

**BEFORE THE NATIONAL GREEN TRIBUNAL  
CENTRAL ZONAL BENCH, BHOPAL**

**Original Application No. 159/2016 (CZ)**

**CORAM:**

**Hon'ble Mr. Justice Dalip Singh  
(Judicial Member)**

**Hon'ble Dr. S.S. Garbyal  
(Expert Member)**

**BETWEEN:**

1. Tejpal,  
S/o Shri Ratan Lal Nagar  
Village sukhneri  
Tehsil Chippabarod  
District Baran, Rajasthan.
2. Jawahar Singh,  
S/o Shri Kishan Singh Maloni  
Village Maloni  
Tehsil Chippabarod  
District Baran, Rajasthan
3. Madholal  
S/o Shri Dhannalal Meena  
Village Bukhari  
Tehsil Khanpur  
District Jhalawar, Rajasthan:
4. Jamna Lal  
S/o Balram Meena  
R/o Village Bukhari  
Tehsil Khanpur  
District Jhalawar  
Rajasthan

**.....Applicants**

**Versus**

1. The Chief Secretary  
Central Secretariat  
Government of Rajasthan  
Jaipur
2. Secretary  
Ministry of Environment Forest and Climate Change,  
Indira Parayavaran Bhawan  
New Delhi
3. Secretary  
Water Resources Department  
Government of Rajasthan  
Jaipur (Rajasthan)
4. The District Collector,  
Baran, Rajasthan
5. The District Collector  
Jhalawar, Rajasthan
6. The Divisional Forest Officer  
Jhalawar, Rajasthan
7. The Divisional Forest Officer  
Baran, Rajasthan
8. Chief Conservator of Forest  
Ministry of Environment & Forest  
Regional Office  
Lucknow

.....Respondents

**Counsel for Applicant :**

**Dr. M.S. Kachhawa, Adv.**

**Counsel for State :**

**Mr. Sandeep Singh, Adv.**

**Counsel for MoEF:**

**Shri O. S. Shrivastava, Advocate**

# J U D G E M E N T

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**Reserved on July 17<sup>th</sup>, 2017**  
**Pronounced on July, 19<sup>th</sup>, 2017**

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- 1) Whether the judgement is allowed to be published on the internet - yes / no
- 2) Whether the Judgement is to be published in the All India NGT Report - yes /no

## **DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

1. This O.A. was originally filed on 26.12.2016 and amended cause title was filed on 21.02.2017 alleging that a dam which is being proposed to be built in Akawad village, Jhalawar District on river Parwan, involves atleast 1835 hectares forest land affecting more than 2 lakhs trees and also that the dam site is in Naharia block of Shergarh Wildlife Sanctuary as against the claim of the forest officials that the site is at a distance of about 5 kilometers from the Shergarh Wildlife Sanctuary. It has further been alleged by the Applicant that this dam is in fact being constructed not for the irrigation purpose but for providing fresh water to a number of Thermal Power Plants in the area. The Applicant had also submitted that the dam is going to be constructed without prior Forest Clearance (FC) and clearance from NBWL. The Applicant has therefore, prayed as follows :

- (a) To conduct a joint survey of the Naharia and Bilendi Forest Blocks common line in presence of the officer appointed by this Hon'ble Tribunal along with the Applicants.
- (b) To reinitiate the process for grant of FRA certificates in accordance with law.

- (c) To decide the rights and concession of the villagers, who are affected from the proposed dam.
- (d) To award compensation to the villagers affected by the proposed dam site.
- (e) To not to allow respondents to supply fresh water to the thermal power plants.
- (f) To re-conduct the public hearing for grant of EC with the affected villagers as participants to the said public hearing, so that their objections be recorded.
2. The Learned Counsel for the Applicant on 20.02.2017 made further submission that while processing the case for FC, the DFO in its recommendation to the CCF on 17.06.2012 had mentioned that Shergarh Wildlife Sanctuary is 150 meters downstream of the proposed site of dam whereas in the EC granted on 25.11.2011 it had been stated that Shergarh Wildlife Sanctuary is 5 kilometers away. Learned Counsel for the Applicant therefore, contends that inaccurate facts were presented before the MoEF to get environmental clearance. In view of the above, notices were issued to all the Respondents and it was ordered that the status-quo as it existed shall be maintained.
3. In view of the discrepancy in the distance of the dam site from Shergarh Wildlife Sanctuary (on 27.03.2017) we directed to carry out the physical demarcation of the boundary of the Shergarh Wildlife Sanctuary notified in 1983 with a view to find out the distance between the dam site and nearest boundary of the Shergarh Wildlife Sanctuary. We, therefore, directed on 27.03.2017 as below :

