



Green Verdicts:

***A Comprehensive Digest of Recent
Environmental Law Cases***





NATIONAL LEGAL SERVICES AUTHORITY
JAISALMER HOUSE, NEW DELHI
&
RAJASTHAN STATE LEGAL SERVICES AUTHORITY
RAJASTHAN HIGH COURT BUILDING, JAIPUR

“ The earth is what we all have in common.”

-Wendell Berry



“ There is no ‘Plan B’ because we do not have a ‘Planet B.’ We have to work and galvanize our action.”

- Ban Ki-moon, Former Secretary-General of the United Nations



FOREWORD

The protection of our environment is not merely a legal obligation but a moral imperative that defines the legacy we leave for future generations. India, with its rich biodiversity and deep-rooted environmental traditions, has long recognized the intrinsic connection between nature and human well-being. The judiciary has played a pivotal role in reinforcing this commitment, interpreting environmental laws in a manner that upholds the principles of sustainability and intergenerational equity.

This compilation of landmark environmental cases serves as a testament to India's progressive legal framework and the judiciary's proactive approach in safeguarding our natural resources. From landmark rulings on pollution control and forest conservation to the protection of wildlife and the right to a clean environment, these cases reflect the evolving jurisprudence that continues to shape India's environmental governance.

It is heartening to see this initiative by the National Legal Services Authority (NALSA), which underscores the importance of legal awareness in environmental protection. By bringing together significant judicial pronouncements, this book will serve as an invaluable resource for legal practitioners, scholars, policymakers, and citizens alike. It is through knowledge and awareness that we can empower individuals to become active participants in the global movement for environmental sustainability.

I commend the efforts behind this publication and hope that it will inspire a deeper understanding of environmental law and its role in fostering a sustainable future for all.


(B. R. Gavai)



FOREWORD

The environment is not only a backdrop to human progress but an essential pillar of our existence. Our rivers, forests, and air are not commodities to be exploited but legacies to be safeguarded. As we stand at the crossroads of development and sustainability, the role of law in maintaining this equilibrium has never been more crucial. A recent report submitted by Ministry of Environment and Forests reveals that more than 13000 square kilometers of forest areas are under encroachment.

The judiciary has consistently upheld the principles of environmental protection, recognizing that the right to a clean and healthy environment is intrinsic to the fundamental right to life. Landmark judicial interventions have shaped policies, enforced accountability, and redefined the scope of environmental justice. The courts have ensured that economic expansion does not come at the cost of irreversible ecological damage, reinforcing the principle that development must be sustainable and inclusive.

This Environmental Law Digest is a testament to the evolving legal landscape surrounding environmental conservation. It brings together critical judicial pronouncements that have influenced governance, strengthened regulatory frameworks, and expanded access to environmental justice. By documenting these precedents, this digest serves as a guiding light for legal practitioners, policymakers, and environmental advocates dedicated to preserving our natural heritage.

As we move forward, legal institutions must remain steadfast in their commitment to environmental justice. Our approach must be proactive, ensuring that laws are not just enforced but also evolved to meet the challenges of a rapidly changing world. I hope that this digest will serve as both a source of knowledge and an inspiration, reinforcing our collective duty to protect and nurture the environment for generations to come.

(SANDEEP MEHTA)

**New Delhi;
April 02, 2025.**

Manindra Mohan Shrivastava
Chief Justice



Rajasthan High Court
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MESSAGE

In our constitutional framework, the judiciary plays a vital role as the guardian of fundamental rights and the interpreter of laws. The right to a clean and healthy environment, though not explicitly mentioned as a fundamental right initially, has been progressively recognized and reinforced by the Supreme Court under the broad ambit of Article 21 (Right to Life).

The Hon'ble Supreme Court has, through a series of landmark pronouncements, developed a robust environmental jurisprudence in India. These judgments have not only clarified the existing legal framework but have also laid down new principles to address the ever-growing challenges of environmental degradation and climate change. Principles such as the "polluter pays," the "precautionary principle," and the "public trust doctrine" have become cornerstones of environmental law in our country, guiding policy decisions and judicial interpretations.

This Book by NALSA 'Green Verdicts: A Comprehensive Digest of Recent Environmental Law Cases' is a timely and valuable resource. It compiles the recent pronouncements of the Supreme Court on environmental matters, making them readily accessible to legal practitioners, environmentalists, policymakers, and the general public. Understanding the nuances of these judgments is crucial for effective implementation of environmental laws and for ensuring that justice is served in cases of environmental harm.

The role of Legal Services Institutions in promoting environmental justice is particularly noteworthy. By providing legal aid and creating awareness, legal services empower individuals and communities, especially the marginalized, to seek redressal for environmental grievances and to actively participate in the protection of our natural resources. This compendium will further strengthen these efforts by equipping stakeholders with the latest legal perspectives on environmental protection.

I am indeed obliged to Hon'ble Mr. Justice B.R. Gavai, Senior-most Judge of the Supreme Court and Executive Chairman, NALSA for giving me this opportunity to associate with the event of launch of the book. It is my sincere hope that this compendium will serve as an indispensable tool for all those working towards the cause of environmental protection and will contribute to a more sustainable and just future for all.

(MANINDRA MOHAN SHRIVASTAVA)

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Shree Chandrashekhar



*Judge
Rajasthan High Court*



*Executive Chairman
Rajasthan State Legal Services Authority
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MESSAGE

India, a land of breathtaking biodiversity and ancient wisdom, faces a formidable challenge in balancing the rapid economic development with the imperative of environmental preservation. The exciting tapestry of its ecosystems, from the towering Himalayas to the sprawling Sundarbans, is increasingly threatened by industrialization and ruthless urbanization in the relentless pursuit of development and progress. Recognizing this existential threat, India has, over the decades, crafted a comprehensive framework of the environmental laws and witnessed a burgeoning body of judicial activism, spearheaded by the Hon'ble Supreme Court. This Book by the National Legal Services Authority, 'Green Verdicts: A Comprehensive Digest of Recent Environmental Law Cases' aims to provide a concise yet comprehensive overview of the judicial efforts, offering a roadmap for understanding the legal landscape of environmental protection in India.

The journey towards environmental consciousness in India is not a recent phenomenon. Ancient scriptures and traditions demonstrate a deep-seated respect for nature, emphasizing the interconnect of all living beings. However, the rapid industrialization following independence, coupled with a burgeoning population, led to significant environmental degradation. The Bhopal Gas Tragedy of 1984, a catastrophic industrial accident, served as a stark wake-up call highlighting the urgent need for stringent environmental regulations. That incident impacted the peoples' awareness and concerns for deforestation, pollution, and unsustainable resource use and propelled the nation towards a more proactive approach to environmental protection. Since then, the Indian Constitution has been progressively interpreted by the Supreme Court to encompass environmental rights as fundamental right. Article 21, guaranteeing the right to life and personal liberty, has been expanded to include the right to a healthy environment. Similarly, Article 48A, a Directive Principle of State Policy, mandates the State to protect and improve the environment and safeguard forests and wildlife. Article 51A(g) enshrines the fundamental duty of every citizen to protect and improve the natural environment. These Constitutional provisions, coupled with a growing body of specific environmental legislations, form the bedrock of India's environmental jurisprudence.

Shree Chandrashekhar

Shree Chandrashekhar



*Judge
Rajasthan High Court*

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However, legislation alone is insufficient. The effectiveness of environmental laws hinges on the effective implementation and enforcement of the regulatory measures. This is where the judiciary, particularly the Supreme Court of India, has played a pivotal role. Through a series of landmark judgments, the Supreme Court has expanded the scope of environmental laws, established crucial principles, and held polluters accountable. The Court's proactive approach, often relying on public interest litigation (PIL), has transformed the environmental governance in India.

The Supreme Court's jurisprudence on environment protection is characterized by meaningful interpretation of the laws and its concern for safeguarding the environment for future generations. The principle of "sustainable development" which means balancing economic growth with environmental protection, has been repeatedly emphasized. The "polluter pays" principle, holding polluters liable for the cost of environmental damage, has been firmly established. The "precautionary principle", requiring preventive measures to be taken even in the absence of conclusive scientific evidence, has been adopted as a guiding principle. Indeed, the judgments of Supreme Court have not only addressed specific environmental issues but have also laid down fundamental principles that guide environmental governance.

This book by the National Legal Services Authority aims to provide a comprehensive summary of the landmark judgments, highlighting the key findings and their impact on environmental laws and policy. It explores how the Supreme Court has interpreted Constitutional provisions, applied environmental principles, and enforced environmental laws.

It is matter of privilege and honour that the National Legal Services Authority has associated the Rajasthan State Legal Services Authority in compiling this book. I hope that this book would serve as a valuable resource for all concerned to understand the legal framework for environmental protection in India. I am sure that this book would be a contribution towards fostering a more informed and an engaging approach to environmental protection, ensuring a sustainable and healthy future for generations to come.

Shree Chandrashekhar
(Shree Chandrashekhar)

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NAME: IN RE: T. N. GODAVARMAN THIRUMULPAD vs. UNION OF INDIA & ORS.

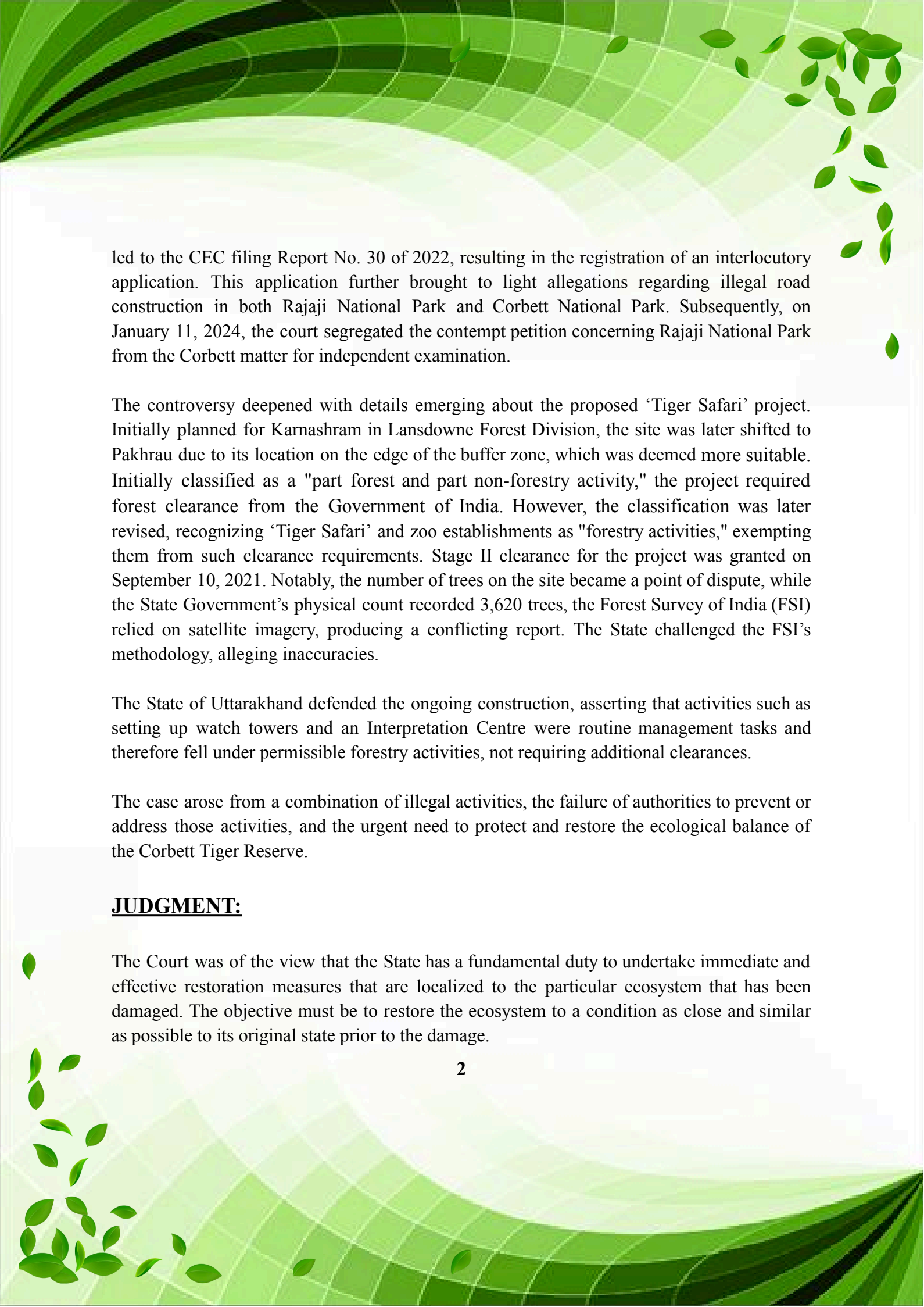
CITATION: 2024 INSC 178

BENCH: HMJ B.R. GAVAL, HMJ PRASHANT KUMAR MISHRA & HMJ SANDEEP MEHTA

FACTS:

The present case is based on the allegations of illegal construction and deforestation within the Corbett Tiger Reserve and Rajaji National Park, brought to the surface through multiple legal actions. It began with a petition filed before the Delhi High Court, wherein it was alleged that unauthorized construction of bridges and walls were done within the Corbett Tiger Reserve without proper approvals from the competent authorities. The Delhi High Court, in its judgment dated August 23, 2021, directed the concerned authorities to treat the petition as a representation and to take appropriate action in line with the Wildlife Protection Act, 1972. At around the same time, the Division Bench of the Uttarakhand High Court took suo motu cognizance of a news report from the Times of India, dated October 23, 2021, which uncovered ongoing illegal construction activities in the Corbett Tiger Reserve. Thereafter, the court issued orders for site inspections, identification of those responsible, and submission of a detailed report on the extent of the damage.

Further efforts escalated the matter through an application filed before the Central Empowered Committee (CEC), highlighting extensive illegal activities, including the felling of trees for the establishment of a 'Tiger Safari' in Pakhrau Block, Sonandi Range, and unauthorized construction of buildings and water bodies along routes connecting various forest rest houses. It was argued that these activities were not only illegal but also caused irreversible damage to the biodiversity and ecological balance of the Corbett landscape. This



led to the CEC filing Report No. 30 of 2022, resulting in the registration of an interlocutory application. This application further brought to light allegations regarding illegal road construction in both Rajaji National Park and Corbett National Park. Subsequently, on January 11, 2024, the court segregated the contempt petition concerning Rajaji National Park from the Corbett matter for independent examination.

