

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI**

.....

**M.A. NO. 1170 OF 2015 AND M.A. NO.1160 OF 2015**

**IN THE MATTER OF:**

T.N.Godavarman Thirumulpad

.....Petitioner

Verses

Union of India & Ors.

....Applicant

**IN THE MATTER OF:**

Farmers Welfare Associaton  
(Shoonk, Parach and Jayanti Majri)  
Village-Soonk, Tehsil-Kharar,  
District Ropra (PB), through its president,  
Surender Singh, Sarpanch  
Gram Panchayat Shoonk, Block Kharad  
District Roper (PB)

....Applicant

**IN THE MATTER OF:**

The Farmers Association

Versus

1. Union of India through  
Secretary,  
Ministry of Environment and Fresh FC Division,  
Paryavaran Bhavan, CGO Complex, Lodhi Road  
Govt. of India
2. The State of Punjab, through  
The Chief Secretary,  
Govt. of Punjab,  
Chandigarh
3. The Financial Commissioner and Secretary,  
Department of forests and wildlife preservation  
Govt. of Punjab  
Chandigarh

.....Respondents/Non-Applicant

**AMICUS CURIAE:**

Mr. A.D. N. Rao, Mr. Sudipto Sircar and Ms. Ankita Chadha, Advs.  
Mr. Anil Soni, AAG Ms. Savitri Pandey, Adv.  
Mr. Rahul Pratap and Mr. Paritoshk Singh, Advs. for MoEF

**ORDER/JUDGMENT**

**PRESENT:**

**Hon'ble Mr. Justice Swatanter Kumar, (Chairperson)**

**Hon'ble Mr. Justice U.D.Salvi, (Judicial Member)**

**Hon'ble Mr. Justice M.S. Nambiar, (Judicial Member)**

**Hon'ble Mr. Bikram Singh Sajwan, (Expert Member)**

**Hon'ble Mr. Ranjan Chatterjee, (Expert Member)**

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**Reserved on: 4<sup>th</sup> January, 2016**

**Pronounced on: 18<sup>th</sup> February, 2016**

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1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

**JUSTICE SWATANTER KUMAR, (CHAIRPERSON)**

I.A. No. 727 of 2001 in W.P. (C) No. 727 in the matter of *T.N Godavarman V. Union of India & Ors* and in the matter of *Farmers Welfare Association V. Union of India & Ors* along with other records and the report of the CEC dated 10<sup>th</sup> September, 2003 was transferred to the Tribunal for disposal vide order dated 5<sup>th</sup> October, 2015 passed by the Hon'ble Supreme Court of India.

2. Upon transfer this application filed by the Farmers Welfare Association came to be registered as M.A. 1170 of 2015 and the report as M.A. 1160 of 2015. Vide this order we will dispose of both these Miscellaneous Applications.

3. The applicants were aggrieved by the inclusion of their cultivated and inhabited land in the 'forest area' vide a Notification issued under Section 4 of the Punjab Land Preservation Act, 1900 (for short Act of 1900). The Punjab Forest Department in its annual administrative

report along with other notified areas has also shown these villages under the category "Area Closed under Act of 1900". This was so reflected for a considerable long time of nearly 30- 40 years in the record. The Hon'ble Supreme Court of India passed an interim order on 12<sup>th</sup> December, 1996 in relation to the forest areas. Thereafter, an affidavit dated 21<sup>st</sup> February, 1997 was also placed before the Hon'ble Supreme Court of India by the State of Punjab stating that these areas were declared as forest areas on the basis of the report of the Committee.

4. According to the applicant, these areas were under agricultural activity and inhabitation even prior to the coming into force of the Forest (Conservation) Act, 1980 (for short 'Act of 1980') and they had even moved an application to the State Government for exclusion of these areas. The State Government conducted a comprehensive survey in each village falling in Karadpur and Ropar, in particular, although the areas of Hoshiarpur, Gurdaspur and Nawanshahr had also been covered in the Notification. The State Government after examining the report found that the said cultivable and habitation land has been included as 'forest area' as shown in the Annual Administrative Report of the State Forest Department and were being closed under Section 4 of the Act of 1900.