*“With a view to resolve the controversy, we would direct that based upon the notification of the Wildlife Sanctuary in 1983 the physical demarcation of boundary and establishment of the boundary pillars of the Shergarh Sanctuary be carried out by the Respondent through the GPS. While, we would expect that the survey & demarcation of the boundary of the entire sanctuary be carried out, however, for the purposes of resolving of the disputes in the present matter the demarcation of the southern boundary of the sanctuary and more particularly towards the proposed dam site and along the Parwan river and the eastern access be done in the first phase.*

*Learned Counsel for the Applicant submits that Applicants may also be permitted to be associated through the expert / technical person for the aforesaid purpose. The Applicant has given the name of the expert / technical person Shri Narandra Kurmar, retired Amean of Forest for the aforesaid purpose and the forest Department / the District Collector Baran shall permit the said person to be associated with the officials of the Revenue and the Forest Department for carrying out the survey and the affixation of the boundary pillars on most of the locations. The plotting so done shall also be carried out on the topo-sheets and submitted before this Tribunal. The measurement from the boundary pillar to the dam site by way of distance shall also be provided.*

*In addition to the same the co-ordinates of the dam site shall also be recorded and the distances between the two be measured and submitted before this Tribunal. Counsel for the Respondents pray that the matter be listed on 24.04.2017.*

*We have heard the M.A. No. 184/2017 by the State for modification / vacation of the interim order passed by this*

*Tribunal with regard to the maintenance of status quo. Learned Counsel for the State submits that in the meanwhile, the State shall not proceed with any construction activity as so far even the tendering process has not been finalised yet. He submits that they may be permitted to carry out all the preliminary work with regard to the finalisation of the bids etc. both technical and financial as also the assessment and payment of compensation to the project affected persons and also the relocation of the villages which have been identified for the said purpose. He further submits that the State in this behalf would not have any right in case of any compensation have been paid to the affected persons. We are inclined to accept the aforesaid prayer made by the State and direct that the State would be free to finalise the tendering process. However, the work on the site shall not commence till further orders. So far as payment of compensation of affected persons and the assessment of their compensation and relocation as well as carrying out of R&R activities is not restrained”*

4. On 25.04.2017 it was submitted by the Learned Counsel for the Respondent / State that while considering the matter for Forest Clearance, the Forest Advisory Committee (FAC) had directed a committee to visit the spot for survey which on inspection did not find marking of the Shergarh Wildlife Sanctuary.
5. The Learned Counsel for the State also submitted on 25.04.2017 that based upon the survey carried out on the direction of this Tribunal it has been re-confirmed that the dam site is at a distance of 150 meters from the nearest point of Shergarh Wildlife Sanctuary, as was earlier recorded by the National Board for Wildlife as well as the FAC in their documents filed as Annexure-R/4 dated 21.08.2010, Annexure-R/5 dated 21.12.2016

as well as Annexure-R/6 & R/7. In view of this the interim directions originally passed on 17.02.2017 and 27.03.2017 were vacated.

6. We are, therefore, satisfied that based upon the records placed before the Tribunal that Wildlife Clearances granted by the MoEF on 10.05.2011, Environmental Clearance granted by MoEF on 25.11.2011, first stage Forest Clearance granted for diversion of forest land on 07.08.2013, final clearance for diversion of forest land granted on 23.01.2017 and various other clearances by the Ministry of Water Resources are in accordance with law.
7. We would, however, direct that State Water Resources or any other department charged with the responsibility of the maintaining dam and flow of water in the river to ensure that downstream of the dam e-flow is maintained in Parwan river at all times so that there is no adverse impact on the aquatic life and also on the wild animals that may be traditionally using this river for drinking purposes
8. As such no further directions are required to be issued in this matter. Accordingly, the O.A. No 159/2016 along with pending M.As. No. 207/2017 & 208/2017 **stand disposed of.**

**(Mr. Justice Dalip Singh)**  
**Judicial Member**

**(Dr. S.S. Garbyal)**  
**Expert Member**

Bhopal :  
**19<sup>th</sup> July, 2017**