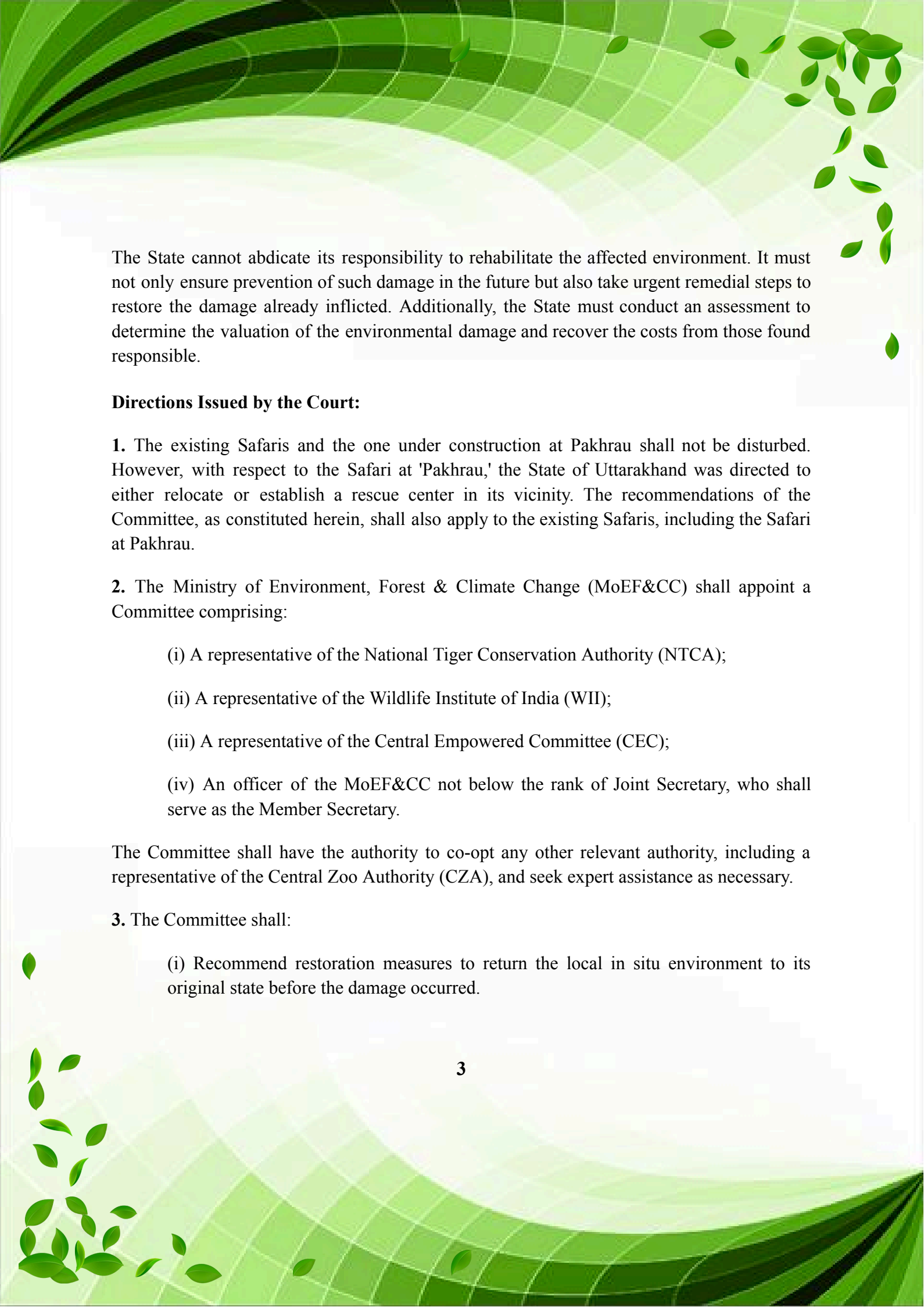
The controversy deepened with details emerging about the proposed 'Tiger Safari' project. Initially planned for Karnashram in Lansdowne Forest Division, the site was later shifted to Pakhrau due to its location on the edge of the buffer zone, which was deemed more suitable. Initially classified as a "part forest and part non-forestry activity," the project required forest clearance from the Government of India. However, the classification was later revised, recognizing 'Tiger Safari' and zoo establishments as "forestry activities," exempting them from such clearance requirements. Stage II clearance for the project was granted on September 10, 2021. Notably, the number of trees on the site became a point of dispute, while the State Government's physical count recorded 3,620 trees, the Forest Survey of India (FSI) relied on satellite imagery, producing a conflicting report. The State challenged the FSI's methodology, alleging inaccuracies.

The State of Uttarakhand defended the ongoing construction, asserting that activities such as setting up watch towers and an Interpretation Centre were routine management tasks and therefore fell under permissible forestry activities, not requiring additional clearances.

The case arose from a combination of illegal activities, the failure of authorities to prevent or address those activities, and the urgent need to protect and restore the ecological balance of the Corbett Tiger Reserve.

JUDGMENT:

The Court was of the view that the State has a fundamental duty to undertake immediate and effective restoration measures that are localized to the particular ecosystem that has been damaged. The objective must be to restore the ecosystem to a condition as close and similar as possible to its original state prior to the damage.



The State cannot abdicate its responsibility to rehabilitate the affected environment. It must not only ensure prevention of such damage in the future but also take urgent remedial steps to restore the damage already inflicted. Additionally, the State must conduct an assessment to determine the valuation of the environmental damage and recover the costs from those found responsible.

Directions Issued by the Court:

1. The existing Safaris and the one under construction at Pakhrau shall not be disturbed. However, with respect to the Safari at 'Pakhrau,' the State of Uttarakhand was directed to either relocate or establish a rescue center in its vicinity. The recommendations of the Committee, as constituted herein, shall also apply to the existing Safaris, including the Safari at Pakhrau.
2. The Ministry of Environment, Forest & Climate Change (MoEF&CC) shall appoint a Committee comprising:
 - (i) A representative of the National Tiger Conservation Authority (NTCA);
 - (ii) A representative of the Wildlife Institute of India (WII);
 - (iii) A representative of the Central Empowered Committee (CEC);
 - (iv) An officer of the MoEF&CC not below the rank of Joint Secretary, who shall serve as the Member Secretary.

The Committee shall have the authority to co-opt any other relevant authority, including a representative of the Central Zoo Authority (CZA), and seek expert assistance as necessary.

3. The Committee shall:

- (i) Recommend restoration measures to return the local in situ environment to its original state before the damage occurred.

(ii) Assess the environmental damage in the Corbett Tiger Reserve (CTR) and quantify the costs required for restoration.

(iii) Identify individuals or officials responsible for the damage. The State shall recover the quantified cost from the persons or delinquent officers found responsible, ensuring that the funds are exclusively used for environmental restoration.

(iv) Specify the manner in which the recovered funds should be utilized for active ecological restoration.

4. The Committee shall further consider and recommend:

(i) Whether Tiger Safaris should be permitted in buffer or fringe areas.

(ii) If permitted, the guidelines for establishing such Safaris.

(iii) In assessing this, the Committee shall account for:

(a) An ecocentric, rather than anthropocentric, approach.

(b) Application of the precautionary principle to minimize environmental damage.

(c) Ensuring that animals sourced for the Safaris are not from outside the Tiger Reserve. Only injured, conflicted, or orphaned tigers may be exhibited as per the 2016 Guidelines, overriding the contrary provisions in the 2019 Guidelines.

(d) Ensuring that such Safaris are proximate to Rescue Centres. The Committee may consider any other relevant factors at its discretion.

(iv) The permissible and prohibited activities in the buffer and fringe areas of the Tiger Reserve. Any tourism permitted shall be strictly eco-tourism. Construction within resorts must align with the natural environment.

(v) The number and type of resorts permitted near protected areas and the restrictions necessary to ensure their operations do not obstruct ecological conservation.

(vi) The permissible noise levels within specified distances from the protected forest boundary.

(vii) Measures for effective management and protection of Tiger Reserves across India.

(viii) Steps for ensuring the scrupulous implementation of these recommendations.

These directions were issued to ensure the protection and restoration of vital ecosystems and must be implemented in a time-bound manner. The Court emphasized that deforestation and illegal tree felling cannot be overlooked, stressing the need for strict action against such environmental violations and those responsible.

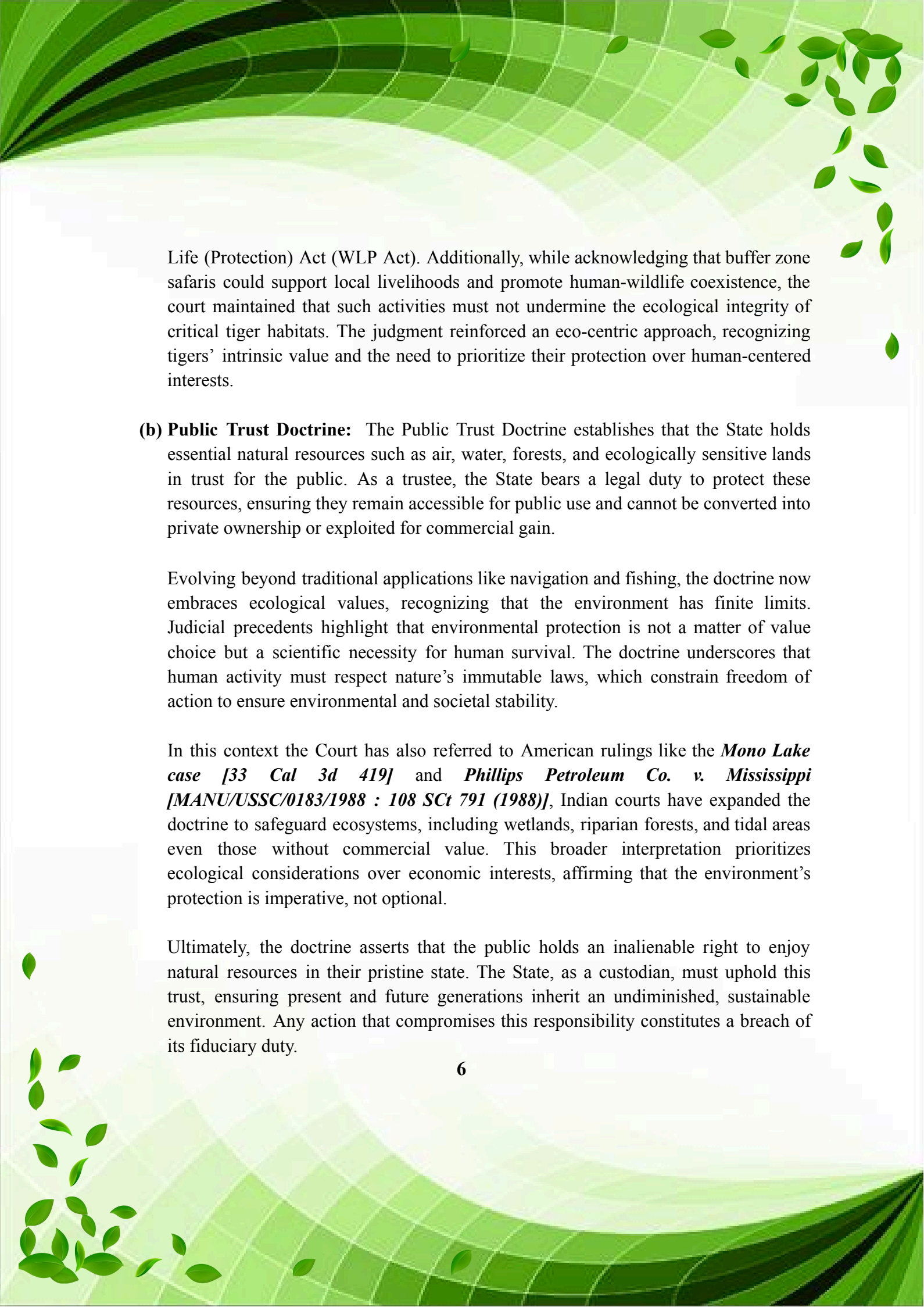
The court also underscored on the fact that -

"It is well known that the presence of a Tiger in the forest is an indicator of the well-being of the ecosystem. Unless steps are taken for the protection of the Tigers, the ecosystem revolving around Tigers cannot be protected"

PRINCIPLES OF LAW:

The key legal principles on which the judgment was given revolved around these core ideas:

- (a) Legal Distinction Between 'Zoo' and 'Tiger Safari':** The judgment centers on tiger conservation as the primary objective, with eco-tourism and human interests being secondary and permissible only when aligned with this goal. The court differentiated between zoos (meant for public exhibition and ex-situ conservation) and tiger safaris (intended for rehabilitating injured, conflict, or orphaned wild tigers unfit for rewilding). It rejected the 2019 NTCA (National Tiger Conservation Authority) guidelines, which allowed sourcing tigers from zoos for safaris, deeming them contradictory to conservation efforts. Instead, the court upheld the 2016 guidelines, which emphasized using only wild tigers requiring rehabilitation. The court also asserted that NTCA, not CZA (Central Zoo Authority), should have the final authority over such safaris to ensure consistency with conservation principles under the Wild




Life (Protection) Act (WLP Act). Additionally, while acknowledging that buffer zone safaris could support local livelihoods and promote human-wildlife coexistence, the court maintained that such activities must not undermine the ecological integrity of critical tiger habitats. The judgment reinforced an eco-centric approach, recognizing tigers' intrinsic value and the need to prioritize their protection over human-centered interests.

(b) Public Trust Doctrine: The Public Trust Doctrine establishes that the State holds essential natural resources such as air, water, forests, and ecologically sensitive lands in trust for the public. As a trustee, the State bears a legal duty to protect these resources, ensuring they remain accessible for public use and cannot be converted into private ownership or exploited for commercial gain.

Evolving beyond traditional applications like navigation and fishing, the doctrine now embraces ecological values, recognizing that the environment has finite limits. Judicial precedents highlight that environmental protection is not a matter of value choice but a scientific necessity for human survival. The doctrine underscores that human activity must respect nature's immutable laws, which constrain freedom of action to ensure environmental and societal stability.

In this context the Court has also referred to American rulings like the *Mono Lake case* [33 Cal 3d 419] and *Phillips Petroleum Co. v. Mississippi* [MANU/USSC/0183/1988 : 108 SCt 791 (1988)], Indian courts have expanded the doctrine to safeguard ecosystems, including wetlands, riparian forests, and tidal areas even those without commercial value. This broader interpretation prioritizes ecological considerations over economic interests, affirming that the environment's protection is imperative, not optional.

Ultimately, the doctrine asserts that the public holds an inalienable right to enjoy natural resources in their pristine state. The State, as a custodian, must uphold this trust, ensuring present and future generations inherit an undiminished, sustainable environment. Any action that compromises this responsibility constitutes a breach of its fiduciary duty.



(c) **Ecological Restitution:** The judgment pivots on the principle that environmental restoration is a legal obligation, not merely an aspirational goal. Drawing from international conventions like the Convention on Biological Diversity (CBD), 1992, the Court emphasizes that when ecosystems are degraded, the responsible parties must not only compensate for the damage but also ensure active measures are taken to restore the environment to its original state or as close to it as possible.

It reinforces the "Polluter Pays" principle, asserting that industries causing environmental harm bear absolute liability not only to compensate affected communities but also to fund the rehabilitation of the damaged ecosystem. The Court acknowledges that while prosecuting the culprits remains vital, it is a separate matter from the State's duty to initiate immediate restoration efforts. The ruling mandates the State to assess the damage, implement localized restoration strategies, and recover the costs from those responsible, ensuring both accountability and environmental recovery go hand-in-hand.

CASE: THE STATE OF BIHAR AND OTHERS VERSUS PAWAN KUMAR AND ORS.

CITATION: 2021 INSC 713

BENCH: HMJ L. NAGESWARA RAO, HMJ SANJIV KHANNA & HMJ B.R. GAVAI

FACTS:

The case revolves around the National Green Tribunal's decision, which held that sand mining could not proceed without prior approval of the District Survey Report (DSR) by the State Expert Appraisal Committee (SEAC) and the State Environment Impact Assessment Authority (SEIAA). The Tribunal relied on its earlier judgment in *Satendra Pandey v. Ministry of Environment, Forest and Climate Change and Another*, {O.A. No. 186 of 2016 (M.A. No. 350/2016)} stating that mining tenders could not be invited without a properly prepared DSR.

The State contended that this approach was flawed, arguing that the successful bidder would still need to prepare a mining plan and obtain SEAC and SEIAA approval for environmental clearance before any mining activity could commence. The State asserted that it had followed the prescribed procedures and submitted extensive supporting material, which the Tribunal allegedly overlooked. Furthermore, the State highlighted that the Tribunal's order allowed old lessees to continue mining by paying only a minimal fee, causing substantial losses to the public exchequer. As an alternative, the State requested permission for the Bihar State Mining Corporation to undertake mining operations until the DSRs were finalized.

