

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 12820 of 2016 (O&M)

Date of decision: 24.01.2017.

M/s Rajinder Infrastructure Pvt. Ltd.

..... Petitioner.

Versus

Union of India and others

..... Respondents.

**CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE DARSHAN SINGH**

Present: Mr. Rajesh Kumar Girdhar, Advocate, for the petitioner.

Mr. Virender Soni, Advocate, for respondents No. 1 and 4.

Mr. P.P.S. Thethi, Additional Advocate General, Punjab,
for respondents No. 2 and 5 to 8.

Ms. Anju Arora, Advocate, for respondent No. 3.

None for respondent No. 9.

Mr. Tribhuvan Singla, Advocate, for respondent No. 10.

Mr. Jasbir Singh, Advocate, for respondent No. 11.

S.S. SARON, J.

The petitioner - M/s Rajinder Infrastructure Pvt. Ltd. through its Director Shri Gurinderpal Singh by way of present petition under Articles 226/227 of the Constitution of India seeks quashing of the order dated 19.05.2016 (Annexure P7) whereby the learned National Green Tribunal (respondent No.9) ('Tribunal' - for short) has passed a blanket order restraining the entire State of Punjab from felling and cutting any tree. A further direction has been sought for directing respondents No. 2 to 8 to complete the cutting/axing of trees so as to enable the petitioner - Company to complete its project in time.

The petitioner - M/s Rajinder Infrastructure Pvt. Ltd. submits that it is an A-class government contractor and is a leading private sector road focussed company, which is mainly developing infrastructure in the State of Punjab in many diverse areas such as roads, bridges, irrigation, industrial, commercial and residential buildings. It has executed various works assigned to it from time to time.

The project for improvement of Ropar, Abiana, Nurpur Bedi up to Jhajj Chowk road from KM 0.00 to KM 32.62 was approved in different schemes. The case for improvement (widening and strengthening) of road from KM 0.00 to 12.50 was approved under the PIDB scheme by the Punjab Government. The stretch of this road from KM 12.50 to KM 32.62 stands approved under CRF scheme by the Central Government. Number of trees are standing on both sides of this road. The lands on which the trees are standing belong to the Forest Department and Zila Parishads. Approval for diversion of 0.736 hectares of forest land for the aforesaid project was granted by the Government of India vide letters dated 13.02.2014 and 07.11.2014.

The petitioner has been a successful bidder for carrying out the project for a part of the section for improvement of Ropar to Nurpur Bedi Jhajj Chowk (RD 26.148 to 32.62) section Nurpur Bedi to Jhajj Chowk under CRF Scheme job No. CRF-PB-2015-16-149 in District Rupnagar for an amount of Rs.14,99,35,011/-. Allotment letter for the said project has been issued in favour of the petitioner on 21.01.2016 (Annexure P2).

The Department of Forest on 21.01.2016 itself issued a letter to the Divisional Forest Officer, Rupnagar (respondent No.8) conveying the

decision for diversion of some of the forest land in favour of PWD (B&R) for widening the aforesaid road. The Government of India, Forest Department also issued a letter on 29.03.2016 to the Principal Secretary, Forests, Government of Punjab, regarding diversion of 4.97 hectares of forest land in favour of the Executive Engineer, Construction Division, B&R Branch, Rupnagar (respondent No.7) for widening of road from Nurpur Bedi to Jhajj Chowk RD 26.168 KM to 32.62 KM length 6.472 KM under the Forest Division, District Rupnagar. The Executive Engineer, Construction Division, B&R, Rupnagar (respondent No.7) on 08.04.2016 (Annexure P3) addressed a letter to the Divisional Forest Officer, Rupnagar (respondent No.8) regarding diversion of 4.97 hectares of forest land in favour of PWD (B&R) for widening of road from Nurpur to Jhajj Chowk RD 26.168 KM to 32.62 KM length 6.472 KM. The said letter mentions that an amount of Rs.39,90,910/- towards Net Present Value (NPV) , amount of Rs.50,47,482/- towards Compensatory Afforestation Fund Management and Planning Authority (CAMPA) and an amount of Rs.7,81,740/- towards the amount of plantation of 516 trees is required to be deposited. Against the column, ' details of payment', it is mentioned that the payment of the said amount has been received as per 'challan' through RTGS from Axis Bank, Rupnagar. The Divisional Forest Officer, Rupnagar has sent letter dated 27.04.2016 (Annexure P4) to the Divisional Manager, Punjab State Forest Development Corporation Ltd., S.A.S. Nagar, Mohali conveying the decision of Government of India for cutting of 1205 trees for widening road from RD 26.148 to 36.62 KM. It is submitted that for widening and strengthening of the road in question in different RDs, the

cases for deforestation of forest area were prepared and submitted for approval vide different letters issued by the Executive Engineer, Construction Division, B&R Branch, Rupnagar (respondent No.7), the details of which are mentioned. However, in view of the order dated 19.05.2016 (Annexure P7) passed by the learned Tribunal. The said order, according to the petitioner, has been passed without taking into account the projects that had been officially cleared and also had the requisite sanctions as in the present case.

