

Item No.01

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

**Original Application No.128/2024(CZ)
(I.A. No.153/2024)**

Nitin Saxena

Applicant(s)

Vs.

MoEF&CC & Ors.

Respondent(s)

Date of Hearing: 15.09.2025

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR CHATURVEDI, EXPERT MEMBER**

For Applicant (s): Mr. Harpreet Singh Gupta, Adv.
(with Mr. Pratipal Singh Gupta, Adv.
Mr. Srajan Jain, Adv.
Ms. Nancy Chaturvedi, Adv.)

For Respondent(s): Mr. Om Shankar Shrivastava, Adv. for MoEF&CC
Mr. Prashant M. Harne, Adv. for State of M.P.
Ms. Paul Bhadoria, Adv. for MPPCB
Ms. Disha Chouksey, Adv.
(for Ms. Gunjan Chowksey, Adv. for BMC)

ORDER

1. Learned counsel for the applicant has submitted that the original application was filed in respect of illegal felling of 4105 trees in the process of construction of Kolar Six Lane Road.
2. He has submitted that in this pending original application I.A. No. 153/2024 has been filed for restraining the respondent from cutting 1377 trees for construction of a road of 11 Mile to Bangrasia.
3. Learned counsel for the applicant has also referred to Section 4, 5 and 6 of Madhya Pradesh Vrikshon Ka Parirakshan (Nagriya Kshetra) Adhiniyam, 2001, which read as under :-

“Section 4 : Appointment of Tree Officer

The State Government may appoint one or more forest officers of the rank not below that of a Gazetted Forest Officer, Commissioner, Municipal Corporation or Chief Municipal Officer as "Tree Officer" for the purposes of this Act, for each Urban Area.

Section 5 : Appointment of other officers

The State Government may, from time to time, appoint such other officers and employees of Forest Department or Local Authority as may be considered necessary who shall be subordinate to the Tree Officer.

“Section 6 : Procedure for obtaining permission to fell, cut, remove or dispose of a tree

(1) Any person desiring to fell or remove or otherwise dispose of, by any means, a tree, shall make an application to the concerned Tree Officer for permission in such form and containing such particulars and accompanied by such documents as may be prescribed.

(2) On receipt of the application, the Tree Officer shall acknowledge the application and may by order after inspecting the tree and holding such enquiry, as he may deem necessary, either grant permission in whole or in part or refuse permission for reasons to be recorded in writing, within 30 days from the date of receipt of the application :

Provided that no permission shall be granted to any person from the same area on more than two occasions during the same year :

Provided further that no permission shall be refused if the tree-

- i. is dead, diseased or wind fallen; or*
- ii. constitutes a danger to life and property; or*
- iii. is substantially damaged or destroyed by fire, lightning, rain or other natural causes; or*
- iv. constitutes an obstruction to traffic or if necessary for maintenance of power/telephone lines etc.*

(3) The permission granted under sub-section (2) may be subject to the condition that the applicant shall plant another tree or trees of the same or other suitable species on the same site or premises, and where this is not possible make such contribution as may be prescribed, within thirty days from the date the tree is felled or within such extended period as the Tree Officer may allow.

(4) If the Tree Officer fails to communicate the decision within the period specified under sub-section (2) the permission applied for shall be deemed to have been granted.”

4. Learned counsel for the applicant has submitted that under the above provisions, the tree officer not below the rank of a Gazetted Forest Officer, Commissioner, Municipal Corporation or Chief Municipal Officer can be appointed.

5. He has submitted that the Act does not provide for delegation of power by the tree officer but in the present case, the permission has been granted by the Assistant Commissioner (Horticulture), Municipal Corporation, Bhopal who is not a tree officer. In this regard the order dated 29.11.2024 *page no.* 356 has been referred to in respect of permission for 1377 trees.
6. Though, learned counsel for the respondent BMC has submitted that the order dated 29.11.2024 is a mere communication by the Assistant Commissioner of Horticulture on the basis of the order passed by the tree officer in the notesheet and has also referred to notesheet on *page no.* 402 but from that notesheet she could not pointed out any speaking order passed by the tree officer after due application of mind. Hence, she has sought time to place on record the order passed by the tree officer granting permission for felling of 1377 trees on the condition of deposit of a sum of Rs. 73,68,900/- for the purpose of compensatory plantation.
7. Learned counsel for the applicant has also submitted that in respect of the main issue concerning the felling of 4105 trees for construction of Kolar Six Lane Road, no permission by tree officer has been placed on record.
8. Learned counsel appearing for the PWD has candidly admitted that the construction of Kolar Six Lane Road is completed, that means the trees have already been cut. Therefore, the respondent authorities are directed to place on record, the order of the Tree Officer passed in terms of the Act granting permission for felling of 4105 trees for the purpose of construction of Kolar Six Lane Road. The respondent authorities are also required to disclose the amount, if any, deposited by the executing agency/authority responsible towards the compensatory plantation, the number of trees which have been planted for compensatory plantation and the surviving number of trees.

9. The joint committee appointed by the NGT has made following recommendations in its report :-

RECOMMENDATIONS

- *If road construction is to be done beyond 14.200 KM, necessary approval under the provision of FCA, 1980 will have to be taken after joint inspection with the concerned Forest Department for the remaining length.*
- *The Forest Department should make the necessary plantation from the deposited amount for compensatory afforestation within an aerial distance of 5 KM of the constructed road.*
- *In general, 3863 plants in the central verge of the old road which have been cut do not come in the category of trees, but if there is any rule or guideline of the State regarding felling and compensatory afforestation of such plants, then the State Government should be asked.*
- *Since necessary approval was not taken for the felling of 4105 trees, the State Govt should take necessary action in this regard as per the prevailing rules and guideline.*

- *Although the PWD has felled 4105 trees/shrubs without having necessary permission, it is necessary to inquire whether any action has been taken by the concerned Department (BMC) for the same.”*

10. The above report of the joint committee clearly suggest that 4105 trees/shrubs were felled without obtaining the necessary permission by the PWD Department.

11. The tree officer has been vested with a very important responsibility of protection and preservation of trees. The trees cannot be allowed to be cut without following the due process of law and by violating the provision of the Tree Act, therefore, the Tree Officer is required to disclose before the Tribunal that he is following the due process of law and has made all possible efforts to ensure that no tree is cut illegally without following the said due process.

12. The Tribunal vide order dated 09.01.2025 had directed in ‘para 10’ that :-

“Accordingly, we direct the respondent not to damage or cut the trees except according to procedure established by law. Reply may be filed. before the next date of listing. The matter is already listed on 15th January, 2025, put up on the same date.”

13. The tree officer is required to enquire and disclose before this Tribunal, if the aforesaid order has been violated by any authority and if in violation of the said order, the trees have been cut. If yes, how many trees have been cut. The Respondent authorities, especially the tree officer, is also directed

to place on record the source of power under which he is empowered to delegate his essential function as Tree Officer.

14. Learned counsel appearing for the Respondents seek two weeks time to file further report, keeping in view the observations made above.

List on **10th October, 2025.**

Prakash Shrivastava, CP

Sheo Kumar Singh, JM

Sudhir Kumar Chaturvedi, EM

15th September, 2025,
O.A. No.128/2024(CZ)
(I.A. No.153/2024)
PN