JUDGMENT:

The key directions from the judgment include:

- 1. Fresh District Survey Reports (DSRs):** The court directed the State of Bihar to prepare fresh DSRs for mining districts through sub-divisional committees comprising officials from relevant departments (Irrigation, Pollution Control, Forest, Geology/Mining). These reports must adhere strictly to the *Sustainable Sand Mining Management Guidelines (SSMMG-2016)* and *Enforcement and Monitoring Guidelines for Sand Mining (2020)*.
- 2. Approval Process:** The DSRs must undergo a multi-tiered verification process first by the District Magistrate (to verify physical and geographical features), then by the *State Expert Appraisal Committee (SEAC)* for scientific evaluation, and finally by the *State Environmental Impact Assessment Authority (SEIAA)* for approval.
- 3. Temporary Mining Operations:** The court acknowledged the potential rise in illegal mining due to a complete ban and the economic loss from halted mining operations. Therefore, it permitted the Bihar State Mining Corporation to continue mining activities with contractors ensuring environmental safeguards until the DSRs are finalized and approved.

The court observed that -

"A balanced approach of sustainable development ensuring environmental safeguards, needs to be resorted to. At the same time, it also cannot be ignored that when legal mining is banned, it gives rise to mushroom growth of illegal mining, resulting into clashes between sand mafias, criminalization and at times, loss of human lives"

The judgment reflects a balanced approach supporting economic development through mining while prioritizing environmental protection, sustainable practices, and curbing illegal mining activities.



PRINCIPLES OF LAW:

- (a) Sustainable Development:** A balanced approach is essential to ensure that developmental activities are not stalled while environmental safeguards are upheld. A complete ban on legal mining can lead to harmful consequences, including illegal mining, criminal activities, and loss to the public exchequer.
 - (b) Environmental Safeguards:** Mining must avoid areas impacting forests, protected zones, habitations, and infrastructure like bridges. Public consultations must be held before finalizing DSRs, ensuring transparency and stakeholder involvement.
-

CASE: IN RE: T.N. GODAVARMAN THIRUMULPAD VERSUS UNION OF INDIA AND OTHERS

CITATION: I.A. NO. 131377 OF 2022

BENCH: HMJ B.R. GAVAI, HMJ VIKRAM NATH & HMJ SANJAY KAROL

FACTS:

The Union of India filed an I.A. (Interlocutory Application) seeking modification/clarification of the Supreme Court's 3rd June 2022 order in I.A. No. 1000 of 2003 within W.P.(C) No. 202 of 1995.

The application specifically challenges paragraphs 56.1 and 56.5 of the order:

Para 56.1: Each protected forest (national park/wildlife sanctuary) must have a minimum 1 km Eco-Sensitive Zone (ESZ) from its boundary, following the 9th February 2011 Guidelines. For Jamua Ramgarh Wildlife Sanctuary, the buffer is 500 meters for existing activities.

Para 56.5: Any ongoing activities within the ESZ (that aren't prohibited under the 2011 Guidelines) can continue with permission from the Principal Chief Conservator of Forests (PCCF). Those involved must secure permission within 6 months, ensuring the activity was legitimate and ongoing before the order. No new permanent structures are allowed within the ESZ.

The Union of India sought clarification/modification of paragraphs 56.1 and 56.5 from the 3rd June 2022 order. Specifically:

For Para 56.1: The Union requested that already notified Eco-Sensitive Zones (ESZs) — whether final or draft — or those pending proposals with the Ministry of Environment, Forests, and Climate Change (MoEF&CC) be exempted from the 1 km ESZ requirement.

Inter-State and Common Boundaries: The modification also sought exemption for National Parks and Wildlife Sanctuaries located along inter-state boundaries or shared borders between two regions.

For Para 56.5: A complete modification/clarification of this paragraph was requested, which deals with permissions for ongoing activities within the ESZ.

JUDGMENT:

(a) No Fixed ESZ Size: The court clarified that paragraph 56.1 of the 3rd June 2022 order does not mandate a uniform 1 km ESZ. The Court further held that -

"The area to be declared as ESZ cannot be uniform and will be Protected Area specific. In some cases, it may be 10 kilometres on one side and 500 meters on the other side. In certain cases, it may not be possible to have a uniform minimum area by virtue of inter-state boundaries or a sea or a river beyond one side of the Protected Area."

The court also stated that directions will not apply to Eco-Sensitive Zones (ESZs) where:

(i) Draft or final notifications have already been issued by the Ministry of Environment, Forest, and Climate Change (MoEF&CC).

- Proposals for ESZs have been submitted and are under consideration by the Ministry.

This ensures that ongoing and pre-approved ESZ processes remain unaffected by the previous order.

(b) Strict Ban on Mining: The court modified paragraph 56.4 of the 3rd June 2022 order, enforcing a strict ban on mining:

(i) Within National Parks and Wildlife Sanctuaries

(ii) Within 1 km of their boundaries

(c) Revised Guidelines for Activities (Para 56.5 Modification): The court replaced paragraph 56.5 with clearer directions:

(i) **Strict Compliance with 2011 Guidelines:** The Ministry of Environment, Forest and Climate Change (MoEF&CC) and State/Union Territory Governments must strictly follow the 9th February 2011 Guidelines. This includes adherence to prohibited, regulated, and permissible activities within ESZs.

(ii) **Environmental and Forest Clearances:** For any project activities within ESZs or areas outside Protected Areas, the Union of India and State/Union Territory Governments must strictly follow the 17th May 2022 Office Memorandum from MoEF&CC before granting any clearances.

(d) Procedure for ESZ Notification: Rule 5 of the 1986 Environment Protection Rules must be strictly followed to notify ESZs — including detailed assessments and approvals by an Expert Committee comprising members from 13 specialized organizations.

(e) Draft Notification and Public Awareness: As per Rule 5(3) of the 1986 Rules, draft notifications must:

(i) Be published in the Official Gazette and other public platforms.

(ii) Allow 60 days for public objections or suggestions.

The Central Government was directed to ensure wide publicity so people are well-informed and can participate.



PRINCIPLES OF LAW:

The judgment balances environmental protection with practical governance by ensuring ESZ boundaries are flexible and site-specific while enforcing strict safeguards on activities that could harm wildlife and protected areas. It reinforces public participation and scientific scrutiny in environmental decision-making.

CASE: TATA HOUSING DEVELOPMENT COMPANY LTD. VS. AALOK JAGGA AND ORS.

CITATION: 2019 INSC 1203

BENCH: HMJ ARUN MISHRA, HMJ M.R. SHAH, & HMJ B.R. GAVAI

FACTS:

The Appellant, Tata Housing Development Company Ltd., proposed a development project in the revenue estate of a village and sought environmental clearance from the State Environment Impact Assessment Authority (SEIAA). The Ministry of Environment and Forests (MoEF) recommended granting clearance, and the Nagar Panchayat Naya Gaon approved the construction. However, following a writ petition, the High Court ruled that the project site was part of the Sukhna Lake area, leading to the cancellation of the permission granted by the Nagar Panchayat.

JUDGMENT:

The Court ruled against the Tata Housing project "CAMELOT" near Sukhna Lake. It held that the project site falls within the catchment area of the lake, supported by the Survey of India Map (2004). It invalidated the environmental clearance and construction permission granted by SEIAA, Punjab, and Nagar Panchayat, Naya Gaon, citing violation of environmental laws and the Eco-Sensitive Zone regulations. It emphasized on the Doctrine of Public Trust, asserting that the State must protect ecological zones, prioritizing environmental preservation over private or commercial interests especially when public authorities act for political gain, as evidenced by MLA involvement in the project.



It was observed by the Hon'ble Court that -

"The most potent threat faced by the earth and human civilization as a whole which is confronted with, today, is environmental degradation and wildlife degeneration. The need to protect flora and fauna which constitutes a major portion of our ecosystem is immediate."

PRINCIPLES OF LAW:

- (a) Public Trust Doctrine:** The Court emphasized the Doctrine of Public Trust, stating that the State of Punjab failed in its duty to protect natural resources, especially when the project appeared to benefit Punjab MLAs, raising concerns of misuse of power. The environmental clearance and permissions granted by the local authorities were set aside, highlighting the Court's role in ensuring environmental safeguards when the state fails to act.
 - (b) Constitutional Provisions:** The judgment upheld Articles 48A and 51A(g) of the Constitution, reinforcing the State's and citizens' duty to protect the environment and wildlife. It reiterated that development cannot come at the cost of environmental degradation, especially near eco-sensitive zones.
-

CASE: DHRUVA ENTERPRISES VS. C. SRINIVASULU AND ORS.

CITATION: 2021 INSC 482

BENCH: HMJ L. NAGESWARA RAO, HMJ B.R. GAVAI & HMJ B.V. NAGARATHNA

FACTS:

The Appellant applied for a Mining Lease on 28th July 2016 for Quartz and Feldspar mining over 29 hectares in Sy. No. 330/1, Kalwakole Village, Peddakothapally Mandal, Mahabubnagar District, Telangana. The total land in the said survey number was approximately 44 hectares. The application mentioned that the nearest human habitation, Yenambetla, was about 1.6 km away, and the nearest water body, Singotham Lake, was at a distance of 0.25 km.

After processing at various administrative levels, the Director of Mines and Geology, Hyderabad, approved a Quarry Lease for 24 hectares on 7th September 2016. The Appellant was required to submit an approved Mining Plan, obtain Consent from the Telangana State Pollution Control Board, and secure Environmental Clearance (EC) as per the EIA Notification 2006 and its amendments. SEIAA, Telangana, exempted the project from public hearing requirements, as the lease area was under 25 hectares, and granted EC on 11th April 2017.

Challenging this, the Respondents (No. 1 to 3) filed an appeal before the National Green Tribunal (NGT), arguing that the lease area was reduced to evade public hearing requirements and that the proximity of Singotham Lake made the EC legally untenable. The Tribunal stayed the EC on 24th April 2018. The Appellant then approached the Supreme Court, which directed NGT to hear the matter. On 22nd November 2019, the Tribunal ruled in favor of the Respondents, leading the Appellant to challenge the decision before the Supreme Court.

JUDGMENT:

The Court ruled in favor of the appellant, setting aside the National Green Tribunal's (NGT) order that suspended mining operations and stated that -

"Insofar as the finding of the learned Tribunal that the area was reduced to 24 hectares from 29 hectares only in order to avoid the rigours of public hearing, is totally erroneous. The Appellant had no role to play in the same. It is the authorities who recommended approval in respect of only 24 hectares. Insofar as the mandatory distance from the water body is concerned, the authorities upon survey had found that the mandatory distance of 0.25 km is maintained."

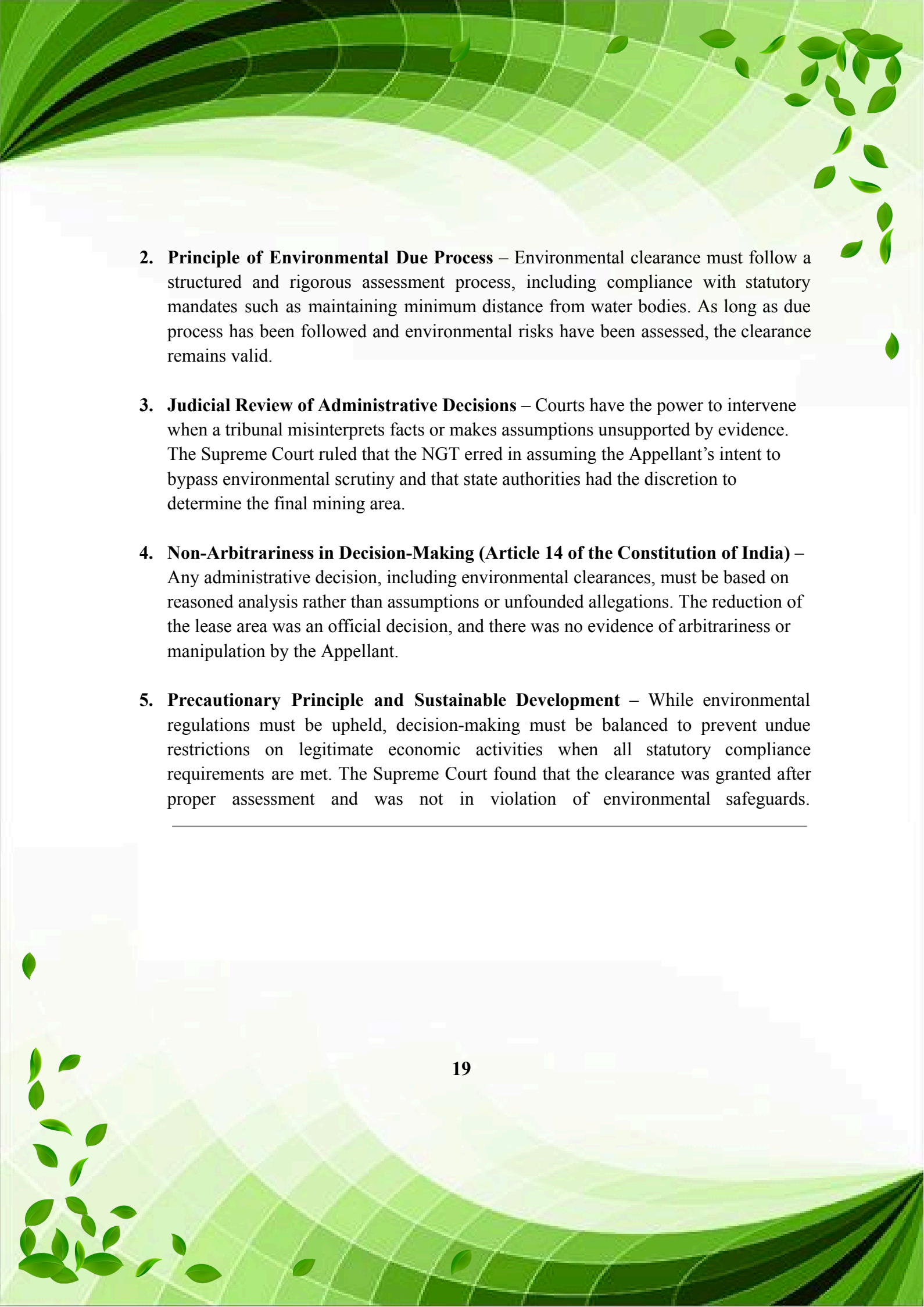
Additionally, the Court confirmed that the mandatory distance of 0.25 km from the nearby Singotham Lake was maintained after due inspection and survey by relevant authorities. Therefore, the Court held that the NGT's findings were erroneous and restored the environmental clearance and mining permissions granted to the appellant.

The judgment underscores that environmental clearance processes must be followed diligently, but it also protects project developers from unjust penalties when procedural decisions are made by authorities, not the developers themselves.

PRINCIPLES OF LAW:

The principles of law underlying this case are based on key doctrines of environmental law, administrative law, and judicial review:

1. **Substantive Compliance Over Technical Avoidance** – Regulatory compliance cannot be presumed to be evaded unless there is clear evidence of mala fide intent. In this case, the reduction of the mining area was a decision made by the authorities, not the Appellant, making the conclusion of evasion of public hearing requirements erroneous.

- 
2. **Principle of Environmental Due Process** – Environmental clearance must follow a structured and rigorous assessment process, including compliance with statutory mandates such as maintaining minimum distance from water bodies. As long as due process has been followed and environmental risks have been assessed, the clearance remains valid.
 3. **Judicial Review of Administrative Decisions** – Courts have the power to intervene when a tribunal misinterprets facts or makes assumptions unsupported by evidence. The Supreme Court ruled that the NGT erred in assuming the Appellant's intent to bypass environmental scrutiny and that state authorities had the discretion to determine the final mining area.
 4. **Non-Arbitrariness in Decision-Making (Article 14 of the Constitution of India)** – Any administrative decision, including environmental clearances, must be based on reasoned analysis rather than assumptions or unfounded allegations. The reduction of the lease area was an official decision, and there was no evidence of arbitrariness or manipulation by the Appellant.
 5. **Precautionary Principle and Sustainable Development** – While environmental regulations must be upheld, decision-making must be balanced to prevent undue restrictions on legitimate economic activities when all statutory compliance requirements are met. The Supreme Court found that the clearance was granted after proper assessment and was not in violation of environmental safeguards.
-

CASE: T.N. GODAVARMAN THIRUMULPAD VS. UNION OF INDIA (UOI) AND ORS.

