

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

CWP No. 12909 of 2016 (O&M)

Date of decision: 24.01.2017.

M/s Oasis Technocons 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. R.K. Girdhar, Advocate, for the petitioner.

Mr. Virender Soni, Advocate,
for respondents No. 1 and 4 - Union of India.

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 Oasis Technocons Limited, Chandigarh through its Managing Director seeks quashing of the order dated 19.05.2016 (Annexure P5) 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. It is submitted that the said order 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. A further direction has been sought for

directing respondents No. 2 to 8 to complete the cutting/axing of trees so as to allow the petitioner to complete the project awarded to it in a timely manner.

The petitioner, it is submitted, is a leading private sector road focused 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. There has been no complaint against it.

The work of special work of Sirhind-Morinda road (MDR - 31) R.D. 8.00 to 19.10 Km, District Fatehgarh Sahib (including maintenance of road for five years) (P.I.D.B. Funds) was approved by the Environment and Forest Ministry, Government of India (respondent No.1) and approval for cutting/felling of trees has also been granted by the Government of India vide letter dated 22.02.2007 (Annexure P1). The said work has been allotted to the petitioner vide allotment letter dated 27.11.2015 (Annexure P2) pursuant to tenders dated 13.11.2015.

It is submitted that there are total of 756 trees standing on the right and left side of the road. The approval for cutting and felling these trees has been granted by the Government of India vide aforesaid letter dated 22.02.2007 (Annexure P1). About 40% of the trees have been cut and the remaining trees are yet to be cut/felled to complete the remaining portion of the project. The road where work is being done is a Major District Road (MDR - 31) and is a very busy road. In terms of the allotment letter, the work is to be completed within five months. Due amount for cutting and felling the trees has been deposited by the Executive Engineer,

Construction Division No.2, PWD (B&R Branch), Mohali at Fatehgarh Sahib (respondent No.7) with the Forest Department. Therefore, it is submitted that the project of Special Repair of the road in question is a duly approved project and everything is being done as per the approval and sanction granted by the competent authority. However, in view of the impugned order dated 19.05.2016 (Annexure P5) passed by the learned Tribunal, the work has been held up.

The operation of the order dated 19.05.2016 (Annexure P5) passed by the learned Tribunal was stayed by this Court on 01.07.2016 to the extent it related to construction made by the petitioner.

Reply by way of affidavit of Shri Mahavir Singh, IFS, Conservator of Shiwalik Circle, Punjab, on behalf of respondent No. 2 was taken on record on 04.11.2016.

We have given our thoughtful consideration to the matter.

The grievance of the petitioner is that it has to complete the work in respect of the project allotted to it in a time bound manner. Besides, for carrying out the work trees have been cut and more trees are to be cut and felled. However, the learned Tribunal in terms of order dated 19.05.2016 (Annexure P5) has restrained the felling and cutting of trees in the entire State of Punjab on account of which further progress in the work cannot be made.

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 P5) 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 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