):

Mr. Gaurav Kumar Bansal, Adv.
 (with Mr. Chandrika Upadhyay, Adv.)

COUNSELS FOR RESPONDENT(S):

Mr. Mehul Bhardwaj, Adv. for State of MP
 Mr. Rohit Sharma, Adv. for RSPCB
 Mr. Om Shankar Shirvastava, Adv. for MoEF&CC
 Mr. Shoeb H. Khan, Adv. for State of Rajasthan
 Mr. Nishant Kesharwani, Adv.

CORAM:

HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR CHATURVEDI, EXPERT MEMBER

Date of completion of hearing and reserving of order : 09.10.2025
Date of uploading of order on website : 03.11.2025

JUDGMENT

1. The grievance of the applicant are that the circular dated 09.06.2023 issued by the Department of Environment, Forest and Climate Change, Government of Rajasthan is in violation of Forest (Conservation) Act, 1980, for want of approval of Central Government for non-forest activities on the forest land. A circular dated 02.09.2006 was issued in compliance of letter of Ministry of Environment, Forest and Climate Change dated 30.08.2005 and in compliance of the order of the Hon'ble Supreme Court of India passed in Civil Writ 202/1995. The Principal Chief Conservator of Forest (HoFF) vide dated letter 15.12.2022 had communicated that such conditions by the State Government, which are in violation of the previous order of Government of India and in contradiction of the circular dated 02.09.2006, are not acceptable to the Forest Department and any amendment is neither desired nor necessary for the protection of forest area.
2. The question before the tribunal is as to whether the circular dated 09.06.2023 issued by Additional Chief Secretary to the Government of Rajasthan is in violation of the letter of Government of India dated 30.09.2005 and the order passed by the Hon'ble Supreme Court of India in the Civil Writ petition number 202/1995 and as to whether these guidelines and circular are in violation of Forest (Conservation) Act, 1980. According to the National Green Tribunal, the matter requires serious consideration being a policy matter and the purpose of the circular, the order of the

Hon'ble Supreme Court of India and the guidelines issued by the Central Government are intended to protect the environment and forest.

3. It is submitted by the learned counsel for the applicant that vide circular dated 09.06.2023, the Government of Rajasthan prescribed a new system to carry out such projects, superseding the existing system mentioned in 2006 circular. This circular, by amending the existing system, exempts any of the State Government agency from depositing fees in respect of the trees felled and in such case, the Deputy Conservator can issue the No Objection Certificate after approval from the Committee.
4. Submission of the learned counsel for the applicant are that the Rajasthan Govt. wants to replace the Forest Advisory Committee formed by the Central Government by directing the Deputy Conservator of the Forests to present the case of carrying out non-forest activity in such forest lands within one week of receiving the request from the parties, to a District Level Committee comprising of the District Collector as the Chairman, the Dy. Conservator of Forests as the Member Secretary and the CEO of Zila Parishad and Executive Engineers from PWD, PHED, DISCOM and WRD as its member and that for the economic gains of new individuals and by masking it as development, such detrimental and unwarranted rules will have a very negative effect on the forest and its biodiversity.
5. It is further contended that the State Government is acting beyond its legislative jurisdiction in enacting a law, which is strictly the domain of the Central Government as prescribed under Section 2 of the Forest (Conservation) Act, 1980; and since the 2023 circular removes the fee levied usually for compensatory afforestation from the State Government of Rajasthan, there is no accountability for the loss of the wildlife and its distinct fauna.
6. Further questions which has been raised by the learned counsel for the applicant are that the enactment of the 2023 circular is in violation of the

principles mentioned under Article 48 of the Constitution. By issuing the 2023 circular, the state government has acted beyond its jurisdiction as mentioned under Section 2 of the Forest (Conservation) Act, 1980. The compensatory fee levied for CAMPA account for the loss of bio diversity and ecosystem as well and the 2023 circular provides adequate provisions and safeguards for the conservation of Wildlife and sustainable management of forests.