CITATION: 2024 INSC 78

BENCH: HMJ B.R. GAVAI, HMJ PAMIDIGHANTAM SRI NARASIMHA, & HMJ PRASHANT KUMAR MISHRA

FACTS:

The Central Empowered Committee (CEC) was initially directed to be constituted by the Supreme Court's order dated 09.05.2002. For nearly two decades, it functioned as an ad hoc body. The current composition included members over 75 years of age, with some residing outside India, prompting the Court to reassess the CEC's structure and effectiveness.

Subsequently, the Ministry of Environment, Forest, and Climate Change issued a Notification dated 05.09.2023, under Section 3(3) of the Environment (Protection) Act, 1986, formally establishing the CEC as a permanent body. Its mandate includes monitoring and ensuring compliance with Supreme Court orders related to environment, forests, wildlife, and associated issues. Additionally, the CEC is tasked with advising both State and Central Governments on measures for better implementation of environmental laws and Court directives.

The Supreme Court, through its order dated 18.08.2023, approved this Notification, affirming the CEC's permanent status while clarifying that its functioning remains subject to ongoing oversight and directions from the Court.

JUDGMENT:

The core findings of the judgment are listed below:

1. **Permanent Status:** The Ministry of Environment, Forest, and Climate Change issued a Notification (05.09.2023) under Section 3(3) of the Environment (Protection) Act, 1986, officially making CEC a permanent body.
2. **Judicial Supervision:** The Court retained authority over the CEC, ensuring that any decisions by the Central or State Governments contradicting CEC recommendations remain subject to judicial review.

The Court underscored that -

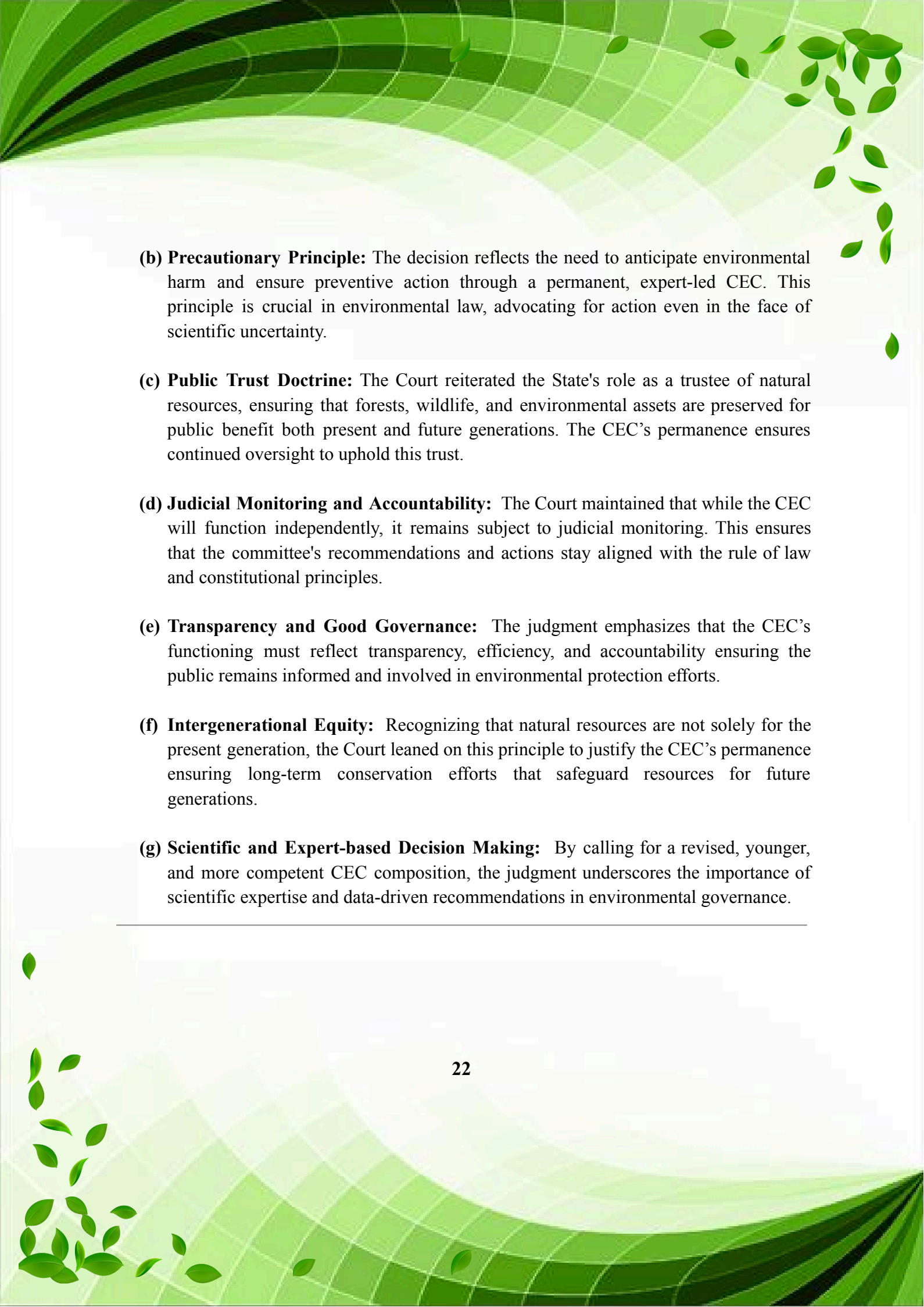
"The role of the constitutional courts is to ensure that such environmental bodies function vibrantly, and are assisted by robust infrastructure and human resources. The constitutional courts will monitor the functioning of these institutions so that the environment and ecology is not only protected but also enriched."

This judgment marks a shift from ad hoc environmental governance to an institutionalized, accountable framework, reinforcing environmental rule of law and ensuring long-term, transparent ecological protection.

PRINCIPLES OF LAW:

The judgment is rooted in several key principles that shape the Court's reasoning and decision to institutionalize the Central Empowered Committee (CEC) as a permanent body. These principles include:

- (a) **Sustainable Development:** The Court upheld the balance between environmental protection and development, ensuring that environmental governance is not temporary or reactive but a continuous, proactive effort.

- 
- (b) **Precautionary Principle:** The decision reflects the need to anticipate environmental harm and ensure preventive action through a permanent, expert-led CEC. This principle is crucial in environmental law, advocating for action even in the face of scientific uncertainty.
- (c) **Public Trust Doctrine:** The Court reiterated the State's role as a trustee of natural resources, ensuring that forests, wildlife, and environmental assets are preserved for public benefit both present and future generations. The CEC's permanence ensures continued oversight to uphold this trust.
- (d) **Judicial Monitoring and Accountability:** The Court maintained that while the CEC will function independently, it remains subject to judicial monitoring. This ensures that the committee's recommendations and actions stay aligned with the rule of law and constitutional principles.
- (e) **Transparency and Good Governance:** The judgment emphasizes that the CEC's functioning must reflect transparency, efficiency, and accountability ensuring the public remains informed and involved in environmental protection efforts.
- (f) **Intergenerational Equity:** Recognizing that natural resources are not solely for the present generation, the Court leaned on this principle to justify the CEC's permanence ensuring long-term conservation efforts that safeguard resources for future generations.
- (g) **Scientific and Expert-based Decision Making:** By calling for a revised, younger, and more competent CEC composition, the judgment underscores the importance of scientific expertise and data-driven recommendations in environmental governance.
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CASE: THE COURT ON ITS OWN MOTION VS. NATIONAL HIGHWAY AUTHORITY OF INDIA, NAGPUR & OTHERS

CITATION: CAO.1671.15.PIL.88.13.odt

BENCH: HMJ B.R. GAVAI & HMJ PRASANNA B. VARALE

FACTS:

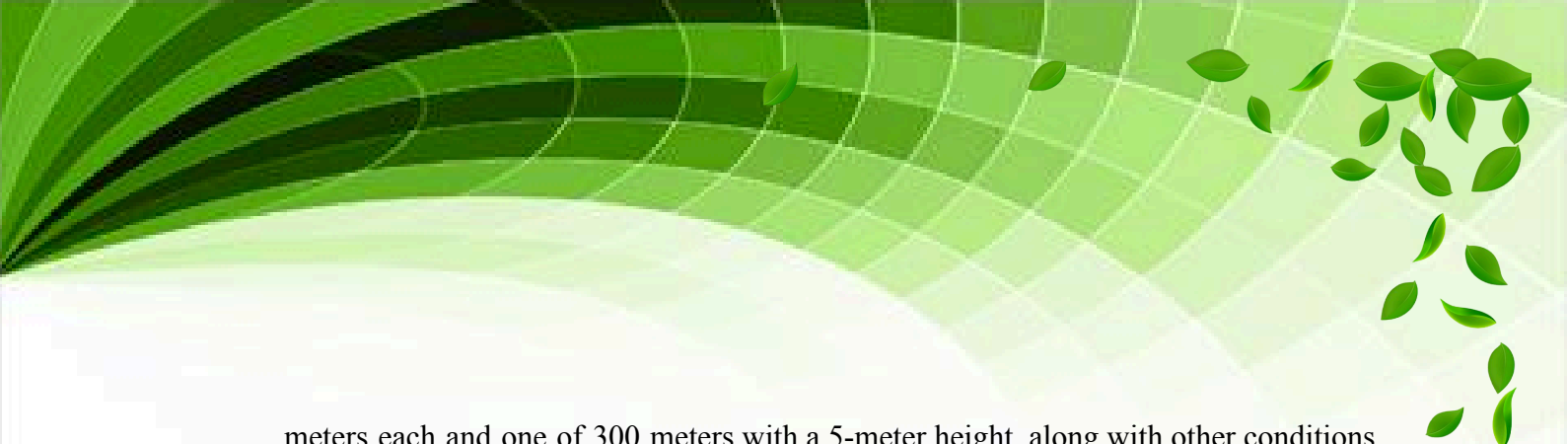
The case revolves around the Bombay High Court (Nagpur Bench) taking suo motu cognizance of a newspaper report highlighting the dangerous condition of a stretch on National Highway 7 ("40 Killer Metre Stretch on NH7"). The court-initiated proceedings against the National Highway Authority of India (NHAI) and others to address the road's condition, which had led to accidents and casualties.

JUDGMENT:

The judgment reflects the court's balancing act between development and environmental protection. It acknowledges the citizens' right to safe roads under Article 21 (Right to Life) and emphasizes that the existing highway, described as a "death-trap," needs urgent improvement through four-laning.

The court noted that earlier, the project faced delays due to pending permissions particularly from the National Wildlife Board of India and the State Government under Section 2 of the Forest Conservation Act. However, it observed that these hurdles were now cleared:

- (a) The National Wildlife Board of India granted its approval.
- (b) The State Government gave final permission on September 9, 2015, under the Forest Conservation Act.
- (c) NHAI (National Highways Authority of India), despite initial reluctance, agreed to mitigating measures including the construction of two wildlife crossings of 750



meters each and one of 300 meters with a 5-meter height, along with other conditions set by the Ministry of Environment and Forests (MoEF) and Chief Conservator of Forests (CCF).

The court credited its judicial intervention and the involvement of the Chief Minister and Union Ministers for helping resolve the matter amicably. It noted that the project could have faced indefinite delays due to bureaucracy without this push.

The court, while permitting the highway expansion and tree felling, emphasized that compensatory measures are mandatory. Additionally, the court highlighted the importance of wildlife protection, especially since the highway crosses a critical corridor between Pench Tiger Reserve and Kanha-Tadoba Reserve. It directed Maharashtra's Chief Minister and Union Ministers of Surface Transport and Environment to hold another meeting with experts and stakeholders to ensure effective mitigation measures including wildlife crossings allowing animals like tigers and bison to move freely across the highway. The court promised to hear all stakeholders before finalizing orders to safeguard wildlife.

The Court outlined that -

"No doubt that a concern for wildlife is necessary as envisaged in Fundamental Duties but at the same time the question is as to whether the roads should be permitted to remain in the same condition, wherein human beings lose their lives or suffer grievous injuries and ailment on account of worst condition of roads."

In essence, the court ruled in favor of continuing the project while ensuring wildlife protection measures were integrated balancing infrastructure development with environmental responsibility.

PRINCIPLES OF LAW:

The core legal reasoning of this case revolves around balancing environmental conservation with infrastructural development. The court acknowledged the necessity of minimizing environmental damage while ensuring that essential infrastructure projects, like the four-laning of National Highway No. 7, are not unduly hindered. It emphasized that:


- (a) Development projects are crucial for national economic progress, particularly highways which serve as lifelines.
- (b) The Ministry of Environment and Forests, equipped with expertise, is the appropriate authority to decide on environmental clearances courts should not intervene unless the ministry's decisions are proven to be irrational or unlawful.
- (c) Mitigation measures, like compensatory afforestation and wildlife underpasses, must be practical and grounded in data, avoiding disproportionate, impractical solutions that could escalate costs without evidence of actual benefit.

The court struck a balance, permitting the project while ensuring accountability for ecological compensation, reinforcing that development must coexist with environmental safeguards.

IMPACT OF THIS JUDGMENT:

The judgment reflects the court's careful balancing act between development and environmental protection, profoundly impacting people's lives. By recognizing citizens' right to safe roads under Article 21 of the Constitution, which guarantees the Right to Life, the court acknowledged that poor infrastructure posed an immediate threat to public safety. Declaring urgent four-laning a life-saving necessity, the ruling set a precedent for future cases.

It paved the way for faster, safer travel, significantly reducing road accidents on the narrow, overcrowded highway, and brought relief to commuters relying on the route for work,



emergencies, and economic activities. This judgment has since been cited in several cases, reinforcing the need for balanced development.

In essence, it not only upgraded infrastructure but also enhanced quality of life, boosted regional growth, and preserved ecosystems a landmark example of sustainable progress, where human welfare and nature thrive together.

CASE: THE STATE OF UTTAR PRADESH VS UDAY EDUCATION AND WELFARE

CITATION: 2022 INSC 1131

BENCH: HMJ B.R. GAVAI & HMJ B.V. NAGARATHNA

FACTS:

In this present case, the bunch of appeals which were allowed by the Hon'ble Supreme Court of India challenged the order dated 18th February 2020, passed by the learned National Green Tribunal, Principal Bench, New Delhi (hereinafter referred to as "the learned NGT") in Original Application Nos.313, 335 and 396 of 2019, thereby quashing and setting aside the notice dated 1st March 2019 issued by the State of Uttar Pradesh for establishing new wood based industries (hereinafter referred to as "WBIs") and also setting aside all the provisional licenses given in pursuance thereof.

The appeals also challenged the orders dated 18th March 2020, 2nd December 2020, and 21st December 2020 vide which the review applications filed by the State of Uttar Pradesh and the provisional license holders have been rejected.

E-lottery was held on 12th December 2018 for the grant of licenses to various WBIs for the establishment of WBIs in 8 categories. Between 12th December 2018 and 31st December 2018, online letters of offer were issued to 1348 successful applicants. Subsequently, in the months of February and March 2019, provisional licenses were issued to 1215 successful applicants in the 8 categories to set up their WBIs. Subsequent thereto, on 1st March 2019, a notice was issued by the Government of Uttar Pradesh communicating the grant of provisional licenses to the newly selected WBIs.

Being aggrieved thereby, Original Application No. 313 of 2019 came to be filed by Uday Education and Welfare Trust before the learned NGT in March 2019. Vide order dated 1st October 2019, the learned NGT directed the status quo to be maintained.

