

Item No.01:-

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

Tuesday, the 18th day of March 2025

[Through Physical Hearing (Hybrid Option)]

Original Application No.49 of 2023 (SZ)

IN THE MATTER OF

Dinesh Kallahalli

S/o. Ramaiah,
Aged 44 years,
Kallahalli Village and Post,
Kasaba Hobli, Kanakapura Taluk,
Ramangaram District – 562 117.
Karnataka.

...Applicant(s)

Versus

1) Prashanth Prakash

S/o. M.P. Prakash
"Discovery Village"
N. Belthur Village,
Anatarasante Hobli,
H.D. Kote Taluk,
Mysore District, Karnataka.

2) Sharada Vishwanath

W/o. Late Vishwanath
"Discovery Village"
N. Belthur Village,
Anatarasante Hobli,
H.D. Kote Taluk,
Mysore District, Karnataka.

3) Deputy Conservator of Forest & Director

Nagarhole Tiger Reserve
Forest Campus, Old BM Road,
Hunsur, Mysore District.

**4) Principal Chief Conservator of Forests &
Chief Wildlife Warden**

4th Floor, Aranya Bhavan,
Malleshwaram,
Bengaluru – 560 003.
Karnataka.

5) Senior Environmental Officer

Karnataka State Pollution Control Board
Zonal Office : 436 – D,
Hebbal Industrial Area,
K.R.S Road,
Metagalli, Mysore – 570 016.

6) Member Secretary

Karnataka State Pollution Control Board
"Parisara Bhavan"
No.49, Church Street,
Bengaluru – 560 001.
Karnataka.

7) Additional Chief Secretary (FEE)

Forest, Ecology and Environment Department,
Karnataka Government,
Secretariat, Room No.448,
4th Floor, Gate No.2, M.S. Building,
Bengaluru – 560 001.

...Respondent(s)

For Applicant(s): M/s. S.P. Chockalingam and Suryakumar. K.

For Respondent(s): Mr. Satish Parasaran, Sr. Adv. a/w.
M/s. Sanjay Pinto & Vidya Pinto for R1 & R2.
Mr. Darpan K.M. a/w.
Mr. Raja Jonathan Shaw for R3, R4 & R7.
Mr. M.R. Gokul Krishnan a/w.
Ms. E. Hima Rithika for R5 & R6.

Judgment Reserved on: 10th February, 2025.

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

J U D G E M E N T

Delivered by Smt. Justice Pushpa Sathyanarayana, Judicial Member

1. The above Original Application is filed seeking a direction to the authorities to shut down the resort called '**Discovery Village**', belonging to Respondents No.1 and 2, alleging certain violations.

2. The Applicant is a resident of Kallahalli Village and is a wildlife and social activist. The resort owned by Respondents No.1 and 2 is situated 1.88 km from the Antarasante Wildlife Range Forest of Nagarhole Tiger Reserve. The said resort is spread over 6 Acres of land in Survey Nos.58/1 and 58/2 P in N. Belthur

Village, Anatarasante Hobli, H.D. Kote Taluk, Mysore District, Karnataka.

3. The allegations made by the applicant are:-

- (a) The resort violated the planning permission and made unauthorized construction and expansion by constructing additional cottages, a restaurant, a swimming pool, and a play area without permission.
- (b) Environmental Pollution: - The resort is discharging untreated sewage into the Kabini River, affecting the people and livestock and causing air pollution from the kitchen exhaust and 63 KVA Diesel Generator.
- (c) Violation of Buffer Zone & Eco-sensitive Area Rules:- The resort was built after 2014 in a buffer zone declared under the government notifications and falls within the Eco-Sensitive Zone (**ESZ**) under a 2017 Notification. The owners of the resort did not obtain a No Objection Certificate (**NOC**) from the Forest Department.
- (d) The resort is situated within 10 km of a protected area, requiring the National Board for Wildlife's approval as per the orders of the Hon'ble Supreme Court and in compliance with the EIA Notification, 2006.
- (e) Respondents No.1 and 2 did not obtain Consent to Operate from the State Pollution Control Board (**SPCB**) as required under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981.
- (f) The Karnataka SPCB also confirmed that the resort operates without mandatory environmental clearances and recommended legal action under Section 33 (A) of the Water (Prevention and Control of Pollution) Act, 1974.
- (g) Despite the above-referred complaints being brought to the knowledge of the concerned authorities, the regulatory bodies did not take action.