7. The case of the applicant is that as per Section 2 of Forest (Conservation) Act, 1980, no State Government or any other authority shall carry on any non-forest activity in the forest lands irrespective of the ownership, without the prior approval of the Central Government.
8. It is to be noted that, Rajasthan is the largest state of country with 61% of the Thar deserts lying in it and as per National Forest Policy 1988, the forest and tree cover of the state should be 33%, but, the inhospitable climate and edaphic conditions come in the way of the state of Rajasthan to have more than 20% vegetal cover of the geographical area of the state. In order to achieve the 33% of Forest Cover it is imperative for State to take massive plantation programmes on fallow lands, waste lands, surplus revenue lands, community lands, degraded private lands and by effectively protecting the existing natural resources. Further, it is also important to mention there that forestry cannot succeed in the state without involvement of the local people and various other government and non- government agencies.
9. The vision document states -
 - i. To restore the ecological status by intensive reforestation and in situ soil and moisture conservation to maintain the soil-moisture regime.

- ii. To protect the infrastructures like canals, railway lines, roads, agricultural fields, human settlements from drifting sand.
- iii. To conserve the gene-pool and improve the biodiversity of flora and fauna.
- iv. To augment the availability of fuel-wood, fodder and minor forest products in the State.
- v. To generate employment opportunities to the rural/tribal population, thus improving their socio-economic condition.
- vi. To elicit peoples participation and involvement of institutions of Local Governance and other government departments to make this programme success.
- vii. To achieve the goal of 20% of the geographical area under vegetal cover within reasonable time frame as envisaged by the State Forest Policy, 2010.
- viii. To mitigate the climate change impacts and also to enhance the carbon stocks.
- ix. To increase the supply of the organic matter in the form of leaf litter to maintain fertility, structure and water holding capacity of the soils to ensure food security.
- x. NTFP/Biomass Based Community Livelihoods – To encourage the local farmers for adopting agro forestry model, establishing the NTFP and Biomass based micro enterprises for sustainable use of usufructs.

10. It is contended by the learned counsel for the applicant that by observing the fact that there were multiple requests to amend the circular dated 09.06.2006, the Office of Principle Chief Conservator of Forests vide a letter dated 15.12.2022 addressed to the Principal Secretary, Forest Dept., stated that the procedure mentioned in the circular have been kept parallel to the

procedure mentioned in the Forest (Conservation) Act, 1980 and since no changes have not yet been made to the order dated 12.12.96 of the Supreme Court, any amendment would not be legally sound and such action will be in direct violation of orders of the Apex Court.

11. It is important to mention that the primary objective of the said circular was to cover all types of forest areas and to discourage the use of plantations done by the Forest Department on Government/community land for non-forest activities. As the removal of tree covers and plantations which are of great social and economic importance to the state would lead to the ecosystem thriving there and by destroying the biodiversity, it would be in violation of almost all international conventions and rule India is a part of. Further goes on to state that if it is inevitable to use the land in question for non-forest activity, then such use can only be done by complying to the provisions laid down under the 2006 circular as they have been imposed by keeping in mind the legal status as well as the socioeconomic importance of the said land. Therefore, the requests for amendments are not legally acceptable by the Forest Department.
12. It is further argued that the Hon'ble Apex Court in the case of Janu Chandra Waghmare And Ors. vs The State Of Maharashtra (AIR 1978 Bom 119), while explaining what constitutes the word 'forest', stated;

“21. The expression 'forest' in its normal and popular connotation includes all that goes with it, such as, trees with fruits on them, shrubs, bushes, woody vegetation, undergrowth, pastures, honeycombs attached to trees, juices dried on trees, things embedded in the earth like mines and quarries with their produce locked up in the land, wild and stray animals (excluding domestic animals like cows, buffalos, goats, sheep etc.) living in the forest; in other words, forest

produce in its primary and natural state lying in the forest as well as wild animals living therein unquestionably go with the forest and there can be no dispute that such forest produce and such wild animals would be included in the concept of forest and the expression 'forests' as a legislative head would surely include within its compass all these things."

13. The Principal Chief Conservator of Forest vide letter correspondence dated 15.12.2022 has communicated to the Government of Rajasthan that in light of the orders passed by the Hon'ble Supreme Court of India in Writ Petition No. 202/1995, order dated 12.12.1996, no change of status or amendment can be done by the state in contravention of the order of Hon'ble Supreme Court. It is further communicated that such amendment is not maintainable nor required in the interest of forestry of the country.
14. The submission of the learned counsel for the respondent nos. 2, 3 and 4 are that no fund is available in accordance with the circular issues in the year 2006 and now, by amending the circular in 2023, funds will be available for department uses as charges levied would be deposited in the State Forest Department Account.
15. The contention of the learned counsel for the applicant are that the state has interfered in the central act without any justification and without any authority, which is not in the interest of the forest policy of the state.
16. The submission of the MoEF&CC are that the 'land' is a subject matter of State Government. The forest areas and the legal boundaries thereof are determined and maintained by the concerned State Government. That being the repository of land records, State Government has the primary responsibility to determine status of any parcel of land, giving due regards to gazette notifications, provisions under State and Central Acts and