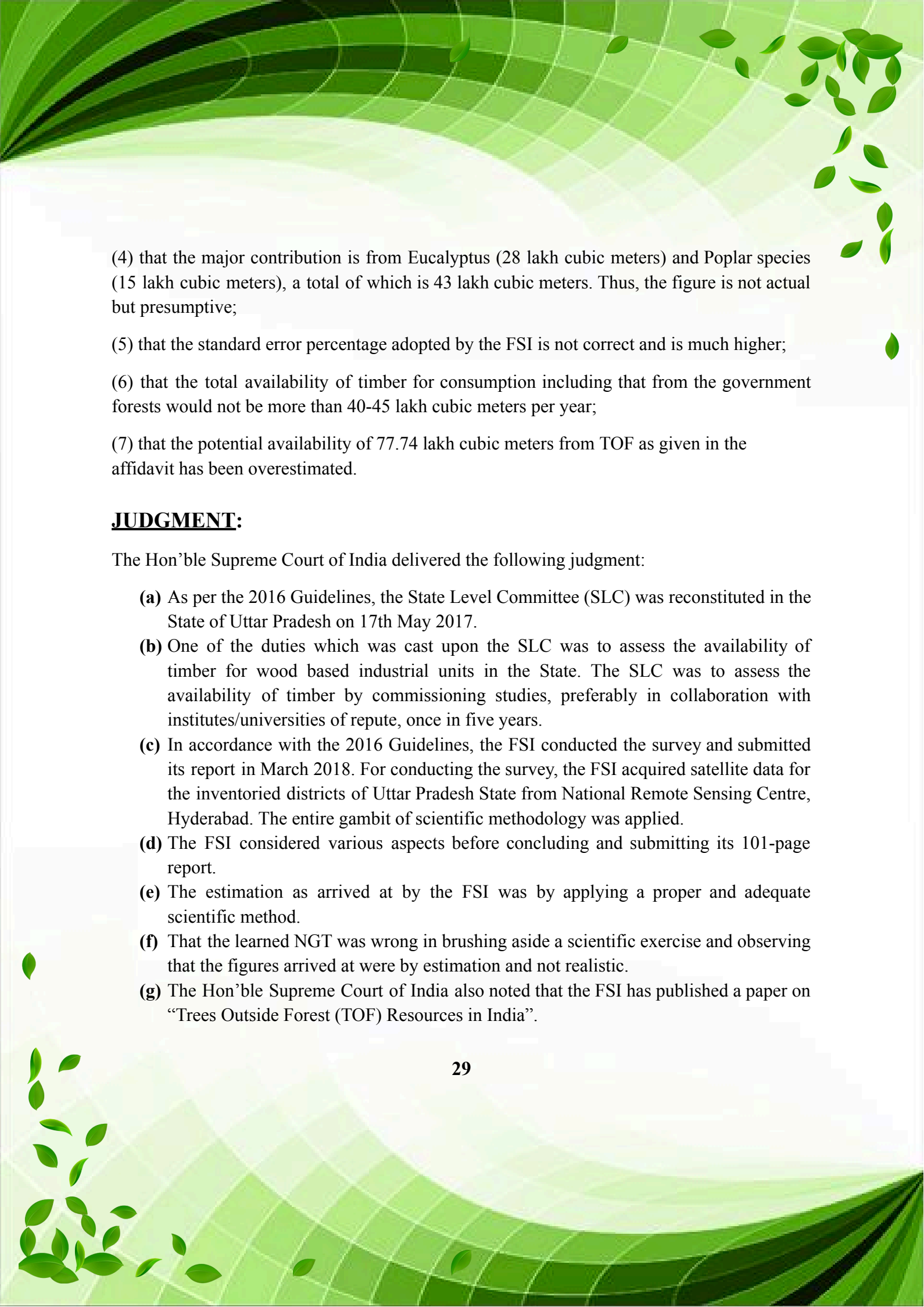
Subsequently, vide the impugned order dated 18th February 2020, the learned NGT allowed the said Original Applications and quashed and set aside the notice dated 1st March 2019 issued by the State Government for establishing new WBIs and all the provisional licenses given.

Vide orders dated 18th March 2020, 2nd December 2020, and 21st December 2020, the learned NGT rejected the Review Applications. The appellants, therefore, approached the Hon'ble Supreme Court being aggrieved by the orders passed by the learned NGT in the Original Applications as well as in the Review Petitions.

DECISION OF THE NATIONAL GREEN TRIBUNAL:

The learned NGT while passing the impugned order set aside the notice of the State of Uttar Pradesh on the following grounds:


- (1) that the WBIs can be allowed to operate only after ensuring timber and raw material availability to sustain such industries and this has to be determined in actual terms and not on mere assumptions;
- (2) that it is difficult to accept the stand of the State of Uttar Pradesh that there was availability of timber/raw material to sustain the new WBIs;
- (3) that it is the stand of the State of Uttar Pradesh that the total potential availability of timber per year in the State of Uttar Pradesh is 80.30 lakh cubic meters, which includes 2.56 lakh cubic meters from the Government forests and 77.74 lakh cubic meters from TOF. Out of 80.30 lakh cubic meters, 71.8 lakh cubic meters were stated to be available from 22 species and 8.50 lakh cubic meters from the other species. Out of 22 species, there are 10 species that are prohibited from felling and as such, 20.75 lakh cubic meters from these 10 species are liable to be excluded;

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- (4) that the major contribution is from Eucalyptus (28 lakh cubic meters) and Poplar species (15 lakh cubic meters), a total of which is 43 lakh cubic meters. Thus, the figure is not actual but presumptive;
- (5) that the standard error percentage adopted by the FSI is not correct and is much higher;
- (6) that the total availability of timber for consumption including that from the government forests would not be more than 40-45 lakh cubic meters per year;
- (7) that the potential availability of 77.74 lakh cubic meters from TOF as given in the affidavit has been overestimated.

JUDGMENT:

The Hon'ble Supreme Court of India delivered the following judgment:

- (a) As per the 2016 Guidelines, the State Level Committee (SLC) was reconstituted in the State of Uttar Pradesh on 17th May 2017.
- (b) One of the duties which was cast upon the SLC was to assess the availability of timber for wood based industrial units in the State. The SLC was to assess the availability of timber by commissioning studies, preferably in collaboration with institutes/universities of repute, once in five years.
- (c) In accordance with the 2016 Guidelines, the FSI conducted the survey and submitted its report in March 2018. For conducting the survey, the FSI acquired satellite data for the inventoried districts of Uttar Pradesh State from National Remote Sensing Centre, Hyderabad. The entire gambit of scientific methodology was applied.
- (d) The FSI considered various aspects before concluding and submitting its 101-page report.
- (e) The estimation as arrived at by the FSI was by applying a proper and adequate scientific method.
- (f) That the learned NGT was wrong in brushing aside a scientific exercise and observing that the figures arrived at were by estimation and not realistic.
- (g) The Hon'ble Supreme Court of India also noted that the FSI has published a paper on "Trees Outside Forest (TOF) Resources in India".

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- (h) The FSI has emphasized the need to promote TOF. It has been observed that TOF are significant natural, renewable resources that make vital contributions to the agro-ecology, socio-economy of the rural area, and environmental amelioration in the urban area and feed WBIs with raw material and thus generate significant employment.
- (i) The Supreme Court of India also declared that the learned NGT had grossly erred in deducting the availability of timber from the prohibited trees. By now, it is more than settled that **the Courts should not enter an area that is the domain of the experts.** FSI, which is undisputedly an expert body, had arrived at its estimation based on the scientific method. The learned NGT could not have sat in appeal over the opinion of the expert.
- (j) The Hon'ble Supreme Court also held that It cannot be disputed that Section 20 of the NGT Act itself directs the learned Tribunal to apply the principles of sustainable development, the precautionary principle, and the polluter pays principle. Undisputedly, **it is the duty of the State as well as its citizens to safeguard the forest of the country. The resources of the present are to be preserved for the future generations.** However, one principle cannot be applied in isolation from the other.
- (k) It is necessary that, **while protecting the environment, the need for sustainable development has also to be taken into consideration and a proper balance between the two must be struck.**
- (l) The Hon'ble Supreme Court of India declared that though they are allowing the appeals, setting aside the orders of the learned NGT, and upholding the action of the State Government in granting licenses, they would like to remind the State and its authorities that -

“The conservation of forest plays a vital role in maintaining the ecology. It acts as processors of the water cycle and soil and also as providers of livelihoods. As such, preservation and sustainable management of forests deserve to be given due importance in formulation of policies by the State.”

PRINCIPLES OF LAW:

- (a) Sustainable Development Principle:** The Court emphasized that environmental protection and economic development must be balanced. It acknowledged that wood-based industries (WBIs) can function sustainably if regulated properly. The principle ensures that development does not compromise the ability of future generations to meet their needs.
- (b) Public Trust Doctrine:** The judgment reaffirmed that natural resources, like forests, are held in trust by the state for the benefit of the public. However, it recognized that controlled, sustainable use of these resources is permissible if it aligns with environmental regulations.
- (c) Precautionary Principle:** The National Green Tribunal (NGT) had initially quashed the licenses on environmental concerns, citing the precautionary principle, which states that in cases of environmental uncertainty, preventive action should be taken. However, the Supreme Court held that scientific data and expert assessments should be the basis for environmental decisions, not just apprehensions of harm.
- (d) Doctrine of Proportionality:** The Court ruled that the NGT's decision to cancel all licenses was disproportionate. Instead of imposing a blanket ban, it directed that WBIs must follow strict environmental safeguards, such as afforestation obligations. This doctrine ensures that governmental actions do not exceed what is necessary to achieve their intended purpose.

CASE: THE STATE OF HIMACHAL PRADESH VS YOGENDRA MOHAN SENGUPTA

CITATION: 2024 INSC 30

BENCH: HMJ B.R. GAVAI & HMJ ARAVIND KUMAR

FACTS:

The appeals to the Hon'ble Supreme Court in this case challenged the judgment and order dated 16th November 2017 (hereinafter referred to as the "first order of NGT") passed by the National Green Tribunal, Principal Bench, New Delhi (hereinafter referred to as the "NGT") in Original Application (OA) No. 121 of 2014, whereby various directions were issued by the NGT, and the order dated 16th July 2018 passed by the NGT in Review Application No. 8 of 2018, whereby the review sought of the first order of NGT by the present appellants was dismissed.

The draft development plan for 22,450 hectares of Shimla Planning Area (hereinafter referred to as "SPA") which was finalized vide a notification dated 16th April 2022, came to be stayed by the NGT, vide an interim order dated 12th May 2022. By the said order, it restrained the appellants herein from taking any further steps in pursuance of the draft development plan of the SPA.

The State of Himachal Pradesh and its instrumentalities-appellants herein preferred Civil Writ Petition (CWP) No. 5960 of 2022 titled State of Himachal Pradesh and another v. Yogendra Mohan Sengupta and Others before the High Court of Himachal Pradesh challenging the said interim order.

Despite the pendency of the said writ petition, the NGT, vide its final order dated 14th October 2022 (hereinafter referred to as the "second order of NGT") in OA No. 297 of 2022, held that the draft development plan, being in conflict with the first order of NGT, was illegal

and cannot be given effect to. Thereafter by an amendment in the said CWP No. 5960 of 2022, the second order of NGT also came to be challenged before the High Court of Himachal Pradesh. On 14th November 2022, the Hon'ble Supreme Court of India passed an order in Civil Appeal Nos. 5348-5349 of 2019 transferring the said CWP No. 5960 of 2022 from the High Court of Himachal Pradesh to itself.

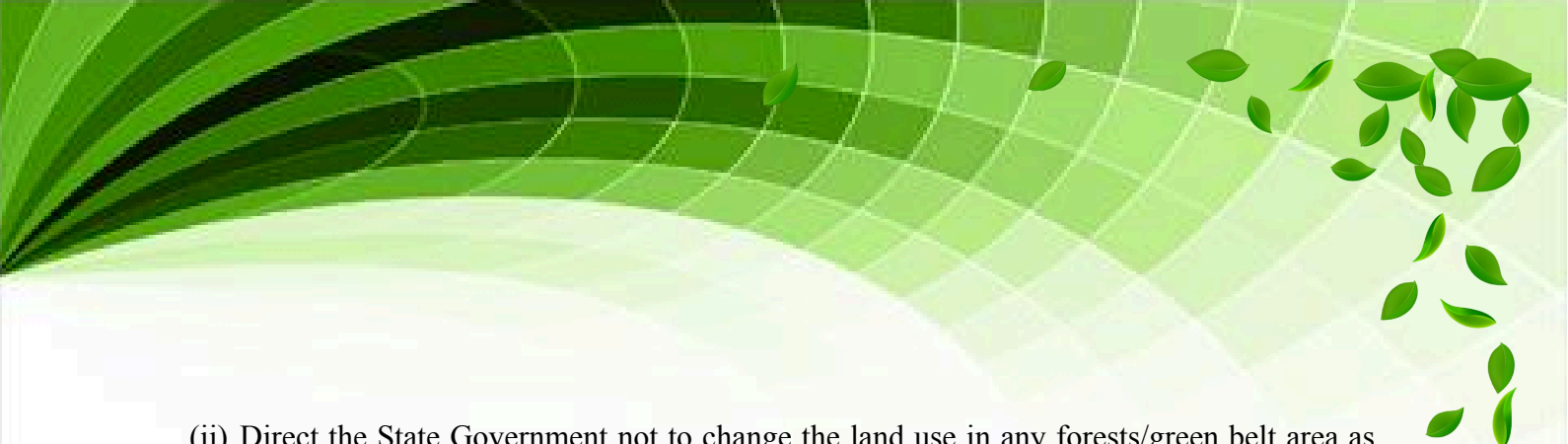
DECISION OF THE NATIONAL GREEN TRIBUNAL:

The Himachal Pradesh Town & Country Planning Act, 1977 (hereinafter referred to as "TCP Act") was enacted by the State of Himachal Pradesh in the year 1977. Vide Government Notification dated 30th November 1977, the SPA came to be constituted. The State of Himachal Pradesh, in the exercise of powers conferred upon it by Section 87 of the TCP Act, enacted the Himachal Pradesh Town & Country Planning Rules, 1978 (hereinafter referred to as "1978 Rules").

The interim development plan for SPA was approved by a notification dated 24th March 1979 for the period 1979-2001. Vide notification dated 11th August 2000 issued by the Department of Town & Country Planning (Government of Himachal Pradesh), further amendments were carried out to the interim development plan for the SPA notified by the aforesaid notification dated 24th March 1979. 3.3 By another notification dated 7th December 2000 issued by the Department of Town & Country Planning (Government of Himachal Pradesh), in pursuance of the notification dated 11th August 2000, a survey of "Green Belt" within existing Core & restricted areas of the SPA was carried out and areas were declared as "Green Belt".

Respondent No.1 in the appeal to the Supreme Court, Yogendera Mohan Sengupta filed an OA (No. 121 of 2014) before the NGT, wherein he made the following prayers:

- (i) "Direct the State Government and the Respondent Nos. 3 and 4 to recognize the areas mentioned in the notification dated 7.12.2000 as forest and any non-forest activity should not be allowed without prior permission



(ii) Direct the State Government not to change the land use in any forests/green belt area as stated in clause d of the notification dated 11.8.2000 to protect the ecology, environment, and future of Shimla.

The NGT, suo motu, extended the scope of the application and vide an ad-interim order dated 30th May 2014 banned all types of construction activities in the Green Belt areas of Shimla covered under the notification dated 7th December 2000.