5. The Chief Conservator Forest also informed the PCCF Punjab, Chandigarh on 7<sup>th</sup> April, 2000 that report of the expert committee for identification/verification of forest areas in Mohali, Kharar, Tehsil of Roopnagar Forest Division has been verified by the Deputy Commissioner and is based on the report of the Divisional Forest

Officer. The Financial Commissioner and Secretary department of Forest and Wildlife made a request to the Inspector General of Forests and Special Secretary of Environment and Forest, Central Government, New Delhi vide D.O. dated 4<sup>th</sup> July, 2000 that the Central Government would accord approval for exclusion of the aforesaid cultivation and habitation areas closed under the Act of 1900 from the category of forest which has been verified by the expert committee.

6. The Central Government on 10<sup>th</sup> November, 2000 informed the financial commissioner and the Secretary, Forest Department Punjab that the Central Government has no objection from the angle of the provisions of Act of 1980 subject to the permission of the Court. It is on these facts that M.A. 1170 of 2015 was filed by the applicants. When the matter came up before the Supreme Court of India it directed the CEC to file its report/recommendations on 10<sup>th</sup> September, 2003.

7. The CEC filed its comments and recommendations. In the report it noticed that in Roopnagar 6576.37 hectares was cultivated and 509.32 hectares was under habitation making a comprehensive calculation. Referring to even other places like Hoshiarpur, Gurdaspur and Nawashahr it noticed that out of the total area of 1, 68,224 hectares the area closed under Act of 1900 and identified as forest by the State, the area of 69367 hectares has been identified for being eligible for exclusion from the list of the forest area. After examining the submission and the papers, the CEC recommended as follows:

“The CEC therefore recommends that the IA NO. 727 may be disposed off with the clarification that the

applicants/ state of Punjab are at liberty to seek approval of the Central Government under section 2 of the Forest (Conservation) Act for deletion of their land from the “list of the forest area”. The Central Government may decide the application on merit after following prescribed procedure in accordance with the Forest (Conservation) Act, Forest (Conservation) Rules 1981 and the relevant guidelines.”

8. From the record it is clear that on 24<sup>th</sup> January, 2008 Financial Commissioner and Secretary, Forest to the State of Punjab filed an affidavit before the Supreme Court stating that State Government has to submit a report to the Center and pray for extension of 4 weeks for submission of the compliance report in terms of the order of the Supreme Court dated 2<sup>nd</sup> November, 2007. The Government of India vide their letter dated 6<sup>th</sup> March, 2006 had asked for the report. Vide letter dated 23<sup>rd</sup> January, 2008 Financial Commissioner had written to the Government of India to convey the final approval of the Government of India to delist 52395.86 hectares area under cultivation and 2944.09 hectares of area under habitation pertaining to Mohali, Ropar, Nawanshar, Hoshiarpur and Gurdaspur districts from the list of the forest area.

9. Said matter stands at that stage even of today. From the record before the Tribunal, it is clear that the area is required to be excluded and delisted from the notification issued under Section 4 of the Act of 1900. This matter, despite the fact that all stake holders are *ad idem* to the real subject matter of the dispute, has remained pending for no action on the part of the State Government of Punjab and MoEF.

10. Thus, we dispose of this application with the following directions:

1. The State of Punjab should submit a complete proposal and report in addition to the communication dated 4<sup>th</sup> July, 2000 (because of lapse of time) to MoEF within 3 weeks from the date of pronouncement of this order.
2. MoEF shall deal with and consider the same in accordance with law and pass appropriate orders under the Act of 1980 within 3 weeks thereafter.
3. The State of Punjab thus is directed to issue final Notification deleting the approved lands from the existing record within 2 weeks thereafter.
4. We direct that the Secretary, Financial Commissioner of Forest and Secretary to the State of Punjab shall be personally responsible for compliance of these directions.

11. With above directions we dispose of this application without any order as to cost.

**Swatanter Kumar**  
**Chairperson**

**U.D.Salvi**  
**Judicial Member**

**M.S. Nambiar**  
**Judicial Member**

**Bikram Singh Sajwan**  
**Expert Member**

**Ranjan Chatterjee**  
**Expert Member**

New Delhi,  
18<sup>th</sup> February, 2016