concerned judgements and directions of the Hon'ble Supreme Court. That in order to carry out any non-forestry activity in the forest land, prior approval from the Central Government under Section 2 of the Forest (Conservation) Act, 1980 is mandatory and a pre-requisite. That Ministry vide letter dated 31.10.2023 sought a factual report from the State Government on the contentions raised in the OA. The response to the said letter has not been received till date and it is further submitted that there must be strict compliance of the provisions of the Compensatory Afforestation Fund Act, 2016 rules and guidelines made thereunder. The State Government should ensure that the funds from the State CAMPA shall be utilized only for mitigation measures proposed under a project against which funds have been realized from the user agency, and under no circumstances these funds will be diverted for compensating the loss by allowing non-forestry use of. Now, the MoEF&CC has clearly stated that the letter is in contravention of the Central Act and the query which has been raised by the MoEF&CC has not been complied with, not replied with by the state till the submission of the reply.

17. The Ministry of Environment, Forest and Climate Change, Government of India, vide letter dated 30.11.2023 has directed and informed the Government of Rajasthan as follows:-

“Sub: Circular dated 9.06.2023 issued by the Government of Rajasthan streamlining the procedures for allowing non-forestry works in the plantations raised by the Forest Department in Government and community lands - reg.

Sir,

I am directed to refer to the Government of Rajasthan's Circular No. F.1(4) Forest/96 Pt. dated 9.06.2023 on the above subject containing directions for use of plantations

raised by the State Forest Department for non-forestry activities and to inform that provisions of the said circular were reviewed by the DGF&SS, MoEF&CC, New Delhi in a meeting held in the Ministry on 9.10.2023. After detailed deliberation, it was opined that the State Government is at liberty to formulate their procedure and modus operandi to undertake non-forestry works in the lands where the provisions of the Forest (Conservation) Act, 1980 do not apply. However, keeping in view the provisions of the Compensatory Afforestation Fund Act, 2016, rules and guidelines made thereunder which provide that funds realized in lieu of diversion of forest land for a particular project should be used for the mitigation measures prescribed in that area and under no circumstances diversion of such funds for carrying activities prescribed in other projects is permissible.

In view of the above, I am directed to request the State Government to ensure strict compliance of the provisions of the Compensatory Afforestation Fund Act. 2016, rules and guidelines made thereunder and to ensure that funds from the State CAMPA shall be utilized only for mitigation measures, proposed under a project against which funds have been realized from the user agency, and under no circumstances these funds will be diverted for compensating the loss by allowing non-forestry use of plantations raised in the Government and community lands.

Yours faithfully.

Charan Jeet Singh
(Charan Jeet Singh)
Scientist 'D'
Date: 30-11-2023”

18. The submission of the Member Secretary, Rajasthan State Pollution Control Board are that CAMPA funds are being strictly utilised as per Compensatory Forestation Funds Act 2016, corresponding the rules and guidelines issued by Ministry of Environment, Forest and Climate Change from time to time.
19. In response to the letter issued by the MoEF&CC dated 30.11.2023, the Principal Chief Conservator of Forest, Rajasthan has submitted that the provisions contained in Compensatory Afforestation Fund Act, 2016 and corresponding rules and guidelines issued by the MoEF&CC are strictly complied with. During the course of hearing, to make the matter clear, a committee consisting the representative of the Additional Chief Secretary, Forest, Ministry of Environment, Forest and Climate Change, Indian Institute of Forest Management and PCCF and Member Secretary was constituted to submit the factual and action taken report. The members of the committee examined the matter, discussed it and submitted the report as follows :-

“Discussion and deliberation: *The members of the committee were provided with the copy of circular dated 02.09.2006, circular dated 09.06.2023 and the letter of Principal Chief Conservator of Forest, Jaipur dated 15.12.2022, the letter of Ministry of Environment, Forest and Climate Change, Government of India dated 30.08.2005 along with other relevant Information and material. Detailed discussion and deliberations were held among the members based on the terms of reference provided by the National Green Tribunal in its order dated*

12.03.2024. All aspects of the impugned circular dated 09.06.2023, circular dated 02.09.2006, letter of the Principal Chief Conservator of Forest dated 15.12.2022 were thoroughly deliberated upon, in the light of the letter of Ministry of Environment, Forest and Climate Change dated 30.08.2005 and 30.11.2023, the order dated 12.12.96 of the Hon'ble Supreme Court of India in Civil Writ petition 202/1995, and the further developments that have taken place with respect to the compliance of aforesaid order of the Hon'ble Supreme Court of India.