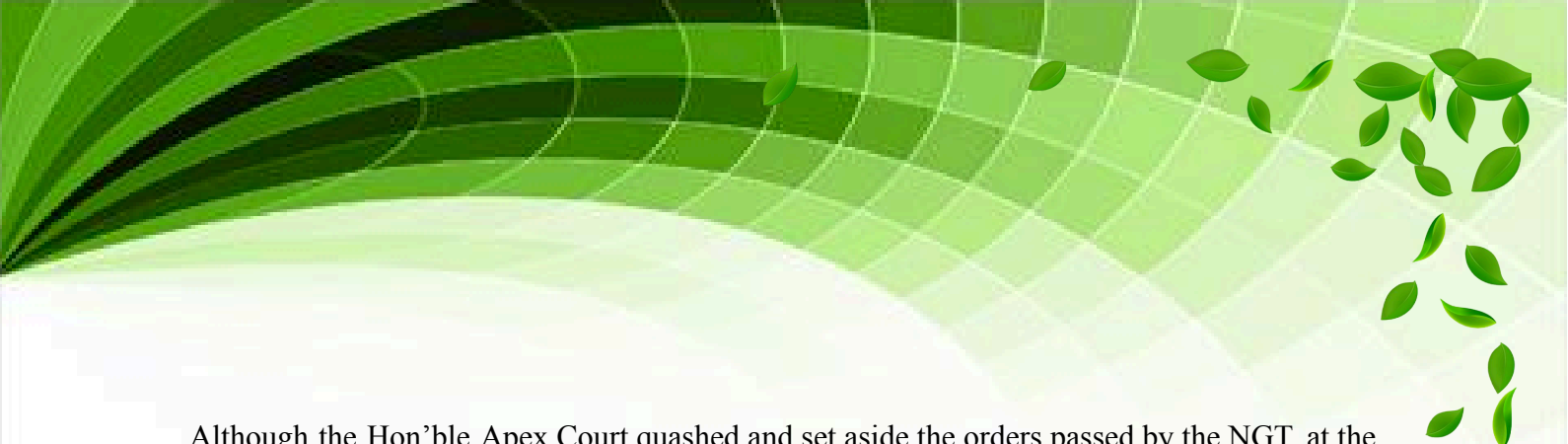
Thereafter the first order of NGT came to be passed, whereby it issued various directions to the appellants herein and further banned all kinds of construction activities in core/forest/green areas in Shimla and further restricted the construction and re-construction activities in the entire SPA. 3.11 Some of the directions issued vide first order of NGT, inter alia, prohibited new construction of any kind, i.e. residential, institutional, and commercial, in any part of the core and green/forest area and also directed that even in the other areas which fall within the SPA, construction would not be permitted beyond 2 storeys + attic floor.

JUDGMENT:

The Hon'ble Apex court while deciding the question of whether the NGT could have issued directions to the legislative body to exercise its legislative functions in a particular manner held that the court has a very limited role and in the exercise of that, it is not open to have judicial legislation. Neither the court can legislate, nor has it any competence to issue directions to the legislature to enact the law in a particular manner.

The Hon'ble Supreme Court held that the first order of NGT is liable to be set aside on the short ground that it has transgressed its limitations and attempted to encroach upon the field reserved for the delegatee to enact a piece of delegated legislation.

The court held that while preparing the development plan, due care has been taken to ensure that environmental aspects are taken care of.



Although the Hon'ble Apex Court quashed and set aside the orders passed by the NGT, at the same time the Court also stated that -

“While ensuring the developmental activities so as to meet the demands of growing population, it is also necessary that the issues with regard to environmental and ecological protection are addressed too.”

PRINCIPLES OF LAW:

- (a) Doctrine of Separation of Powers:** The Court reiterated that legislative, executive, and judicial functions must remain distinct. The NGT's interference in the Himachal Pradesh Town & Country Planning (TCP) Act, 1977, was deemed a judicial overreach into legislative and executive functions. The judgment emphasized that NGT cannot dictate or override the state's legislative processes related to urban development.
 - (b) Principle of Environmental Regulation Within Legal Limits:** While environmental concerns are crucial, the Supreme Court clarified that they cannot be used to override well-defined legislative frameworks. The NGT's orders, which halted development without considering government planning laws, were deemed excessive. This case establishes that environmental regulation must function within legally prescribed limits rather than act as a blanket obstruction to development.
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CASE: RESIDENT'S WELFARE ASSOCIATION AND ORS. VS. THE UNION TERRITORY OF CHANDIGARH AND ORS.

CITATION: 2023 INSC 22

BENCH: HMJ B.R. GAVAI & HMJ B.V. NAGARATHNA

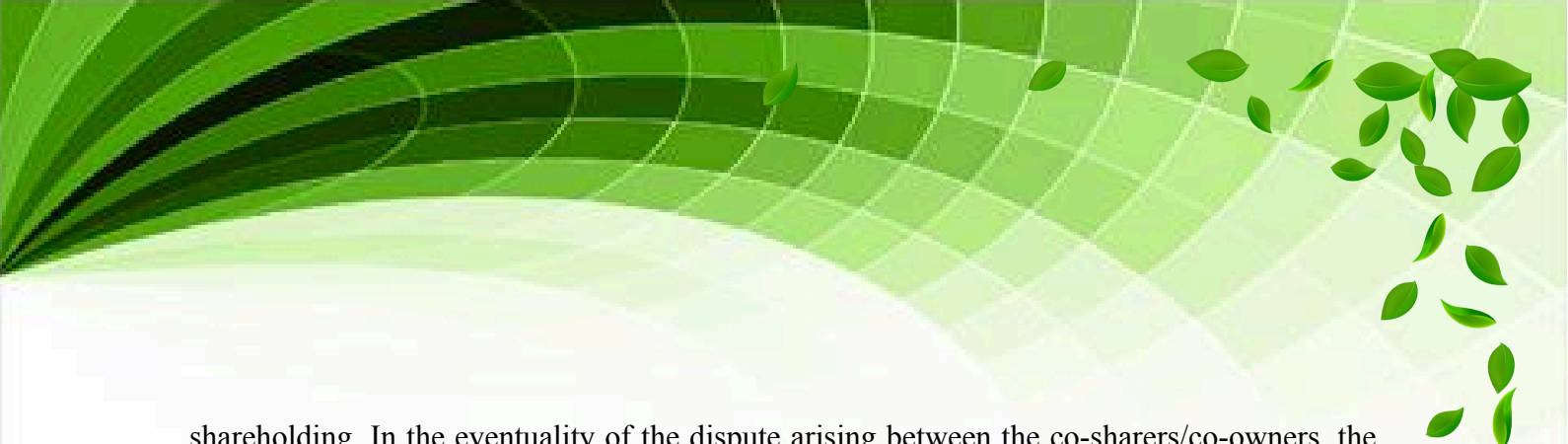
FACTS:

In present matter, vide the impugned judgment, the High Court held that there was no provision under the 1952 Act {CAPITAL OF PUNJAB (DEVELOPMENT AND REGULATION) ACT}, or the Rules framed thereunder governing transfer of shares in relation to a site or building whether owned singly or under joint ownership.

However, the High Court held that the sale of share(s) out of a building/site by the allottee(s)/transferee(s) was not barred, and rather was permissible under the general civil law. It further held that the status of such building/site, however, even after the sale of share(s) continues to be under joint ownership. It further held that for constituting a fragmentation, there has to be an element of permanent severance. Mere construction of three floors on a private plot and utilization of the same as independent units would not amount to fragmentation.

It held that unless there has been a sub-division of the building duly recognized by the Estate Officer along with proportionate share in common areas and common facilities, the same would not amount to departmentalization. The High Court, however, found that the real estate agent/developer/seller, to extract maximum premium, would tend to paint a picture to the prospective buyer that by virtue of purchase of a share in the building, he would not only be entitled to have exclusive possession but also ownership rights.

The High Court observed that the same was not permissible and the purchaser, by purchase of share(s), only became a co-owner/co-sharer in the entire building to the extent of



shareholding. In the eventuality of the dispute arising between the co-sharers/co-owners, the only remedy would be to put the property to auction and they would be only entitled to the sale proceeds as per the share(s).

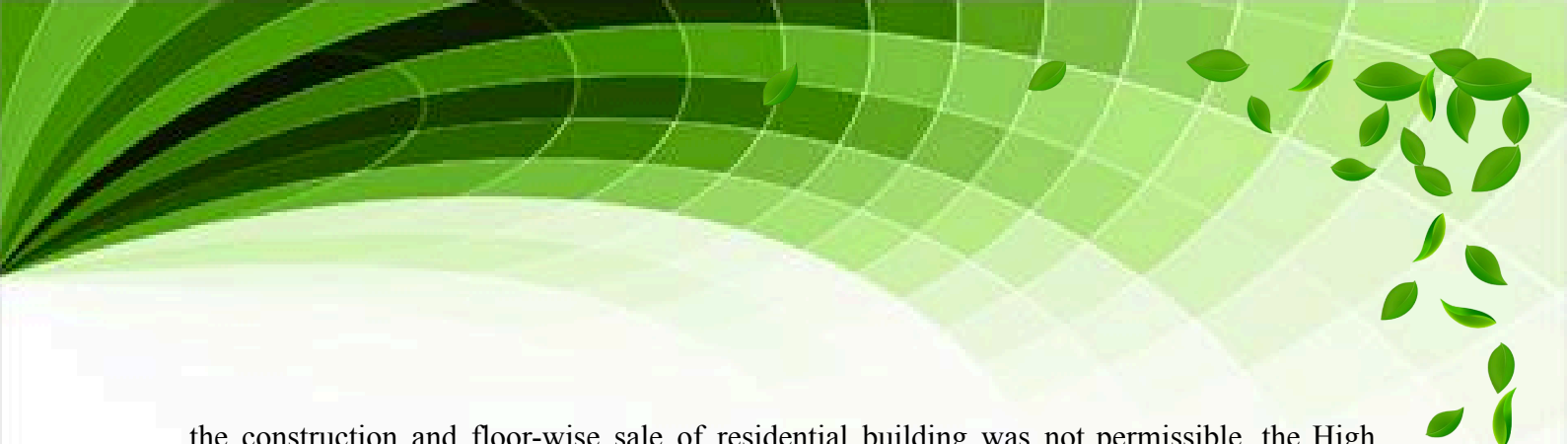
The Court therefore issued certain directions to the UT of Chandigarh in order to protect the interests of such innocent purchasers. Being aggrieved by the impugned judgment, the Appellants-original writ Petitioners approached the Hon'ble Supreme Court.

JUDGMENT:

Permitting redensification in Phase-I, which has heritage value, on account of being "Corbusian Chandigarh", without the same being approved by the Heritage Committee, is contrary to the Committee for Chandigarh Master Plan, 2031 (CMP-2031) itself. The CMP-2031, on one hand, does not permit apartmentalization, however, on the other hand, it estimates the number of dwelling units to be triple the plots available.

Though on account of repeal of the 2001 Rules in the year 2007 and on account of Rule 16 of the 2007 Rules, the High Court itself holds that apartmentalization is not permissible; it goes on to hold that though the developers/builders are in effect indulging into construction of three apartments in a building, the same does not amount to apartmentalization. This would amount to permitting something indirectly, which is not permitted directly. The authorities of the Chandigarh Administration are blindly sanctioning building plans, when from the building plans themselves, it is apparent that the same are in effect converting one dwelling unit into three apartments. Such a haphazard growth may adversely affect the heritage status of Phase-I of Chandigarh, which is sought to be inscribed as a UNESCO's heritage city.

It is further to be noted that though the Chandigarh Administration is permitting one dwelling unit to be converted into three apartments, its adverse effect on traffic has not been addressed. With the increase in number of dwelling units, a corresponding increase in the vehicles is bound to be there. However, without considering the said aspect, one dwelling unit is permitted to be converted into three apartments. High Court has failed to take into consideration all these aspects. Having noted the stand of the Chandigarh Administration that



the construction and floor-wise sale of residential building was not permissible, the High Court ought to have held that the statutory Rules framed under 1952 Act expressly prohibits fragmentation/division/bifurcation/apartmentalization of a residential unit in Phase-I of Chandigarh.

High Court has rightly issued the directions to safeguard the interest of the home buyers. However, the High Court itself having found that after the repeal of the 2001 Rules and enactment of the 2007 Rules, apartmentalization was not permissible, it ought not to have permitted a modus operandi which indirectly permits to do what was not permissible in law. In any case, taking into consideration the heritage status of Phase-I, the High Court ought to have considered the matter in correct perspective.

The Hon'ble Apex court held while allowing the appeal, inter alia-

“Before we part with the judgment, we observe that it is high time that the Legislature, the Executive and the Policy Makers at the Centre as well as at the State levels take note of the damage to the environment on account of haphazard developments and take a call to take necessary measures to ensure that the development does not damage the environment. It is necessary that a proper balance is struck between sustainable development and environmental protection. We therefore appeal to the Legislature, the Executive and the Policy Makers at the Centre as well as at the State levels to make necessary provisions for carrying out Environmental Impact Assessment studies before permitting urban development.”

PRINCIPLES OF LAW:

Principle of Sustainable Development: Balancing Development and Environment the Court underscored the need to balance developmental activities with environmental preservation. Unauthorized apartmentalization can lead to increased population density, straining existing infrastructure and green spaces, thereby impacting the city's sustainability.

CASE: BINAY KUMAR DALEI AND ORS. VS. STATE OF ODISHA AND ORS.

CITATION: 2022 INSC 254

BENCH: HMJ L. NAGESWARA RAO & HMJ B.R GAVAI

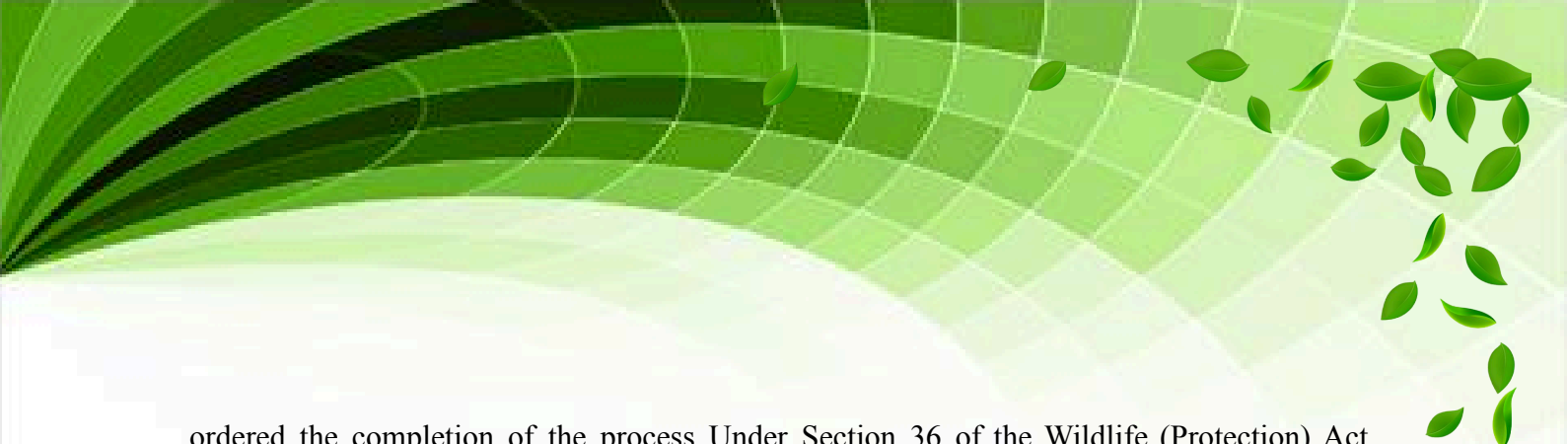
FACTS:

Respondent No. 8 in this case (Rural Organisation for Social Empowerment), filed Original Application No. 02 of 2019 before the National Green Tribunal, Principal Bench, New Delhi (hereinafter, 'the NGT') for a direction to the opposite parties therein to cancel the stone quarry leases granted pursuant to an advertisement dated 17.08.2017. Respondent No. 8 also sought for a direction that no further lease shall be granted in the Kuldiha Wildlife Sanctuary and the eco-sensitive zone lined to it, as were notified in the notification dated 09.08.2017.

During the pendency of the Original Application, the NGT called for a report from the Principal Chief Conservator of Forests, Head of Forest Force (hereinafter 'PCCF (HoFF)') after conducting an inspection of the Eco-Sensitive Zone surrounding the Kuldiha Wildlife Sanctuary.

Based on the report submitted by the PCCF (HoFF), the NGT by an order dated 16.10.2019 directed the State Government to take steps for bringing the entire corridor within the ambit of the eco-sensitive zone and prohibit ingress into the eco-sensitive zone. Pursuant to this order of the NGT, Tehsildar Khaira directed the stoppage of operations of stone quarries in the Sarisua Hills.