4. Hence, the present Original Application is filed seeking a directive to the official respondents to close down the resort called 'Discovery Village'.

5. **Respondents No.1 and 2**, in their reply, stated that the allegation that the resort is situated within 1.88 Km from the Antarasante Wildlife Range Forest of Nagarhole Tiger Reserve is incorrect. The resort is more than 2 Kms from the edge of the forest. As per the 2011 MoEF&CC's Guidelines, the ESZs should be determined on a site-specific basis, focusing on regulation rather than prohibition activities. It is pointed out that the draft notification on ESZs does not require an NOC from the 3rd and 4th Respondents and explicitly states that its provisions are subject to judicial orders.

6. Respondents No.1 and 2 quoted the Hon'ble Supreme Court ruling in **T.N. Godavarman Thirumulpad Vs. Union of India & Ors. [2023 SCC OnLine SC 504]** to state that "*there are various factors which will determine the ESZs for a particular protected area. The circumstances may differ from one protected area to another protected area. As such, we find that the directions which prescribe a uniform 1 Km ESZ require to be modified*". Thus, the Hon'ble Supreme Court has held that the uniform 1 Km ESZ is impractical, and different sanctuaries require different considerations. The ESZ declaration should not interfere with the daily activities of citizens. The ruling also lifted the complete ban on construction on ESZs. It is also pointed out that in **Goa Foundation Vs. Union of India [(2006) SCC OnLine SC 1330]**, the Hon'ble Supreme Court merely suggested that areas within 10 km of a sanctuary be declared as ESZs and it did not create an absolute ban. The Karnataka Government's 2012 Notification for the Nagarhole Tiger Reserve was prospective in nature and does not apply to the pre-existing resort.

7. So far as the environmental regulations are concerned, the Project Proponent/Respondents No.1 and 2 has stated that the resort is built only on 2,000 Sq. M. of land and the construction is well below the 20,000 Sq. M. threshold, which requires Environmental Clearance under the EIA Notification, 2006. It is also pointed out that the Hon'ble Supreme Court

clarified that the ESZs determinations must be flexible to accommodate urban and practical considerations like Guindy National Park in Chennai metropolis, which has urban activities in very close proximity.

8. Regarding pollution control and compliance, it is stated that as per the Karnataka SPCB Notification 2016, projects with less than 20 rooms and the quantity of wastewater generation with less than 10 KLD are exempt from the Air Act & Water Act consent requirements. The respondent also places reliance on a memo dated 07.07.2023 of the Karnataka SPCB, which has specifically exempted the resort from obtaining consent from the Board, as long as the resort is not going for an expansion.

9. Regarding the Wastewater Management & Sewage Treatment Plant (**STP**) Compliance, it is stated that the resort has a fully operational STP with an annual maintenance contract.

10. The **5th Respondent/Karnataka SPCB**, in its reply affidavit, stated that as per the CPCB Notification 2016, for classification of industry/project, any hotels/resorts having less than 20 rooms and overall wastewater generation less than 10 KLD does not require consent from the SPCB. In the resort in question, there are only 13 rooms and the wastewater generation is 6.5 KLD, the same is treated and utilized for landscaping and gardening within the resort premises and not discharging any treated or untreated sewage into any waterbody/river. The Karnataka SPCB has specifically notified that if the Project Proponent desires to expand beyond the exempted limit, they must obtain prior consent from the Board.

11. The **Deputy Conservator of Forest/Respondent No.3** has filed its reply, on behalf of Respondents No.4 and 7 also, stating that the Belathur Village falls under the overall buffer zone of Nagarhole Tiger Reserve. However, the concerned resort is located within the revenue village. The said resort is in Survey Nos.58/1 & 58/2P of Belathur Village, being known for their area located at an aerial distance of 1.88 km away from the reserve boundary of Nagarhole Tiger Reserve. The draft ESZ Notification dated 25.07.2017 ceased to operate after 725 days. The

MoEF&CC Notification dated 30.03.2020 extended the validity of draft notifications, but this does not impact the current case.