Observations and Recommendations: The following observations and recommendations emerged out of the detailed discussion and deliberation held by the members of Committee:

1. The prior approval of Central Government under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 which was earlier known as Forest(Conservation) Act, 1980 is required for using any forest land for any non-forest purpose. The Committee observed that in the circular dated 02.09.2006 there was a reference to the non-notified forests, recorded forests and the forest areas identified by competent committee constituted in pursuance of the order of the Hon'ble Supreme Court of India dated 12.12.1996 in Civil Writ petition 202/1995. However, the circular dated 09.06.2023 issued by the State of Rajasthan does not mention the word "recorded forest areas" as was done in the past. Moreover, it was observed that there are certain

areas that have been accepted and declared by the Hon'ble Supreme Court of India as "forest" for the applicability of Forest (Conservation) Act, 1980 in its order dated 03.07.2018 in IA No. 1136 filed by Government of Rajasthan and the areas which are being identified by the Expert Committee constituted by the Government of Rajasthan vide their order dated 18.07.2018 in compliance of the order dated 03.07.2018 of the Hon'ble Supreme Court of India. In its order dated 03.07.2018, the Hon'ble Supreme Court of India has also accepted the rationale criteria adopted by the Government of Rajasthan to identify 'forest area' viz. 'a compact area of minimum 5 ha and where there are naturally growing minimum 200 trees per hectare'. The Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 applies to all forest areas irrespective of their classification and ownership and therefore the state government has to ensure that no non-forestry activities are allowed on any forest land without the prior approval of the central government under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. The circular dated 09.06.2023 needs modification accordingly.

- 2. The Government of Rajasthan has the power to frame rules and regulations for regulating use of afforested community land /government land on which the provisions of Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 do not apply,*

however keeping in view the ecological concerns it is very important that the adequate mitigation measures are taken to compensate the ecological loss due to felling of trees. The circular dated 02.09.2006 had a provision for compensatory afforestation, however, the circular dated 09.06.2023 has kept the state government agencies outside the ambit of carrying out such compensatory measures. As the majority of works taken on the areas under reference are likely to be executed by the state government agencies, therefore in majority of the cases the ecological loss due to tree felling may not get compensated. The Committee was of the view that the State may impose the principle of tree for tree so as to deter avoidable projects on such lands. This aspect needs the attention of State Government and the compensatory measures are required to be taken irrespective of the fact whether the user agency is a state government undertaking or any private entity.

3. The Central Government has already clarified vide letter dated 30.11.2023, that the State Government is at liberty to formulate their procedure and modus operandi to undertake non-forestry works in the lands where the provisions of the Forest (Conservation) Act, 1980 do not apply. However, keeping in view the provisions of the Compensatory Afforestation Fund Act, 2016, rules and guidelines made thereunder which provide that funds realized

in lieu of diversion of forest land for a particular project should be used for the mitigation measures prescribed in that area and under no circumstances diversion of such funds for carrying activities prescribed in other projects is permissible. The State Government was accordingly requested to ensure strict compliance of the provisions of the Compensatory Afforestation Fund Act, 2016, rules and guidelines made thereunder and to ensure that funds from the State CAMPA shall be utilized only for mitigation measures, proposed under a project against which funds have been realized from the user agency, and under no circumstances these funds will be diverted for compensating the loss by allowing non-forestry use of plantations raised in the Government and community lands.

- 4. In the circular dated 09.06.2023 it has been mentioned that getting required permissions under the prescribed system is taking a substantial time in many cases. A District Level Committee has been formed to approve such proposals and a detailed composition of the committee has been given in the circular. A perusal of the composition of the committee reveals that most of the members of the committee so constituted are the senior officers of the work executing departments who also have a mandate to achieve the targets of construction and completion of the works. Though the State has the power and is at liberty to take such decisions in*

case of non-forest lands, however the presence of the user agencies/executing agencies in the decision making committee may be in conflict with the idea of tree conservation in some cases. In this regard the State Government also has an alternative option of strengthening the field level offices of forest department with the requisite manpower and infrastructure to improve the efficiency and streamlining the decision-making process.

