

Item No. 05

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 04/2013 (Suo Moto)

(With report dated 13.08.2021)

Sonya Ghosh

Applicant

Versus

State of Haryana & Ors.

Respondent(s)

Date of hearing: 22.09.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Raj Panjwani, Senior Advocate (Amicus Curiae)
Mr. Aagney Sail, Advocate for Applicant

Respondent: Mr. Rahul Khurana, Advocate for the State of Haryana, HSPCB &
MC, Sohna
Mr. Vishal Meghwal, Advocate for the State of Rajasthan

ORDER

1. The issue for consideration relates to remedial action against illegal constructions raised in violation of the Notification issued by the Ministry of Environment, Forest & Climate Change (MoEF&CC) dated 07.05.1992 under the Environment (Protection) Act, 1986 prohibiting specified activities such as construction in the area covered by the table appended to the Notification without prior permission. The areas covered by the Notification include those mentioned as "Gair Mumkin Pahar" (hillocks) or 'forest' in the land revenue records maintained by the State, apart from other categories specified in the said table.

2. Proceedings were initiated by this Tribunal on 07.01.2013 Suo Motu based on News Item in Times of India dated 07.01.2013 titled "How private players grabbed forest land in the Aravalis". Vide order dated 12.12.2013 in M.A. No. 1083/2013, Sonya Ghosh was added as the applicant. It is not necessary to refer to all the orders passed in the last eight years and reference to some of the orders will suffice. Vide order dated 23.10.2018, the Tribunal reviewed the proceedings for more than five years preceding the said order and held that construction raised on forest land are illegal. However, to identify such land, the Tribunal directed constitution of a joint Committee. The Committee was to complete the process of identification within three months and furnish a report to this Tribunal by 31.05.2019.

3. On 26.08.2020, the report of the Forest Department, Haryana dated 18.06.2020 was considered which *inter-alia* stated that prosecution was filed by the State PCB against 513 persons, show cause notice for illegal constructions was issued against 195 persons in Gurugram District, apart from action taken in Nuh and Faridabad Districts. During the hearing, it was stated that in identified forest areas, steps were being taken for restoration by removing the encroachments. The Tribunal directed that remedial action be taken promptly and further status report as on 31.01.2021 be filed. The operative part of the order dated 26.08.2020 is reproduced below:

"4. Accordingly, report dated 18.06.2020 has been filed by the Forest Department, Haryana. The report states that in compliance of order of this Tribunal dated 23.10.2018, District Level Committees were constituted to identify the forest areas and District Committees have furnished their respective reports. A report of District Gurugram has been filed by the Deputy Commissioner, Gurugram mentioning the steps taken to identify the Aravali forests with reference to the Notifications under the Punjab Land Preservation Act, as applicable to Haryana. Steps have been taken for correction of revenue record. Prosecution has been initiated against the

violators. Show cause notices have been issued to the owners of farm houses/ structures in violation of law. Some of the law violators have filed C.W.P. No. 7719 of 2020 before the Punjab and Haryana High Court. Concluding part of the report for Haryana is as follows:-

“Abstract of action taken for violations identified in area falling under Aravali Notification is as under:

1.	Total No. of prosecution cases filed under EP Act, 1986 for farm house/ structure in violation of Aravali Notification dated 07.05.1992 District Gurugram by HSPCB.	513
2.	Total No. Show Cause Notice issued for farm house/ structure for commencing unauthorized construction activity without permission in violation of Aravali Notification dated 07.05.1992 by MC Sohna	195
3.	Total No. Show Cause Notice issued for farm house/ structure for commencing construction activity without permission in violation of Aravali Notification dated 07.05.1992 by Town & Country Planning Department, Gurugram	3

10. There are 52 violations in areas notified under section 4 and/or 5 of the PLPA, 1900. The Department has taken actions as per the provisions of the Indian Forest Act, 1927 against these violations. The list of violations is enclosed as Annexure VIII.

