

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

CWP No. 20575 of 2016 (O&M)

Date of decision: 24.01.2017.

Union of India and others

..... Petitioners.

Versus

Dr. Amandeep Aggarwal and others

..... Respondents.

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

Present: Mr. Chetan Mittal, Senior Advocate/
Additional Solicitor General of India, with
Mr. Vivek Singla, Senior Panel Counsel, for the petitioners.

Mr. Tribhuvan Singla, Advocate, for respondent No. 1.

Mr. Jasbir Singh, Advocate, for respondent No. 2.

Mr. P.P.S. Thethi, Additional Advocate General, Punjab,
for respondents No. 3 and 4.

None for respondent No. 5.

S.S. SARON, J.

The petitioners - Union of India and others seek quashing of the order dated 19.05.2016 (Annexure P2) passed by the learned National Green Tribunal (respondent No. 5) ('Tribunal' - for short) whereby a blanket order has been issued restraining the felling and cutting of trees in the entire State of Punjab.

The Air Force Project at Air Force Station, Bhisiana, District Bathinda, it is submitted, is to be undertaken at a cost of Rs.13,48,30,000/-, as mentioned in Annexure P3. The project is to be undertaken as there is an urgent need to enhance the weapon storage capabilities at Air Force Station, Bhisiana to keep up with the operational requirements. For the said purpose,

construction of two special types of buildings is to be initiated at the Air Force Station, Bhisiana. The same is included in AMWP, 2015-16. The work was approved and administrative approval was issued by the AOC-in-C HQ WAC, IAF on 26.02.2016 (Annexure P3). For execution of the said work, the funds were released vide letter dated 01.03.2016 (Annexure P4). A final clearance of the project has been accorded vide letter dated 29.04.2016. It is submitted that there exists no alternate suitable site within the Air Force Station, Bhisiana for the project which requires utmost safety distances to be maintained.

To undertake the said project, trees at the earmarked site are to be cut so that the work can be executed within a stipulated time to meet the operation requirement of the Air Force Station. The Air Force Station, Bhisiana sought permission of the Divisional Forest Officer, Bathinda for cutting the trees. However, the same was not entertained by the Divisional Forest Officer, Bathinda in view of the order dated 19.05.2016 passed by the learned Tribunal. A letter dated 02.08.2016 (Annexure P6) was issued by the Divisional Forest Officer, Bathinda informing the Station Works Officer of the Project at Air Force Station, Bhisiana that as per the directions of the learned Tribunal, the axing of trees for all the projects under the Punjab Government has been restrained. So, clearance could not be granted for axing of trees for the project LRC/URP Igloo BLDG at Air Force Station, Bhisiana till further orders. The case would be considered immediately after relaxation of the Court ruling. Therefore, the petitioners have approached this Court.

Interim stay was granted by this Court vide order dated

30.09.2016.

We have given our thoughtful consideration to the matter.

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 P2) 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 petitioners 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