The above observations and recommendations were unanimously accepted by all members of the Committee and it was decided to submit the report with above observations to the National Green Tribunal in compliance of their order dated 12.03.2024 and dated 02.05.2023 in Original Application No. 90/2023, Naresh Chaudhary versus Union of India and others.”

20. It is made clear that the State Government has the power to frame rules and regulations for regulating use of a forested community land, government land on which the provisions of वन (संरक्षण एवं संवर्धन) अधिनियम, 1980, do not apply. Further that the state has to strictly adhere to the Compensatory Afforestation Fund Act, 2016 and further that the state has power and is at liberty to take such decisions in case of non-forested lands, however, the presence of the user agencies, executive agencies in the decision-making committee may be in conflict with the idea of tree conservation in some cases in this regard, the state government also has an alternate option of strengthening the field level officers of forest department with the requisite manpower and infrastructure to improve the efficiency and streamlining the decision-making process.

21. It is to be noted that Section 27 of the CAMPA fund provides and directs the state authorities to maintain proper account and other relevant records which is subject to audit and account by the Comptroller and Auditor General of India. The management of the National Fund, State Fund, Utilization and the prohibited activities are given in the notification dated 10.08.2018 by MoEF&CC which is as follows:-

“3. Management of National Fund.—*The National fund shall be managed according to the provisions of the Government Accounting Rule 1990 and the General Financial Rules, 2017 as applicable from time to time.*

4. Management of State Fund.—*The State Fund shall be managed according to the provisions of the State Financial Rules or any such rules applicable from time to time in a State.*

5. Manner of utilisation of net present value.—*(1) The monies received towards net present value deposited in the State Fund shall be used in the manner provided in sub-rule (2) and sub-rule (3).*

(2) *Not less than eighty per cent. of the monies referred to in sub-rule (1) shall be used for following activities for the forest and wildlife management in a State, namely:—*

- (a) assisted natural regeneration;*
- (b) artificial regeneration ;*
- (c) silvicultural operations in forests;*
- (d) protection of plantations and forests;*
- (e) pest and disease control in forest;*
- (f) forest fire prevention and control operations;*
- (g) soil and moisture conservation works in the forest;*

- (h) voluntary relocation of villages from protected areas;*
- (i) improvement of wildlife habitat as provided in the approved wildlife management plan or working plan;*
- (j) planting and rejuvenation of forest cover on non-forest land falling in wildlife corridors;*
- (k) establishment, operation and maintenance of animal rescue centre and veterinary treatment facilities for wild animals;*
- (l) supply of wood-saving cooking appliances and other forest produce saving devices in forest fringe villages as specified by the National Authority from time to time;*
- (m) management of biological diversity and biological resource.*

Explanation.—*In cases where funds towards wildlife management and conservation plans are specifically collected and deposited in State Fund, then the same shall be spent for wildlife management in specified wildlife area and not from the net present value.*

(3) *Not more than twenty per cent. of the monies referred to in sub-rule (1) shall be utilised for strengthening of the forest and wildlife related infrastructure, capacity building of the personnel involved in utilisation of State Fund namely: -*

- (a) establishment, up-gradation and maintenance of modern nurseries and other planting stock production facilities for production of quality planting materials;*
- (b) promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of land and folk varieties and cultivars, domesticated stocks and breeds of animals and*

microorganisms and chronicling of knowledge relating to biological diversity.

(c) purchase and maintenance of equipment or devices used for communication and information technology for the purpose of protection of forest and wildlife;

(d) construction, up-gradation and maintenance of inspection paths, forest roads in forest area, fire lines, watch towers, check posts and timber depots;

(e) construction of residential and official buildings in forests for front line staffs deployed for protection of forest and wildlife;

(f) casual engagement of local people or labours to assist regular staff of State Forest Department for works for protection of forest and wildlife undertaken from State Fund;

(g) survey and mapping of forest areas for forest fire control, compensatory afforestation works, soil and moisture conservation, catchment area treatment and wildlife management for preparing annual plans to be executed from the State Fund;

(h) independent concurrent monitoring and evaluation and third party monitoring of various works undertaken from State Fund;

(i) publicity-cum-awareness programme and exhibition on the various schemes being implemented by the State Authority from State Fund;

(j) production and distribution of quality planting material through certified nurseries at subsidised price for promotion of trees outside forests on Government lands promoted by State Government;