11. It is submitted the department of Urban Local Bodies have issued Show Cause Notices to the violators as initiation of action against the violators of areas under Aravali Notification. On Forest Lands, violations/ encroachments have been dealt strictly as per Indian Forest Act 1927 and Forest Offence Reports have been issued against the violators.”

5. In respect of District Mewat, report has filed vide letter dated 17.06.2020, with a report of the Committee, identifying the forest areas as follows:-

“All reserved forests (RF), protected forests (PF) or any other area shown as "forest" in the land records maintained by the state government as on the date of this notification in relation to Nuh District of the State of Haryana:

a. List of RF, PF, Un classed Forests is enclosed as (Detail provided in Annexures – I to VIII)

S. No.	No. of Revenue Estates	Reserve Forest (in ha.)	Protected Forest (in Ha.	Forest Un classed
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1.	-	16.19	8.38	2532.64	62.84
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b. List of any other area shown in “forest” in land records is enclosed as Annexure – IX.

S. No.	No. of Revenue Estates	Any other area (Bani) in Ha.
1.	0	0

c. The abstract of areas shown Gair Mumkin Pahar, Gair Mumkin Rada, Gair Mumkin Behad, Banjad Beed, Rundh is as under:

Sr. No.	No. of Revenue Estates	Abstract of Areas under (in Ha.)				
		Gair Mumkin Pahar*	Gair Mumkin Rada	Gair Mumkin Behad	Banjad Beed	Rundh
1	159	14264.92	0	0	0	0

*The list of lands recorded as Gair Mumkin Pahar in land records is enclosed as Annexure-X. While going through the details of the record, it has been observed that 6494.33 ha area closed under Sealant; and/or 5 of PLP Act 1900, is included under Gair Mumkin Pahar as per DRO, Nuh Report. The other categories of land that were listed in the Aravalli Notification, i.e., Gair mumkin Rada, Gair Mumkin Behad, Banjad Seed, Rundh do not exist in Nuh District. The report of District Revenue Officer, Nuh is enclosed as Annexure-XI.

d. All areas covered by notification issued under section 4 and 5 of the Punjab Land Preservation Act, 1900, as applicable to the State of Haryana in the district of Nuh up to the date of this notification.

Sr. No.	No. of Revenue Estates	Area under Sec4 and/or 5 of PLPA
1	59	6778.65*

*This includes 6494.33 ha area pertaining to Gair Mumkin Pahad and closed under Section 4/or 5 of PLPA 1900.

As the work of this committee was started from 30⁶¹ April 2020 as per the directions of Govt. of Haryana, the meetings of committee were held on 27-05.2020 and on 04-06-2020 under the chairmanship of Deputy Commissioner Nuh. The reports regarding identification of areas as per Aravali notification 1992 has been done. Regarding encroachment on the areas as per the Aravali notification dated 07.05.1992, this committee requires some more time to verify the ground position as on today with records.”

6. With regard to District Faridabad, a report has been filed vide letter dated 16.06.2020 of the Deputy Commissioner, Faridabad concluding as follows:-

“All reserved forests (RP), protected forests (PF) or any other area shown as "forest" in the land records maintained by the State government as on the date of this notification dated 07.05.1992 in relation to Faridabad District of the State of Haryana:

a. The extent of RF, PF and Un classed Forests is given below with details and enclosed as Annexure – I.

S. No.	No. of Revenue Estates	Reserve Forest (in ha.)	Protected Forest (in Ha.)		Un classed
			Compact	Strip	
1.	2	175.63	0	1333.72	0

b. List of any other area shown as “forest” in land records is enclosed as Annexure – II.