We have given our thoughtful consideration to the matter.

The grievance of the petitioner is that despite having made full and complete payments for felling and cutting the trees for which necessary permissions have been granted, it is unable to cut the same due to the order dated 19.05.2016 (Annexure P7) passed by the learned Tribunal whereby it has restrained the felling and cutting of trees in the entire State of Punjab.

Notice of motion was issued in the case on 19.07.2016.

We propose to dispose of the writ petition in terms of the order passed by Hon'ble the Supreme Court of India in an appeal arising out of the same order dated 19.05.2016 (Annexure P7) passed by the learned Tribunal.

It may be noticed that the State of Punjab filed Civil Appeal D No.33942 of 2016, titled 'State of Punjab and others v. Amandeep Aggarwal and others' against the aforesaid order dated 19.05.2016 (Annexure P7) passed by the learned Tribunal, in the Supreme Court. It was submitted on behalf of the State that the order passed by the learned Tribunal was wholly unjustified having regard to the fact that the State of Punjab had obtained all

permissions required from the competent authority for felling of trees in connection with various ongoing projects and that without taking note of such permissions, the learned Tribunal was not liable to have issued a blanket ban on cutting of forest trees. This, according to the State, would seriously hamper the ongoing developmental projects in connection with widening of the highways and in particular the construction of National Highway No. 71 in the State of Punjab. It was submitted that while the State of Punjab was ready and willing to furnish whatever information that was required by the learned Tribunal; however, the projects of national importance like widening of the highways mentioned in the said case ought not to be hampered by reason of the said order dated 19.05.2016. It was submitted that Hon'ble the Supreme Court while permitting the petitioner State in the said case to approach the learned Tribunal for vacation of the stay part of the said order qua National Highway No. 71 so that the ongoing project would not be adversely affected.

Hon'ble the Supreme Court, on the basis of the aforesaid submissions, passed the following order on 28.10.2016:-

“There is in our opinion considerable merit in the submission made by Mr. Rohatgi. It is true that the State has been directed to secure certain information including the trees removed and those planted as also the scheme under which such plantation has been undertaken yet the the blanket ban on felling of trees placed by the Tribunal cannot be allowed to adversely affect the ongoing works on the highway mentioned earlier. In the circumstances therefore we deem it proper to

suspend the impugned order for a period of four months from today to enable the State Government to not only execute the ongoing project mentioned above but also the other projects which are likely to be affected by the impugned order. We make it clear that the Tribunal shall be at liberty to pass any fresh order qua the projects that are already approved upon consideration of the materials that the State of Punjab may place on record. We are conscious of the fact that we are not issuing any notice to the respondent while we are suspending a part of the impugned order concerning NH-71. We are doing so only to avoid any delay in service of notice upon the respondent and the final order that may be passed. We however leave it open to the respondent, petitioner before the Tribunal to raise all such contentions as may be open to him in law after the requisite information is received by the Tribunal.

With the aforesaid observation, this appeal is disposed off.”

In terms of the aforesaid order dated 28.10.2016 passed by Hon'ble the Supreme Court, the present petition is disposed of with the direction that the operation of the impugned order dated 19.05.2016 passed by the learned Tribunal shall remain suspended and shall continue to remain suspended for a period of four months from the date of receipt of certified copy of the order to enable the petitioner to execute the ongoing project in the present case and leaving the learned Tribunal with liberty to pass any fresh order for the project in question upon consideration of the facts which

are furnished by the parties. The parties would be at liberty to approach the learned Tribunal to raise all such contentions as may be open to them in law.

The writ petition is accordingly disposed of in the aforesaid terms.

(S.S. SARON)
JUDGE

(DARSHAN SINGH)
JUDGE

24.01.2017
Ramesh

Note:

1.	Whether reasoned/speaking	:	Yes
2.	Whether reportable	:	No