(k) forest certification and development of certification standards:

Provided that in case the activities referred to in sub rules (2) and (3) are to be undertaken in the forest land under the administrative control of the Forest Department of State Government, then the said activities shall be carried out as per the working plan:

Provided further that the said activities over forest land under the control of State Forest Department of State Government and being managed as per the working plan shall be taken up in consultation with the Gram Sabha or Village Forest Management Committee, as the case may be, and shall be in consonance with the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) and the guidelines issued thereunder, wherever applicable:

Provided also that in case the said activities are to be undertaken in areas not covered by the approved working plan then activities referred to in sub rules (2) and (3) shall be taken up in consultation with concerned Gram Sabha or Village Forest Management Committee or any authority having jurisdiction over that area, as the case may be, and shall be in consonance with the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) and guidelines issued thereunder, wherever applicable.

(4) *The monies referred to in sub-rule (1) shall not be used for following activities, namely:-*

- (a) payment of salary, travelling allowances, medical expenses, etc. to regular, contractual and casual employees of the State Forest Department for implementing programmes in various forest divisions undertaken from the State Fund;*
- (b) undertaking foreign visits;*
- (c) payment for legal services for defending cases filed in Tribunals or Courts not related to the management of State Authority;*
- (d) purchase of vehicles or staff cars for officers and heavy vehicles and machines for the State Forest Department for implementing programmes in various forest divisions undertaken from the State Fund;*
- (e) construction of residential and official buildings for officers above the Forest Range Officer of the State Forest Department for implementing programmes in various forest divisions undertaken from the State Fund;*
- (f) leasing, hiring and purchase of land for afforestation purposes;*
- (g) purchase of furniture, office equipment, fixtures including air conditioners, and generator sets for residences and offices of the State Forest Department for implementing programmes in various forest divisions undertaken from the State Fund;*
- (h) mandatory afforestation as per the working plan in the forest in blanks created by commercial felling of trees for revenue generation undertaken under working plan prescription;*
- (i) undertaking forest and wildlife conservation and other activities undertaken under other schemes of the Government*

for the purpose of part financing the scheme for completing left over works or complementary works of such schemes;
(j) establishment, expansion and up-gradation of zoo and wildlife safari;
(k) providing financial support, either by way of grant or equity to existing or for setting up new forest corporations, boards, etc.”

22. It is further to be noted that the State of Rajasthan vide order dated 12.02.2019 has constituted governing body, steering committee and executive committee in accordance with the aforesaid act. Such power cannot be delegated again.
23. Learned counsel for the State of Rajasthan Mr. Shoab Hasan Khan has further submitted that the report of the committee has been filed and the key recommendations which have been submitted by the committee are strictly being adhered by the State in accordance with Act of 2016 and guidelines issued thereunder.
24. It is further argued that issue in the circular under question was not to dilute the forest conservation safeguards but rather to facilitate development and public utility projects. Since the issue with regard to utilisation of CAMPA fund are under consideration for Hon'ble the Supreme Court of India, thus, we leave the matter and be dealt with in accordance with the decision taken by the Hon'ble the Supreme Court.
25. Learned Counsel for the State of Rajasthan has fairly agreed that the circular dated 09.06.2023 issued by the State of Rajasthan is not in accordance with the Central Act or guidelines issued by the Hon'ble the Supreme Court of India in Writ Petition No. 202/1995 and contravenes the circular dated 02.09.2006 and CAMPA Fund Act. He has fairly admitted that the State of Rajasthan is considering the report of the High Level

Committee appointed by this Tribunal and making necessary actions in conformity with the Central Act and वन (संरक्षण एवं संवर्धन) अधिनियम, 1980.

26. In view of the above facts, we allow the application and direct the State Government to suitably amend/modify the circular dated 09.06.2023 in accordance with the report of the High Level Committee appointed by this Tribunal and to suitably modify in accordance with the rules, so that, it may not contravene the provisions of the Forest (Conservation) Act, 1980.
27. The provisions contained in the Compensatory Afforestation Fund Act, 2016 must be strictly adhered to and anything contained in the circular aforesaid must be taken in consonance with the above Act.
28. With these directions the **Original Application No. 90/2023** alongwith **I.As.** stand **disposed of.**

Sheo Kumar Singh, JM

Sudhir Kumar Chaturvedi, EM

03rd November, 2025,
OA No. 90/2023(CZ)
PN