12. So far as the ESZ and Environmental Clearance are concerned, it is stated that in the absence of an ESZ Notification, a 10 km default ESZ applies around Protected Areas. However, only activities requiring Environmental Clearance need approval from the National Board for Wildlife (**NBWL**), and no such activity is proposed in the resort. The authorities have received a representation from the applicant herein referring to the violations of Sections 18 (2), 38 (v) (2), 27 (2) (3) & (4), 30, 32, and 33 (b) & (c) of the Wildlife (Protection) Act, 1972. Nevertheless, since the resort is 1.88 km away from the boundary of the Nagarahole Tiger Reserve, the allegations are found to be untenable. As the ESZ is not officially notified, there is no violation of any ESZ regulations.

13. Heard the learned counsel appearing for the applicant as well as the respondents.

14. The point that arises for consideration is whether the relief sought for by the applicant can be allowed.

15. The learned Senior Advocate, Mr. Satish Parasaran, appearing for the Project Proponent/Respondents No.1 and 2 cited the judgment passed by the Hon'ble High Court of Karnataka, which questioned the intentions of the applicant in previous cases. The resort is located 2 Km from the Nagarahole Tiger Reserve and was constructed before the distance criteria norms were notified. The Forest Department also has stated that the resort is in a non-forest area and that the 2017 ESZ Notification expired in 2019 and there is no violation of the Wildlife (Protection) Act, 1972.

16. The learned counsel appearing for the Karnataka SPCB has also stated that the resort is exempt from the consent requirement, as it has only 13 rooms, which is less than 20 rooms threshold limit and the wastewater generation of 6.5 KLD, which is below the threshold as per the 2016 CPCB Notification. The applicant misrepresented the survey numbers and falsely associated the resort with another location. It is categorically

stated that the built-up area of the resort is only 1,811 Sq. Meters which is well below the 20,000 Sq. Meters threshold to attract the requirement of the Environmental Clearance. Admittedly, the resort has been in operation from the year 2010 and the Grama Panchayat issued NOC in the year 2006. Therefore, the uniform 1 Km distance from the ESZ is not feasible.

17. Regarding the wastewater, it is stated that the same is treated and used for landscaping with no evidence of discharge into any water body. Additionally, the diesel generator set of 63 KVA meets the environmental standards, as retrofitting regulations apply only to units above 125 KVA. Based on this, the Karnataka SPCB also issued an endorsement confirming compliance and no further regulatory action was deemed necessary.

18. The resort was operational even before the buffer zone regulations were introduced, as can be seen from the NOC issued by the Grama Panchayat dated 29.11.2006. However, the approval was granted based on the land area and not on the number of rooms.

19. From the above facts and also considering the available materials on record, including the report from the Forest Department and the Karnataka SPCB, regulatory or environmental violations as projected by the applicant are not made out. The draft ESZ Notification is not in force from 2019 and the final notification is still pending. Therefore, there are no enforceable restrictions specific to the resort operations.

20. The Karnataka SPCB has also confirmed that the resort is exempt from consent requirements, as it meets the criteria under the CPCB 2016 Notification. The allegation of excess construction is not based on any legal regulations, as approvals were granted based on the land area, and the total built-up area is less than the threshold. The wastewater treatment system is also operational, and no untreated effluents are being discharged into water bodies.

21. Thus, it can be seen that the resort viz., 'Discovery Village' is operating well within the framework of existing environmental laws. The applicant has not made out any environmental violations, warranting a closure as sought for in the application.

22. In the result, the Original Application [O.A. No.49 of 2023 (SZ)] is dismissed as devoid of merits.

Sd/-
Smt. Justice Pushpa Sathyanarayana, JM

Sd/-
Dr. Satyagopal Korlapati, EM

Internet – Yes/No

All India NGT Reporter – Yes/No

O.A. No.49/2023 (SZ)
18th March, 2025. Mn.