S. No.	No. of Revenue Estates	Any other area (Bani) in ha.
1.	0	.

c. The abstract of areas shown Gair Mumkin Pahar, Gair Mumkin Rada, Gair Mumkin Behad, Banjad Beed, Rundh is as under:-

Sr. No.	No. of Revenue Estates	Gair Mumkin Pahar*	Gair Mumkin Rada	Gair Mumkin Behad	Banjad Beed	Rundh
1.	17	7931.6	0	0	0	0

*The list of lands recorded as Gair Mumkin Pahar in land records is enclosed as Annexure-III. While going through the details of the record, it has been observed that 5011.18 ha area closed under Section 4 and/or 5 of PLP Act 1900, overlapped with area under Gair Mumkin Pahar. As per report of DRO, Faridabad the other categories of land that were listed in the Aravalli Notification, i.e., Gair Mumkin Rada, Gair Mumkin Behad, Banjad Beed, Rundh does not exist in Faridabad District. The report of District Revenue Officer, Faridabad is enclosed as Annexure -IV.

d. All areas covered by notification issued under section 4 and 5 of the Punjab Land Preservation Act, 1900, as applicable to the State of Haryana in the district of Faridabad up to the date of this notification.

Sr. No.	No. of Revenue Estates	Area under Sec 4 and/or 5 of PLPA
1	15	5439.09 ha.

The list of areas covered under Section 4 and 5 of PLPA 1900 in district Faridabad is enclosed as Annexure V. As per khasra

number given in the PLPA notification, report of DRO and Working Plan of Faridabad Division and reference to Land Manual Haryana, the area under PLPA in village Anangpur is 4389.97 Acre. However, in the notification dated 18.08.1992 the area recorded under notification under PLPA is 1467 acre. Area of Badkhal and Ankhir villages given in Working Plan is addition of area given in PLPA notification of 1965 and 1992. However, most of khasra no. in 1965 PLPA notification and 1992 PLPA notification are overlapping. After removing the overlapped khasra no. (having area 96.5 acre of Ankhir village and 63 acre of Badkhal village) area adds upto 1701 acre 7 kanal 11 marla in Badkhal village and 937 acre 4 kanal 1 marla in Ankhir village. Therefore, as per the PLPA notification area notified under PLPA 1900 is 5439.09 ha instead of 5513,13 ha given in working plan.”

7. Learned Additional Advocate General for the State of Haryana submits that forest areas since been identified, steps are being taken for restoration by removing the encroachments which will require some further time. Accordingly, we grant further time with a direction that prompt action be taken for enforcement of law and further status report as on 31.01.2021 may be filed before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.”

4. In pursuance of above, PCCF (HoFF), Haryana has filed an action taken report dated 13.08.2021 annexing reports from Gurugram, Faridabad and Nuh Districts. In respect of Gurugram, the report is as follows:

“

1.	Total No. of prosecution cases filed under EP Act, 1986 for farm house/ structure in violation of Aravali Notification dated 07.05.1992 District Gurugram by HSPCB.	513
2.	Total No. Show Cause Notice issued for farm house/ structure for commencing unauthorized construction activity without permission in violation of Aravali Notification dated 07.05.1992 by MC Sohna	195
3.	Total No. Show Cause Notice issued for farm house/ structure for commencing construction activity without permission in violation of Aravalli Notification dated 07.05.1992 by Town & Country Planning Department, Gurugram.	3

4.	Total No. violations in areas notified under section 4 and/or 5 of the PLPA, 1900. The Department has taken actions as per the provisions of the India Forest Act, 1927 against these violations.	52
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1. Forest Department, Gurugram:

Divisional Forest Officer, Gurugram informed that there are 52 violations in areas enclosed under section 4 & 5 of the PLPA 1900. Show Cause Notices have been issued to all the violators for violations in section 4 & 5 of PLPA 1900. The Action Taken Report by Forest Department Gurugram against the violations, Annexure I, is as follows:

1.	Total No. of permissions given under FCA 1980 by MOEF&CC	1
2.	Total No. of Violators approaches the Hon'ble Civil Court Sohna & Gurugram	11
3.	Total No. of Violators approaches the Hon'ble Punjab and Haryana High Court	6
4.	As per district revenue record some Mustil. No. in Raisina Village belongs to the land owner is "Gair Mumkin Pahar." Beside this, as per range officer report possession of the land seems to be in PLPA 1900 section 4&5 and demarcation was required. Demarcation done in number of areas where violations has been done	8
5.	As per district revenue record some Mustil. No. in Raisina Village belongs to the land owner is "Gair Mumkin Pahar." Beside this, as per range officer report possession of the land seems to be in PLPA 1900 section 4&5 and demarcation was required. The No. of areas under violations where DRO Gurugram has been requested to direct the concerned Tehsildar to demarcate the area.	4
6.	Total No. of violations in Bandhwari (Panchayat Land) under Aravali Notification 1992 and requested the Regional Officer HSPCB and Commissioner MCG Gurugram to take necessary action.	4
7.	Total No. of Violators in SEC Faridabad Prosecution Cases were filed against them.	3
8.	Total No. of government bodies has to apply FCA 1980	2
9.	Total No. of violations restored	9
10.	Total No. of violations such as old temple and peer dargah which falls under section 4&5 of PLPA 1900 constructed before notification dated 05.03.1970.	4

2. Municipal Council, Sohna, Gurugram:

Executive Officer, Municipal Council Sohna, vide letter no. 026/MCS Dated 05/04/2021 has submitted ATR as Annexure II.

3. Haryana State Pollution Control Board:

The Regional Officer HSPCB Gurugram informed that total 513 no. prosecution cases have been filed under Environment Protection act 1986 for Aravali Notification dated 07.05.1992 district Gurugram and action has to be taken against 195 violations/farm houses for commencing unauthorized construction activities without permission in violations of Aravali Notification dated 07.05.1992 by EO, MC Sohna.

4. Municipal Corporation, Gurugram:

The Joint Commissioner, MCG informed that 5 acres of land was restored from Violators and further informed that in Bandhwari, Gawal Pahari, Haiderpur Viran, Ghata Village some of the Violators approached the Hon'ble High Court, Chandigarh and Supreme Court, New Delhi. Further, necessary action has to be taken by committee after considering the decision of the Hon'ble Supreme Court and NGT New Delhi.”

5. In respect of Nuh District, the report is as follows:

“It is submitted that as per direction of the Hon'ble National Green Tribunal dated 26.08.2020, Forest Department took action against the violators in the area notified under section 4 &/or 5 of Punjab Land Preservation Act 1900. Abstract of the action taken against the violations in the area falling under section 4&/or 5 of Punjab Land Preservation Act. 1900 is as under:-

Sr No.	Name of Range	Farm House No./Structure detail	Khasra No. of Land	Status of land w.r.t PLPA Aravali Plantation and Forest Act.	Action taken by Forest Department for Violation of PLPA, Aravali Plantation and forest Act.
1	Nuh	Structure	Mustil No. 74	Nalhar Sec. 4&5	Structure demolished and area restored back
2	F.P.Jhirka	Structure	289/1	Biwan Sec. 4&5	Structure demolished and area restored back
3	F.P.Jhirka	Structure	422	F.P.Jhirka Sec. 4&5	Structure demolished and area restored back
4	F.P.Jhirka	Structure	422	F.P.Jhirka Sec. 4&5	Structure demolished and area restored back
5	F.P.Jhirka	Structure	422	F.P.Jhirka Sec. 4&5	Structure demolished and area restored back
6	F.P.Jhirka	Structure	422	F.P.Jhirka Sec. 486	Structure demolished and area restored back
7	F.P.Jhirka	Structure	422	F.P.Jhirka Sec. 4&5-	Structure demolished and area restored back
8	F.P.Jhirka	Structure	422	F.P.Jhirka Sec. 4&5	Structure demolished and area restored back

9	F.P.Jhirka	Structure	422	F.P.Jhirka Sec. 48t5	Structure demolished and area restored back
10	F.P.Jhirka	Structure of CRPF-Camp and Firing Range FP. Jhirka	324 to 375, 379 to 426,	F.P.Jhirka Sec. 4&5	As per CRPF authorities only temporary structures in the area has been constructed for stay of firing team and no other permanent structure has been constructed by them except boundary wall to protect human, cattle and wildlife during firing practice.