Aggrieved thereby, the Appellants, who were the lease holders of these stone quarries, applied impleadment which was rejected by the NGT. On 18.02.2020, the NGT disposed of the Original Application by directing that no mining activity shall be permitted within and in the vicinity of Simplipal - Hadagarh - Kuldiha - Simplipal elephant corridor. The Tribunal



ordered the completion of the process Under Section 36 of the Wildlife (Protection) Act, 1972 (hereinafter, 'the Act') for the declaration of conservation reserve in respect of the elephant corridor within three months.

The Appellants thus filed an appeal in the Hon'ble Supreme Court of India assailing the correctness of the orders passed by the NGT.

JUDGMENT:

The Hon'ble Apex Court held that the dispute can be resolved by giving a direction to the State Government to implement the Comprehensive Wildlife Management Plan and complete the process of declaration of the traditional elephant corridor as a conservation reserve as provided in Section 36A of the Act.

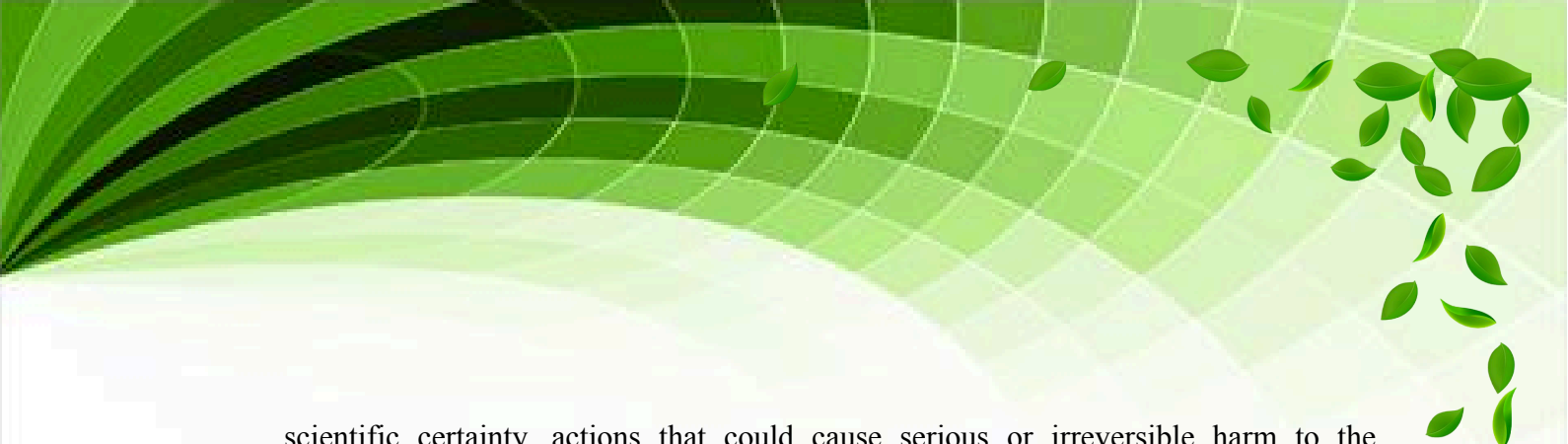
Therefore, the Hon'ble Supreme Court stated that -

“The State of Odisha is directed to implement the Comprehensive Wildlife Management Plan before permitting any mining activity in the eco-sensitive zone. The State is also directed to complete the process of declaration of the traditional elephant corridor as conservation reserve”

PRINCIPLES OF LAW:

(a) Principle of Sustainable Development: The Court emphasized that while economic development is essential, it must not come at the cost of environmental degradation. Sustainable development seeks a harmonious balance between developmental needs and environmental conservation.

(b) Precautionary Principle: Preventive Action in Environmental Management: Recognizing the potential irreversible damage to ecosystems, the Court underscored the need for precautionary measures. In situations where there is a lack of full



scientific certainty, actions that could cause serious or irreversible harm to the environment should be avoided.

(c) Public Trust Doctrine: State as Trustee of Natural Resources: The judgment reinforced the concept that the state holds natural resources in trust for the public. This doctrine imposes a duty on the government to protect and preserve resources like forests and wildlife for public use and enjoyment, ensuring that these resources are not exploited for short-term economic gains.

(d) Compliance with Statutory Regulations: Adherence to Environmental Laws and Policies: The Court highlighted the necessity for strict compliance with environmental laws and policies. Unauthorized mining activities within eco-sensitive zones were deemed illegal, and the Court mandated the enforcement of a Comprehensive Wildlife Management Plan before permitting any mining operations.

**CASE: PUNE MUNICIPAL CORPORATION VS. SUS ROAD BANER
VIKAS MANCH AND ORS.**

CITATION: 2024 INSC 682

**BENCH: HMJ B.R. GAVAI, HMJ PRASHANT KUMAR MISHRA &
HMJ K.V. VISWANATHAN**

FACTS:

Upon the municipal limits of the Appellant-Corporation being extended, a Development Plan was drawn up wherein site in question was reserved for the purpose of a Garbage Processing Plant (GPP).

While the said Plan was pending approval, permission was sought for constructing a residential building at a site which was approximately hundred metres away from the earmarked land.

Subsequent to the Development Plan being sanctioned, the Appellant-Corporation and the Respondent-Concessionaire, Respondent No. 7 entered into a Concession Agreement for setting up an Organic Waste Processing Plant at the land. The purpose of the Agreement was to set up an operational waste-processing facility where pre-segregated, non-compacted organic waste received from the Appellant-Corporation would be crushed into a slurry.

Subsequently, the Respondent-Concessionaire sought Environment Clearance from the State Level Environment Impact Assessment Authority which was granted. In the meanwhile, the Respondent No. 2, granted authorization to the Respondent-Concessionaire to set up and operate a solid waste processing/disposal plant.

Respondent No. 1- a registered Trust that had been established to protect the interests of the citizens preferred an application before the National Green Tribunal, seeking to restrain the

Respondent-Concessionaire from operating the GPP since the same had been established without following the procedure prescribed by law.

The Tribunal held that the GPP was in violation of the right to clean environment of the inhabitants and was against the statutory norms. While directing a shut-down of the plant, the Tribunal further directed that the site in question might be used for the purpose of developing a bio-diversity park, for which purpose the site had been originally designated.

JUDGMENT:

The Hon'ble Apex Court while allowing the appeal held that the finding of the Tribunal that initially the plot where GPP was constructed was reserved for Bio-diversity Park was erroneous and factually incorrect. The plot in question had been reserved for the GPP since inception and it was only the adjoining plot which was reserved for the Bio-diversity Park.

The Court held that the Tribunal had erred in allowing the application of the Respondent No. 1 and directing closure of the GPP. Apart from that, it was found that the closure of the GPP in question rather than subserving the public interest, would be detrimental to public interest. If the GPP in question was closed, the organic waste generated in the western part of city would be required to be taken all the way throughout the city to the eastern part of the city. This would undoubtedly lead to foul odour and nuisance to the public.

The Court further held that -

“However, before we part with the judgment, we find it necessary to caution the Appellant-Corporation as well as the Respondent-Concessionaire that they should take necessary steps so that the residents residing in the nearby buildings do not have to suffer on account of foul odour.”

“We further direct the Appellant-Corporation/Respondent-Concessionaire to carry out plantation with thick density so that there would be a green cover on all the sides of the GPP.”

“Insofar as the Bio-diversity Park is concerned, we direct the State Government to consider the possibility of growing Miyawaki forests so as to provide green lungs to the nearby areas.”

Lastly, the court directed the National Environmental Engineering Research Institute (NEERI) to conduct an environmental audit of the GPP every six months and in turn, the Appellant-Corporation and the Respondent-Concessionaire are directed to ensure that the suggestions made in the said audit are strictly complied with.

PRINCIPLES OF LAW:

- (a) **Public Interest Doctrine:** Balancing Environmental Concerns and Public Good: The Court emphasized that closing the GPP would be detrimental to public interest, as it would necessitate transporting organic waste across the city, leading to increased nuisance and environmental hazards. The decision underscored the need to weigh environmental regulations against the practical implications for the community.
 - (b) **Principle of Environmental Compliance:** Adherence to Environmental Standards: While allowing the continued operation of the GPP, the Court mandated strict compliance with environmental safeguards. It directed the PMC and the concessionaire to implement measures such as odor control, proper waste management, and the development of green cover around the plant to mitigate environmental impact.
 - (c) **Principle of Proportionality:** Appropriate Remedies for Violations: The Supreme Court found that the NGT's directive to close the GPP was disproportionate, given that the plant had obtained the necessary clearances and was serving a significant public function. Instead, the Court favored remedial measures to address environmental concerns without halting the plant's operations.
-

JUDGMENT BY HMJ SANDEEP MEHTA

CASE: T.N. GODAVARMAN THIRUMULPAD AND ORS. VS. UNION OF INDIA (UOI) AND ORS.

CITATION: 2024 INSC 997

BENCH: HMJ B.R. GAVAL, HMJ S.V. BHATTI & HMJ SANDEEP MEHTA

FACTS:

The Supreme Court in *T.N. Godavarman Thirumalpad v. Union of India (1996)* ruled that the Forest Conservation Act, 1980 applies to all forests, regardless of classification. Following this, Rajasthan's State Level Expert Committee (2004) identified sacred groves like Orans, Bundhs, and Dev-vans as 'deemed forests', recommending areas 5 hectares or more with 200+ trees per hectare for protection.

Following numerous interlocutory applications, including I.A. No. 1254, the matter of classifying Rajasthan's sacred groves as 'deemed forests' was referred to the Central Empowered Committee (CEC). In its 2005 report, the CEC rejected the Kapoor Committee's criteria and recommended classifying sacred groves as 'forests', excluding small, unmanageable areas. This led to the Rajasthan State Forest Policy, 2010, setting guidelines for Orans/Dev-vans. On 03.07.2018, the Supreme Court directed Rajasthan to implement the CEC recommendations swiftly and fully.


The case was filed by the applicant due to multiple lapses in Rajasthan's forest conservation efforts:

- (i) The State failed to form an expert committee to identify desert ecosystems for classification as 'deemed forests,' as recommended.
- (ii) Some Rundhs were documented as forests, but certain areas were de-notified or allotted, raising concerns about their forest status.
- (iii) The district-wise list of Orans remains incomplete, covering only 5,000 out of an estimated 25,000, leaving many ecologically sensitive areas unaccounted for.
- (iv) The Rajasthan Forest Policy, 2023, lacks clarity on local community involvement in conserving Orans, Dev-vans, and Rundhs, despite their historical role in protecting these groves.
- (v) The State's claim that 'Shree Degray Mataji' Oran in Jaisalmer is listed in revenue records is unsubstantiated and unclear, particularly regarding its classification crucial for the endangered Great Indian Bustard's habitat.

JUDGMENT:

The Court directed the State of Rajasthan to:

1. Complete the identification, survey, and demarcation of Orans, Dev-vans, and Rundhs across all districts.
2. Classify these areas as 'forests' — regardless of size — focusing on their cultural and ecological significance.
3. Implement the recommendations of the Central Empowered Committee (CEC) in full.
4. Grant protection under Section 36-C of the Wildlife Protection Act, 1972, to declare suitable Orans as 'Community Reserves' for better legal safeguarding.
5. Constitute a 5-member committee, headed by a retired Rajasthan High Court Judge, to oversee implementation.



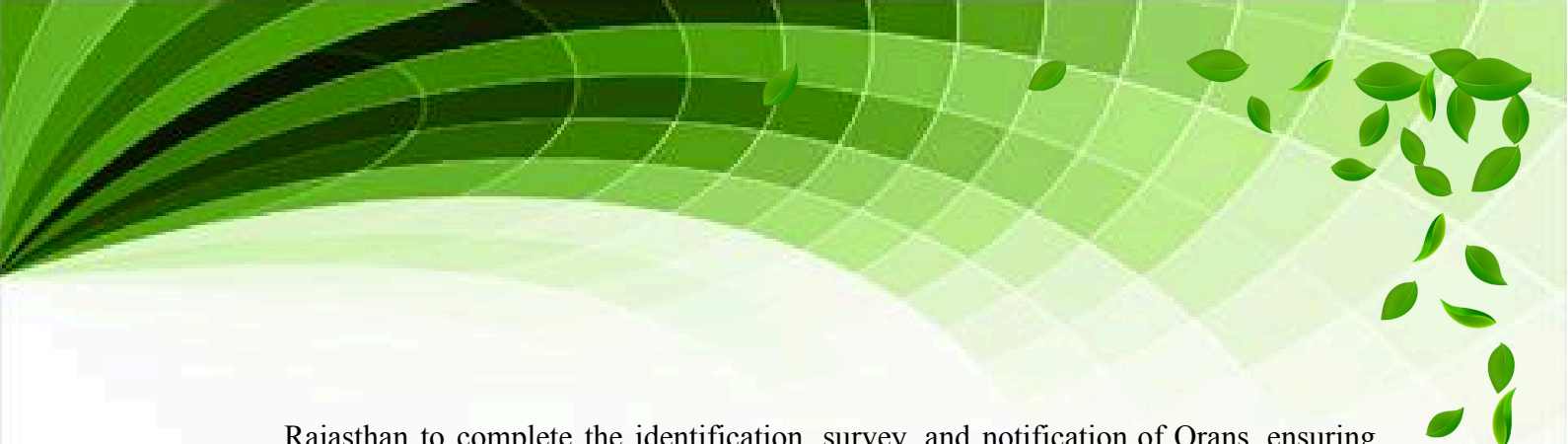
The Court emphasized on the fact that -

"The protection of Orans lands as 'forests' under the FC Act is imperative for upholding both ecological sustainability and cultural heritage. Orans are not merely tracts of land but sacred groves deeply interwoven with the spiritual and cultural ethos of local communities. They represent a grassroot model of conservation, where biodiversity thrives under community-led management and traditional practices of restraint"

This judgment affirms that sacred groves are not just ecological reserves but living cultural landscapes deserving strong legal protection.

PRINCIPLES OF LAW:

- (a) **Recognition of Sacred Groves (Orans) as Forests:** The Court put emphasis on sacred groves like Orans, Dev-vans, and Rundhs and underlined the ecological and cultural significance it holds. It directed their classification as 'forests' under the Forest (Conservation) Act, 1980, irrespective of their size or density of vegetation, and ensuring their legal protection.
- (b) **Community Involvement in Conservation:** A moot point was the recognition of the role played by the local communities in protecting these sacred groves. The Court highlighted that such community-led efforts which are rooted in traditional practices, are quite essential for sustainable conservation and biodiversity preservation.
- (c) **Balancing Environmental Protection with Cultural Heritage:** The judgment underscores the need to balance ecological sustainability with cultural traditions thereby recognizing sacred groves as not just ecological assets but also vital cultural and spiritual landmarks for local communities.
- (d) **Strict Implementation of Recommendations:** The Court reinforced the earlier recommendations from the Central Empowered Committee (CEC), directing



Rajasthan to complete the identification, survey, and notification of Orans, ensuring that there is no exclusion of smaller groves based on rigid criteria.

- (e) **Protection under Wildlife Laws:** It proposed that these groves should also be considered for protection under Section 36-C of the Wildlife Protection Act, 1972, by designating them as 'community reserves' ensuring legal safeguards against future land-use changes.
 - (f) **Accountability and Compliance:** The judgment mandates the constitution of a high-level committee to oversee the implementation of its directions, ensuring timely compliance and periodic reporting. The ruling enforces legal recognition and protection of culturally significant ecological sites, promotes community-led environmental stewardship, and ensures state accountability in safeguarding biodiversity-rich landscapes.
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SIGNIFICANT JUDGMENTS BY THE HON'BLE SUPREME COURT ON ENVIRONMENT

1. **JUDGMENT:** M.C. Mehta v. Union of India and Others.

