4-12-06

Annexure-4 208

Government of India
Ministry of Environment & Forests
(Wildlife Division)

Paryavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi-110003.

MOST URGENT
SUPREME COURT DIRECTIVE

F. No. 6-1/2003 WL-I (pt)
Dated: 19th December 2006

To
The Chief Secretary,
All States/Union Territories.

Sub: Eco-fragile/Eco-sensitive Zones around National Parks & Wildlife Sanctuaries-Reg.

Ref: This Ministry's letter of even no. dated 27th May 2005 and subsequent reminders on 6.12.2005, 23.1.2006 and 16.11.2006.

Sir,

Kindly refer to the above mentioned letter dated 27.5.2005 and subsequent reminders requesting for proposals regarding declaration of Eco-fragile/Eco-sensitive Zones around National Parks & Wildlife Sanctuaries. In this regard, it is mentioned that proposal from the State Governments are still awaited in this Ministry.

It may be mentioned here that Hon'ble Supreme Court vide order dated 4th December 2006 in W.P. 460/2004 in Goa Foundation Vs. Union of India has directed this Ministry to give a final opportunity to all States/Union territories to respond to this office letter dated 27.5.2005 and that the State Governments send their proposals within four weeks, to this Ministry. The Hon'ble Court has also directed that if the State Governments fail to comply to this, then the Court would consider passing orders for implementation of decision taken on 21st January 2002 in which all areas falling within 10 km from the boundary of Protected Area would be treated as eco-sensitive zones.. A copy of the said order of Hon'ble Court is enclosed for ready reference.

In view of the above, it is once again requested that the proposals may be sent to this Ministry within four weeks time from the date of this letter.

Yours faithfully,

(Dr. Anmol Kumar)
Deputy Inspector General (WL)
Telefax: 011-24362813.

24/1/2 Forests

Encl: Order of Hon'ble court dated 4.12.2006 in W.P. 460/2004.

Copy to: The Chief Wildlife Warden, All States/Union Territories- for necessary action.

SSF

For NATCO Pharma: Mr. S.Chandra Shekhar, Adv.

For Respondent(s) Mr. Soli J. Sorabjee, Sr.Adv.
Mr. Dhruv Mehta, Adv.
Mr. Harshvardhan Jha, Adv.
Mr. Yashraj Deora, Adv.
Mr. Mannoj Mehta, Adv.
for M/s. K.L. Mehta & Co., Advs.

Union of India: Mr. G.E. Vahanvati, S.G.
Mr. Vikas Sharma, Adv.
Mr. Shilpa Singh, Adv.
Mr. R.C.Kathiya, Adv.
Mrs. Anil Katiyar, Adv.

For Haryana: Mr. Ajay Siwach, AAG.
Mr. Manjit Singh, AAG.
Mr. T.V. George, Adv.

Mr. Bharat Sangal, Adv.
Mr. R.R.Kumar, Adv.
Mr. Samyadip Chatterji, Adv.
Ms. Suchita Sharma, Adv.

For TATA Steel: Mr. Gopal Jain, Adv.
Mr. R.N. Rakanjawala, Adv.
Mrs. Nandini Gore, Adv.
Mr. Manik Karanjawala, Adv.

For Goa SPCB & Sec.Env., St.of Goa: Mr. Bhavanishankar V. Gadnis, Adv.
Mrs. B. Sunita Rao, Adv.

Mr. Aruneshwar Gupta, Adv.
M/s. Lawyer's Knit & Co., Advs.
Mr. Anip Sachthey ,Adv.
Mr. B. Partha Sarthy ,Adv.
Mr. M.K. Dua ,Adv.
M/S Gagrat & Co. ,Adv.
Mr. Sunil Kumar Jain ,Adv.
Mr. Rakesh K. Sharma ,Adv.
Ms. Praveena Gautam ,Adv.
Mr. Nikhil Nayyar ,Adv.
Mrs. Prabha Swami ,Adv.

UPON hearing counsel the Court made the following

O R D E R

The order dated 16th October, 2006 refers to a letter dated 27th May, 2005 which was addressed by the Ministry of Environment and Forests (MoEF) to the Chief Wildlife Wardens of all States/Union Territories requiring them to initiate measures for identification of suitable areas and submit detailed

proposals at the earliest. The order passed on that date was that MoEF shall file an affidavit stating whether the proposals received pursuant to the letter of 27th May, 2005 have been referred to the Standing Committee of National Board for Wildlife under the Wild Life (Protection) Act, 1972 or not. It was further directed that such of the States/Union Territories who have not responded to the letter dated 27th May, 2005 shall do the needful within four weeks of the communication of the directions of this Court by the Ministry to them.

It seems that despite the letter dated 27th may, 2005 and despite the Ministry having issued reminders and also bringing to the notice of the States/Union Territories the orders of this Court dated 16th October, 2006, the States/Union Territories have not responded. However, we are told that the State of Goa alone has sent the proposal but that too does not appear to be in full conformity with what was sought for in the letter dated 27th May, 2005.

The order earlier passed on 30th January, 2006 refers to the decision which was taken on 21st January, 2002 to notify the areas within 10 km. of the boundaries of national parks and sanctuaries as eco-sensitive areas. The letter dated 27th May, 2005 is a departure from the decision of 21st January, 2002. For the present, in this case, we are not considering the correctness of this departure. That is being examined in another case separately. Be that as it may, it is evident that the States/Union Territories have not given the importance that is required to be given to most of the laws to protect environment made after Rio Declaration, 1972.

The Ministry is directed to give a final opportunity to all States/Union Territories to respond to its letter dated 27th May, 2005. The State of Goa also is permitted to give

appropriate proposal in addition to what is said to have already been sent to the Central Government. The communication sent to the States/Union Territories shall make it clear that if the proposals are not sent even now within a period of four weeks of receipt of the communication from the Ministry, this Court may have to consider passing orders for implementation of the decision that was taken on 21st January, 2002, namely, notification of the areas within 10 km. of the boundaries of the sanctuaries and national parks as eco-sensitive areas with a view to conserve the forest, wildlife and environment, and having regard to the precautionary principles. If the States/Union Territories now fail to respond, they would do so at their own risk and peril.

The MoEF would also refer to the Standing Committee of the National Board for Wildlife, under Sections 5(b) and 5(c)(ii) of the Wild Life (Protection) Act, the cases where environment clearance has already been granted where activities are within 10 km. zone.

List the matter after eight weeks.

(N. Annapurna)
Court Master

(V.P. Tyagi)
Asstt. Registrar