The Forest Department Nuh has issued three notices to the violators and after that with-help of Duty Magistrate on 22nd March 2021 all above mentioned structure from sr. no. 2 to 9 has demolished and restored back as Forest Area. (Photographs are enclosed)

In case of 350 acres of land of CRPF Camp is concerned, it is stated that the show cause letter has been issued to CRPF authorities vide Range Officer Ferozpur Jhirka letter No. 517 dated 17.01.2020 and letter No. 336 dated 29.01.2021. In response to that the Commandant CRPF vide his letter No. L-1-4/2020-21- Group Centre-Bhawan dated 06.02.2021 has submitted that this land was purchased by their Department in 2002 and it is used as Firing Range. It is also submitted by the agency that to avoid accident of human, wildlife and cattle the boundary wall was constructed in 2014 for protection of their area. Some temporary huts for the protection persons have been constructed. No leveling of ground has been done and no damage to Local Forest has been done by their organisation **(copy enclosed).**”

6. The report is respect of Faridabad is as follows:

“Forest Department has already filed 41 no. of prosecution cases in hon'ble Environment Court. It is submitted that during preliminary discussion it came to notice that various courts have provided various injunction to encroachers/violators. To that end, in district level meeting, it was decided that a detailed notice needs to be tendered to all encroachments/violations so that during time of demolition/restoration exercise no one take plea of some or other court judgments/stay. To that end, starting from village Mewla Maharajpur, in total 119 no. of notices have been issued to the violators for violating the Forest Laws in the area notified under section 4 &/or 5 of Punjab Land Preservation Act 1900 and issuance of remaining 4 notices are under process **(Copy attached).**”

Details of Reply received to Notices issued to illegal encroachment/violations in Ankhir village and Mewla Maharajpur village Faridabad:-

1. Cases in Hon'ble Supreme Court/High Court:-

Sr. No.	Type of Stricture (Farm House/Banquet Hall/Institutiona	Name of owner	Civil Suit No.	Court Name	Last Date

	<i>l etc.)</i>				
1.	<i>Marriage Palace</i>	<i>Mahipal Green valley</i>	<i>11000/2013</i>	<i>Hon'ble Supreme Court of India</i>	<i>07.01.2021</i>
2.	<i>Marriage Palace</i>	<i>Vaishall Garden/ Triplanime</i>	<i>11000/2013</i>	<i>Hon'ble Supreme Court of India</i>	<i>07.01.2021</i>
3.	<i>Marriage Palace</i>	<i>Saltnat</i>	<i>8173/2016</i>	<i>Hon'ble Supreme Court of India</i>	<i>07.01.2021</i>
4.	<i>Marriage Palace</i>	<i>Dharambir Bhadana (Jannet Valley)</i>	<i>11000/2013</i>	<i>Hon'ble Supreme Court of India</i>	<i>07.01.2021</i>
5.	<i>Marriage Palace</i>	<i>Khalsa Garden (Narender Singh)</i>	<i>10294/2013</i>	<i>Hon'ble Supreme Court of India</i>	<i>07.01.2021</i>

It is submitted that civil appeal no. 11000 of 2013, civil appeal no. 8173/2016, civil appeal no. 10294/2013 is pending in Hon'ble Supreme Court in which last date of hearing was on 07.01.2021 and next date is scheduled after 3 months. It is pertinent to mention here that Hon'ble Supreme Court has ordered to maintain status quo/ allow to host marriage in meanwhile in aforementioned civil appeals. Reply in all the above mentioned civil appeals has been filed. Hon'ble Supreme Court has passed orders dated 28-10-2013 in civil appeal no. 29962 of 2013 titled as Narender singh and others Vs Divesh Bhutani and others, Operative part of which is produced as under.

"In the meanwhile, the appellants may carry on their business of hosting marriages".

On the similar lines 16 no. of farm houses/marriage places claimed exemption from demolition/encroachment removal."

