

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
Civil Appeal Nos 2570-2571 of 2022

Citizens for Green Doon

.... Appellant(s)

Versus

Union of India & Ors

....Respondent(s)

ORDER

- 1 We have heard Mr Ritwick Dutta, learned counsel appearing on behalf of the appellant, Mr K K Venugopal, learned Attorney General for India appearing on behalf of the National Highways Authority of India¹ and Mr Tushar Mehta, learned Solicitor General of India appearing on behalf of the Union of India.

- 2 By the impugned judgment dated 13 December 2021, the National Green Tribunal² has not accepted the challenge to the grant of the forest clearance for the Delhi-Dehradun expressway. The NGT has traversed the process by which the project was duly appraised. In that process, it has had due regard to:
 - (i) The mitigation measures suggested by the Wildlife Institute of India in Zones I, II and III;
 - (ii) The appraisal by the National Wildlife Board;
 - (iii) The appraisal by the Regional Empowered Committee; and

1 “NHAI”

2 “NGT”

(iv) The Environmental Impact Assessment.

- 3 Having due regard to the need for the construction of the road, the NGT came to the conclusion that the development of the project cannot be stalled. At the same time, the NGT held that necessary measures to ensure sustainable development must be implemented.
- 4 The NGT has constituted an Oversight Committee for the purpose of ensuring that mitigation measures are effectively implemented and monitored on the ground and are overseen by an independent mechanism.
- 5 During the course of the previous hearings, we had, in response to the submissions of Mr Ritwick Dutta, requested the Attorney General and the Solicitor General to assist the Court on whether certain additional members can be inducted into the Committee with a view to bring in their domain knowledge to the work of the Committee. We clarify that this is not intended to be any reflection on the independence or competence of the members of the Committee as constituted by the NGT, but in order to ensure that a broader understanding of diverse issues, including wildlife preservation and compensatory afforestation, is facilitated in carrying out the work of monitoring and implementation.
- 6 The Attorney General has, in response to the suggestions, stated that Dr Anil Prakash Joshi, a noted environmental expert may be inducted into the Committee. Mr Ritwick Dutta has accepted the suggestion, but requested the Court to induct additional experts from a panel of three names suggested by him.
- 7 During the course of the discussions, a consensus has emerged that in view of the specialized nature of the work which is entrusted to the Committee, the

Committee may be chaired by the Director General of Forests in the Ministry of Environment, Forest and Climate Change³. The suggestion has been specifically agreed to on behalf of the Union of India and the NHA as well as the appellant, through counsel.

- 8 Having regard to the multifarious responsibilities of the Chief Secretary, it would be appropriate that the Director General of Forests, MoEF&CC chairs the Committee. Consequently, the constitution of the Committee shall be recast in the following terms:

1	Director General of Forests, MoEF&CC
2	Additional Chief Secretary (Forest), Government of Uttarakhand
3	Dr Anil Prakash Joshi, founder of the Himalayan Environmental Studies and Conservation Organisation (HESCO)
4	Mr Vijay Dhasmana
5	Wildlife Institute of India
6	Central Pollution Control Board
7	Uttarakhand Pollution Control Board
8	PCCF (Wildlife), Uttarakhand
9	PCCF (Wildlife), Uttar Pradesh
10	State Environment Impact Assessment Authority, Uttarakhand
11	FRI, Dehradun
12	Commissioner, Saharanpur
13	Commissioner, Dehradun
14	Conservator of Forest, Dehradun
15	Conservator of Forest, Saharanpur

The members at serial numbers 5,6,7,10 and 11 shall be represented by nominees of the organisation at a senior level.

- 9 Mr Ritwick Dutta has raised two specific issues which may be considered by the Committee, namely:

³ “MoEF&CC”

- (i) The Height of the Underpass/Flyover; and
- (ii) Compensatory Afforestation.

10 The suggestions which have been made in that regard are extracted below:

“1. The Height of the Underpass/ Flyover. As per the WII study (@ Page77) the height of the underpass should be 7 metres, to ensure a more liberal view, to enable the animals to view the horizon across the underpass. (Enclosed herein as Document 1) A joint reading of the wildlife clearance granted to the project proponent (enclosed herein as Document 2) along with the animal passage plan (enclosed herein as Document 3) shows that the height of the tallest underpasses will be 6 metres, for the present project. This has also been recorded at Page 33 of the impugned judgment. Given that the landscape supports a significant elephant population, it is essential that the optimal height stipulated by WII in its report, namely 7 metres, should be followed.

2. Compensatory Afforestation: The purpose of Compensatory Afforestation is to create new forest in lieu of forest lost. In the present case, the loss of 47 hectares for dense compact block of forest is being ‘compensated’ by planting trees in fragmented forest areas which are either not suitable for afforestation (such as riverine islands) or are being planted in already existing dense forest. There is thus no compensation in terms of forest lost. This will set a dangerous precedent wherein the loss of natural forest will never be compensated by creation of new forest but by planting trees in existing forest which serves no ecological purpose.”

Apart from the above, it has been submitted that the mitigation measures suggested so far should not be diluted and may be strengthened in terms of the suggestions of the Committee.

- 11 The above suggestions which have been made during the course of the hearing on behalf of the appellant shall be borne in mind by the Oversight Committee.
- 12 The Attorney General and the Solicitor General have stated that the constitution of the Committee has been agreed to by the Union Government and the NHA having regard to the spirit in which the matter has been pursued before this Court and without treating this as a precedent of general applicability in any

other pending litigation.

- 13 In view of the above arrangement which has been arrived at before this Court on the basis of consensus, it has not become necessary for this Court to express any view on any other issue of law which may arise in the future.
- 14 The appeals are disposed of in the above terms.
- 15 Pending application, if any, stands disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Aniruddha Bose]

New Delhi;
April 19, 2022
-S-

ITEM NO.301

COURT NO.4

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s).2570-2571/2022

CITIZENS FOR GREEN DOON

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(WITH IA No.47547/2022-EX-PARTE AD-INTERIM RELIEF and IA No.47549/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.47548/2022-EXEMPTION FROM FILING O.T. and IA No.47546/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 19-04-2022 These appeals were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Appellant(s) Mr. Ritwick Dutta, Adv.
Ms. Srishti Agnihotri, AOR
Ms. Sanjana Grace Thomas, Adv.

For Respondent(s) Mr. K.K. Venugopal, AG
Ms. Chinmayee Chandra, Adv.
Ms. Madhu Sweta, Adv.
Ms. Raveena Dewan, Adv.
Ms. Astha Tyagi, AOR
Mr. Siddarth Raj Agarwal, Adv.

Mr. Tushar Mehta, SG

UPON hearing the counsel the Court made the following
O R D E R

- 1 The appeals are disposed of in terms of the signed order.
- 2 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER

(Signed order is placed on the file)