CITATION: 1987 INSC 261

SUMMARY OF THE JUDGMENT: In *M.C. Mehta v. Union of India (Ganga River Pollution Case)*, the Supreme Court addressed severe pollution in the Ganga River due to untreated industrial and sewage discharge. It ruled that tanneries must install treatment plants, rejecting financial constraints as an excuse. Strict measures were ordered, including infrastructure improvements and bans on dumping dead bodies.

2. **JUDGMENT:** Sachidananda Pandey v. State of West Bengal & Others.

CITATION: 1987 INSC 42

SUMMARY OF THE JUDGMENT: In *Sachidanand Pandey v. State of West Bengal*, the Supreme Court upheld the construction of a Taj Group hotel near Alipore Zoological Garden, rejecting claims of environmental harm. It emphasized that courts must actively consider ecological concerns but found that necessary precautions were taken to protect the zoo and migratory birds. The Court ruled that the hotel's modified "garden hotel" plan aligned with environmental interests. The judgment exemplified a harmonious balance between environmental protection and economic development.

3. **JUDGMENT:** Vellore Citizens Welfare Forum v. Union of India and Others.

CITATION: 1996 INSC 952

SUMMARY OF THE JUDGMENT: In *Vellore Citizens Welfare Forum v. Union of India*, the Supreme Court addressed the conflict between environmental protection and industrial development. It held that tanneries in Tamil Nadu, while economically significant, were causing severe pollution to River Palar, harming agriculture and public health. The Court imposed fines on the tanneries, directed compensation for environmental efforts, and emphasized the need for Green Benches for expeditious environmental case disposal.

4. **JUDGMENT:** Indian Council for Enviro-Legal Action and Others. v. Union of India and Others.

CITATION: 1996 INSC 237

SUMMARY OF THE JUDGMENT: In *Indian Council for Enviro-Legal Action v. Union of India*, the Supreme Court held factories in Bicchari, Udaipur, liable for severe environmental damage caused by untreated toxic effluents. It emphasized strict accountability for environmental harm and suggested establishing Green Benches in High Courts. This case reinforced stringent environmental liability in India.

5. **JUDGMENT:** S. Jagannath v. Union of India and Others.

CITATION: 1996 INSC 1466

SUMMARY OF THE JUDGMENT: In *S. Jagannath v. Union of India*, the Supreme Court upheld the CRZ Notification, 1991, banning intensive shrimp farming in ecologically sensitive coastal areas. It ruled that aquaculture farms were degrading mangroves, polluting groundwater, and harming local fishermen's livelihoods. The Court directed the creation of a regulatory authority. This judgment reinforced strict environmental safeguards for coastal ecosystems.

6. **JUDGMENT:** M/S. Ivory Traders and Manufacturers v. Union of India and Others.

CITATION: AIR1997DELHI267B

SUMMARY OF THE JUDGMENT: In *Ivory Traders and Manufacturers Association v. Union of India*, the Supreme Court upheld the constitutional validity of the 1991 Amendment to the Wildlife Protection Act, 1972, which imposed a complete ban on the trade of ivory, including mammoth ivory. The petitioners argued that the ban was unfair, arbitrary, and violated Article 19(1)(g) of the Constitution. However, the Court ruled that economic interests cannot override environmental conservation and that Article 19(1)(g) is subject to reasonable restrictions in the public interest. It reaffirmed India's constitutional duty (Article 48A) and international obligations (CITES, 1973) to protect endangered species. The Court held that no one has a fundamental right to trade in ivory, and the ban was neither arbitrary nor unconstitutional.

7. **JUDGMENT:** M.C. Mehta (Taj Trapezium Matter) v. Union of India

CITATION: 1996 INSC 1534

SUMMARY OF THE JUDGMENT: In *M.C. Mehta v. Union of India*, the Supreme Court addressed pollution affecting the Taj Mahal due to emissions from industries in the Taj Trapezium Zone (TTZ). The court applied the Precautionary Principle, ordering polluting industries to either shift or switch to cleaner fuels like CNG/LPG. Strict environmental regulations were imposed to prevent further deterioration of the monument. The case reinforced the State's duty under Article 48A and citizens' duty under Article 51A(g) to protect national heritage.

8. **JUDGMENT:** A.P. Pollution Control Board v. M.V. Nayadu and Others.

CITATION: 1999 INSC 24

SUMMARY OF THE JUDGMENT: In *Andhra Pradesh Pollution Control Board v. M.V. Nayudu*, the Supreme Court upheld the APPCB's decision to deny consent for a polluting industry near Hyderabad's key water sources. It ruled that environmental protection takes precedence over industrial interests. The Court criticized the High Court's order granting approval and highlighted scientific uncertainty in environmental policymaking. This case strengthened India's environmental jurisprudence by emphasizing preventive action over reactive measures.

9. **JUDGMENT:** Hinch Lal Tiwari v. Kamala Devi

CITATION: 2001 INSC 317

SUMMARY OF THE JUDGMENT: In *Hinch Lal Tiwari v. Kamala Devi (2001 INSC 317)*, the Supreme Court ruled that water bodies, ponds, and public lands meant for ecological purposes cannot be encroached upon or allotted for private use. The court emphasized the importance of environmental conservation and directed the removal of illegal constructions on such lands. It reaffirmed the State's duty under Article 48A to protect natural resources. The case reinforced the public trust doctrine, holding that natural resources are meant for public use and environmental protection.

10. JUDGMENT: Karnataka Industrial Areas Development Board v. C. Kenchappa and Others.

CITATION: 2006 INSC 323

SUMMARY OF THE JUDGMENT: In *Karnataka Industrial Areas Development Board v. C. Kenchappa*, the Supreme Court emphasized the need to balance industrial development with environmental protection. It upheld the Precautionary Principle and Sustainable Development as key aspects of environmental law. The court ruled that development should not come at the cost of ecological destruction and stressed the State's duty to maintain environmental sustainability.

11. JUDGMENT: T.N. Godavarman Thirumulpad v. Union of India.

CITATION: 2012 INSC 87

SUMMARY OF THE JUDGMENT: In *T.N. Godavarman Thirumulpad v. Union of India*, the Supreme Court directed the State of Chhattisgarh to implement a rescue plan under the "Integrated Development of Wildlife Habitats" scheme to protect the endangered wild buffalo. The court emphasized the state's duty under the Wildlife Protection Act, 1972, and Article 51A(g) of the Constitution to conserve wildlife and prevent interbreeding between wild and domestic buffaloes. The state was instructed to conduct genetic research, monitor populations, and train officials for conservation efforts. Additionally, the state was required to submit an Annual Plan of Operations detailing its conservation strategy.

12. JUDGMENT: Narinder Singh & Others. v. Divesh Bhutani & Others.

CITATION: 2022 INSC 737

SUMMARY OF THE JUDGMENT: In *Narinder Singh & Ors. V. Divesh Bhutani & Ors*, the Supreme Court held that lands covered by special orders under Section 4 of the PLPA have the characteristics of forest land under the 1980 Forest Act, requiring prior approval from the Central Government for any non-forest use. It directed the removal of illegal structures erected after 25th October 1980 and the restoration of the land through afforestation programs. The court clarified that notification under Section 3 of the PLPA does not automatically designate land as forest land. Authorities must provide affected persons a hearing before taking any action, with proceedings to be concluded within three months.

13. JUDGMENT: M K Ranjitsinh & Ors v. Union of India & Others.

CITATION: 2024 INSC 280

SUMMARY OF THE JUDGMENT: In *M K Ranjitsinh & Ors v. Union of India & Ors*, the Supreme Court addressed the conservation of the endangered Great Indian Bustard (GIB) while balancing environmental sustainability. It emphasized that a clean environment is essential for the right to life and equality, acknowledging the need for solar energy expansion in Gujarat and Rajasthan. The Court refrained from issuing a blanket order to underground power lines, recognizing the broader environmental impact and the necessity of expert consultation. Instead, it appointed a committee to assess conservation measures, including the efficacy of bird diverters, ensuring both species protection and sustainable energy development.

14. JUDGMENT: GENE Campaign and Ors. v. Union of India and Others.

CITATION: 2024 INSC 545

SUMMARY OF THE JUDGMENT: In *GENE Campaign and Ors. Vs. Union of India (UOI) and Ors*, the Supreme Court set aside the Union Government's approval for the environmental release of the transgenic mustard hybrid DMH-11, citing procedural lapses and lack of transparency. It found that the Genetic Engineering Appraisal Committee (GEAC) had abruptly changed its stance without justification, leading to an arbitrary decision. The Court held that states, especially those cultivating mustard, were not consulted, violating federal principles. The approval also breached the right to a safe environment under Article 21 and the precautionary principle, as biosafety, ecological risks, and socio-economic impacts were not adequately assessed.



APPENDIX - A

LAWS RELATING TO ENVIRONMENT IN INDIA

APPENDIX A - LAWS RELATING TO ENVIRONMENT IN INDIA

1. CONSTITUTIONAL PROVISIONS:

- a. Indian judiciary has outlined in a number of judgments that Article 21, which guarantees the right to life and dignity, also encompasses the right to live in a healthy and safe environment.
- b. By the 42nd Amendment Act, Article 48A was added as a part of the Directive Principles of State Policy, which stated that it was the state's responsibility to make efforts in order to "protect and improve the environment, and to safeguard the forests and wildlife of the country."
- c. Article 51A(g) declares that it is the fundamental duty of each citizen of the country to "protect and improve the natural environment including the forests, lakes, rivers, and wildlife and to have compassion for living creatures. "

2. THE ENVIRONMENT (PROTECTION) ACT, 1986

An Act to provide for the protection and improvement of environment and for matters connected there with. In this Act, "environment" includes water, air, and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organisms, and property.

3. THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974

An Act to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, to carry out the purposes aforesaid, of Boards for the prevention and control of water pollution, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith.

4. THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

An Act to provide for the prevention, control and abatement of air pollution, for the establishment, to carry out the aforesaid purposes, of Boards, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith.

5. THE WILD LIFE (PROTECTION) ACT, 1972

An Act to provide for the conservation, protection, and management of wildlife and for matters connected therewith or ancillary or incidental thereto with a view to ensuring the ecological and environmental security of the country.

6. THE FOREST (CONSERVATION) ACT, 1980

An Act to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

7. THE NATIONAL GREEN TRIBUNAL ACT, 2020

Under the National Green Tribunal Act of 2010, the National Green Tribunal (NGT) was established on 18th October 2010 as a specialized body for handling any environmental disputes that involve multi-disciplinary issues. It was formed by replacing the National Environment Appellate Authority.

It is a specialized body equipped with the necessary expertise to handle environmental disputes. The Tribunal is not bound by the procedure laid down under the Code of Civil Procedure, 1908, but is guided by principles of natural justice.

8. THE BIOLOGICAL DIVERSITY ACT, 2002

An Act to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge.

9. BHARATIYA NYAY SANHITA, 2023

The Bharatiya Nyaya Sanhita (BNS) enforces strict penalties for negligent and reckless actions that endanger public safety. Section 270 penalizes acts likely to spread infectious diseases, while Section 279 and Section 280 address rash driving and reckless vessel navigation, respectively. Section 286 and Section 287 impose liability for negligence involving explosive substances and machinery, ensuring workplace and public safety. Lastly, Section 325 punishes voluntarily causing grievous hurt. Together, these provisions uphold accountability and reinforce legal measures to protect human life and public well-being.



APPENDIX - B

ENVIRONMENTAL TRIBUNALS AND BODIES IN INDIA

ENVIRONMENTAL TRIBUNALS AND BODIES IN INDIA

1. NATIONAL GREEN TRIBUNAL

Established: 2010 under the National Green Tribunal Act, 2010

Jurisdiction: Deals with cases related to environmental protection, conservation of forests, and natural resources. It has the power to hear matters under environmental laws such as the Environment Protection Act, Forest Conservation Act, Air Act, Water Act, etc.

Powers: It can impose penalties, issue directions, and provide relief and compensation for environmental damage.

Benches: Principal Bench in Delhi and other zonal benches in Bhopal, Pune, Kolkata, and Chennai.

2. CENTRAL POLLUTION CONTROL BOARD (CPCB)

The Central Pollution Control Board (CPCB), statutory organisation, was constituted in September, 1974 under the Water (Prevention and Control of Pollution) Act, 1974. Further, CPCB was entrusted with the powers and functions under the Air (Prevention and Control of Pollution) Act, 1981.

It serves as a field formation and provides technical services to the Ministry of Environment and Forests of the provisions of the Environment (Protection) Act, 1986.

Principal Functions of the CPCB, as spelt out in the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981 are-

(i) to promote cleanliness of streams and wells in different areas of the States by prevention, control and abatement of water pollution,



(ii) to improve the quality of air and to prevent, control or abate air pollution in the country.

3. STATE POLLUTION CONTROL BOARDS (SPCBS)

State Pollution Control Boards (SPCBs) are constituted under Section 4 of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 by the respective State Government.

State Pollution Control Boards are statutory bodies established by state governments in India, responsible for enforcing environmental laws and regulations within their respective states. Their main objective is to prevent, control and abate environmental pollution, focusing primarily on air and water pollution.

4. NATIONAL BIODIVERSITY AUTHORITY (NBA)

The National Biodiversity Authority (NBA) was established in 2003 by the Central Government to implement India's Biological Diversity Act (2002). The NBA is a Statutory body and that performs facilitative, regulatory, and advisory function for Government of India on issue of Conservation, sustainable use of biological resource and fair equitable sharing of benefits of use.

The Biological diversity Act (2002) mandates implementation of the provisions of the Act through decentralized system with the NBA focusing on advice the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilization of biological resources; advice the State Government in the selection of areas of biodiversity importance to be notified under Sub-Section (1) of Section 37 as heritage sites and measures for the management of such heritage sites.


5. WILDLIFE CRIME CONTROL BUREAU

Wildlife Crime Control Bureau is a statutory multi-disciplinary body established by the Government of India under the Ministry of Environment and Forests, to combat organized wildlife crime in the country. The Bureau has its headquarter in New Delhi and five regional offices at Delhi, Kolkata, Mumbai, Chennai and Bhopal; three sub-regional offices at Guwahati, Amritsar and Cochin; and five border units at Ramanathapuram, Gorakhpur, Motihari, Nathula and Moreh.

Under Section 38 (Z) of the Wild Life (Protection) Act, 1972, it is mandated to collect and collate intelligence related to organized wildlife crime activities and to disseminate the same to State and other enforcement agencies for immediate action so as to apprehend the criminals; to establish a centralized wildlife crime data bank; co-ordinate actions by various agencies in connection with the enforcement of the provisions of the Act; assist foreign authorities and international organization concerned to facilitate co-ordination and universal action for wildlife crime control; capacity building of the wildlife crime enforcement agencies for scientific and professional investigation into wildlife crimes and assist State Governments to ensure success in prosecutions related to wildlife crimes; and advise the Government of India on issues relating to wildlife crimes having national and international ramifications, relevant policy and laws.

6. THE NATIONAL COASTAL ZONE MANAGEMENT AUTHORITY (NCZMA)

The National Coastal Zone Management Authority (NCZMA) is a statutory body formed under the provisions of the Environment Protection Act, 1986, and entrusted with the duty and enforcement of the Coastal Regulation Zone (CRZ) Notification in India. NCZMA plays a pivotal role in formulating coastal management policy, regulating CRZ rule compliance, and providing recommendations to the Ministry of Environment, Forest and Climate Change (MoEF&CC) for coastal sustainable development. NCZMA is required to protect ecologically sensitive coastal areas while meeting developmental demands, dealing with coastal erosion, pollution, and marine biodiversity conservation.



“ It is now an accepted social principle that all human beings have a fundamental right to a healthy environment, commensurate with their well-being, coupled with a corresponding duty of ensuring that resources are conserved and preserved in such a way that the present as well as future generations will be aware of them equally. ”

- Hon'ble Mr. Justice Bhushan Ramkrishna Gavai in Re: T.N. Godavarman Thirumalpad v. Union of India and Others, 2024 INSC 178 (Supreme Court of India)



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