7. We find that action taken is not adequate nor information furnished is complete. It is not clear whether the illegal constructions have been demolished, which step is important in addition to initiating prosecution and issuing show cause notices. We expected a consolidated reply in respect of all the three Districts with the details of further action in terms of para 7 of the order dated 26.08.2020.

8. Only defense pleaded by learned Counsel for the State that *Writ Petition (C) No. 1031 of 2021* is pending before the Hon'ble Supreme Court on overlapping issues. It is stated that the said Writ Petition involves challenge to an Act passed by the Haryana Legislature in 2019 which stands stayed on 01.03.2019 by the Hon'ble Supreme Court.

9. On the other hand, learned Counsel for the applicant states that if the Act enacted by the State of Haryana has been stayed, there is no legal bar to removing encroachments and constructions in violation of Notification dated 07.05.1992, as directed by this Tribunal vide order dated 26.08.2020. Mere fact that the overlapping issues are pending before the Hon'ble Supreme Court is no ground to enforce the order of this Tribunal.

10. Having considered the matter, **we direct the Chief Secretary, Haryana to depute a competent officer to oversee compliance of order of this Tribunal dated 26.08.2020 for removing illegal encroachments and illegal constructions. The officer should be of the rank not below the rank of Additional Secretary to the Haryana Government. The officer may monitor compliance by clearly understanding the scope of action to be taken so that this Tribunal is not in the dark about the stand of the State, in absence of consolidated response of the State. Such Nodal Officer may file a compliance report after ascertaining all the facts within three months** before the Tribunal by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

11. Similar direction is also required in respect of Rajasthan. Affidavit filed on behalf of the State of Rajasthan on 22.06.2021 mentions the extent of encroachments and remedial action taken as follows:

“5. *With regard to above mention land, earlier there were 724 proceedings of encroachment was registered and encroached area was 599.02 Hector. At Present as per information, vide letter dated 28.12.2020 only one proceeding under section 91 of Rajasthan Land Revenue Act is pending out of 724 cases. Copy of letter dated 28.12.2020 issued by ADM Alwar is annexed as **Annexure R-2***

6. The Forest land recorded in Alwar Forest Division under Aravalli Notification dated 07.05.1992 are as under:

Sr.	Nature of Land	Hector Area
1	Gair Mumkin Pahar	45859.72
2	Gair mumkin Rada	419.63
3	Gair Mumkin Behad	901.381
4	Banjad Seed	6.13
5	Rundh	19483.32
6	Other Forest Land	5503.91
	Total	72174.091

7. **That with regard above mentioned forest land, total of 310 (225 +85) case are pending before learned Court till 15.12.2020 and the encroached area is 39.0811 (9.8353 + 29.2458) Hector. Copy of the letters dated 28.12.2020 & 21.12.2020 is annexed and marked as Annexure R-3**
8. The Forest land recorded in Sariska Tiger Reserve under Aravalli Notification dated 07.05.1992 are as under:

Sr. No.	Nature of Land	Hector Area
1	Gair Mumkin Pahar	46304.97
2	Gair mumkin Rada	929.46
3	Gair Mumkin Behad	795.77
4	Banjad Seed	-
5.	Banjad Charaagh	670.87
6.	Rundh	56530.85
7	Other Forest Land	978.78
	Total	106210.89

9. **With regard to above mentioned land till November 2020, 44 proceedings subjected to section 91 of Rajasthan Land Revenue Act are pending. Copy of the letter dated 14.12.2020 is annexed as Annexure R-4.**

12. The above information being inadequate, **we direct the Chief Secretary, Rajasthan also to nominate the officer not below the rank of Additional Secretary to monitor compliance and file an affidavit within three months before the Tribunal** by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

13. The States of Haryana as well as Rajasthan, in their next affidavits, may give the details of proceedings pending in the Hon'ble Supreme Court having bearing on the present proceedings and specifically

mention whether there is any bar for this Tribunal to proceed further in the matter.

List for further consideration on 28.01.2022.

A copy of this order be forwarded to the Chief Secretaries Haryana and Rajasthan by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

September 22, 2021
Original Application No. 04/2013 (Suo Moto)
SN