

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

**CWP No. 23074 of 2016 (O&M)
Date of decision: 24.01.2017.**

Amarjeet Singh Petitioner.

Versus

Union of India and others Respondents.

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

Present: Mr. Ramdeep Partap Singh, Advocate, for the petitioner.

Mr. Karan Singh, Advocate,
for respondent No. 1 - Union of India.

Mr. P.P.S. Thethi, Additional Advocate General, Punjab,
for respondents No. 2 to 4.

None for respondent No. 5.

Mr. Tribhuvan Singla, Advocate, for respondent No. 6.

Mr. Jasbir Singh, Advocate, for respondent No. 7.

S.S. SARON, J.

CM No. 16658-CWP of 2016

Reply affidavit of Shri Som Datt Sharma, Conservator of Forests (Central) on behalf of Additional Principal Chief Conservator of Forests (Central), Ministry of Environment, Forests and Climate Change, Northern Regional Office at Chandigarh (respondent No.1) attached with the civil miscellaneous application, is taken on record, subject to just exceptions.

The civil miscellaneous application stands disposed of.

CWP No. 23074 of 2016

The petitioner - Amarjeet 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 P8) whereby the learned National Green Tribunal (respondent No.5) ('Tribunal' - for short) has passed a blanket order restraining the entire State of Punjab from felling and cutting any tree. A further prayer has been made for quashing the order dated 20.05.2016 (Annexure P9) passed by the Principal Chief Conservator of Forests (respondent No.2) implementing the aforesaid order dated 19.05.2016 (Annexure P8) in the entire State of Punjab.

The Gram Panchayat village Malot, District Hoshiarpur, made an application to the Hoshiarpur Forest Division for cutting 3118 dead/dry trees on about 04.03.2014. The procedure provided is set and the Sarpanch of the village applies before the Divisional Forest Officer for necessary permission. The latter after due satisfaction and internal official formalities grants the permission to the concerned Gram Panchayat to auction/float tenders accordingly. A copy of the permit for sale of dead and dried trees dated 04.03.2014 (Annexure P1) in village Malot, District Hoshiarpur, has been placed on record. The Gram Panchayat is required to submit requisite amount and there are also certain terms and conditions provided for the same.

In terms of the auction notice/advertisement (Annexure P2) published by the Block Development and Panchayat Officer, Hoshiarpur (respondent No.4), auction for 253 dried 'cheel' trees and 2865 'khair' trees, in all 3118 trees that were on the Panchayat land owned by Gram Panchayat

village Malot, Block Bhunga, District Hoshiarpur, was fixed for 04.03.2016 at 01:00 p.m. at Government Primary School in the presence of Deputy Commissioner, Jalandhar. It was also clarified that the terms and conditions regarding the auction would be declared at the spot. The Divisional Forest Officer, Hoshiarpur in pursuance of letter/communication dated 08.03.2016 (Annexure P3) informed the Manager, Punjab Gramin Bank, Mahengrowal that the Sarpanch, Gram Panchayat of village Malot, Tehsil and District Hoshiarpur had made a request for permit for green trees/bamboo/broza/dried trees from their private forest area for which the owner was required to deposit security amount. On the same day, the Divisional Forest Officer, Hoshiarpur addressed another letter dated 08.03.2016 (Annexure P4) to the Forest Range Officer, Mahengrowal for extension of the period of cutting under the permissible permit. It was clarified that the report in this regard be submitted in the office of Divisional Forest Officer, Hoshiarpur by 01.04.2016 to the effect that cutting has been completed without any loss to the forest. The conditions of the previously issued permit would remain applicable during the extended period of cutting under the said period. The said letter was also addressed to the Block Development and Panchayat Officer, Hoshiarpur (respondent No.4) for information and necessary action.

The petitioner along with other bidders deposited Rs.5,00,000/- for participating in the bidding process. The reserve auction price was fixed at Rs.65,00,000/-. The petitioner offered the highest bid of Rs.82,00,000/-. The auction was finalized in his favour, which was accepted by the officers at the spot as also the Gram Panchayat to whom the land belonged. A lease

agreement was signed by the petitioner, the Sarpanch of village Malot, Block Bhunga, District Hoshiarpur and the Block Development and Panchayat Officer, Hoshiarpur (respondent No.4) and one Panch of the village. The petitioner then mobilized the work for cutting the trees. It is submitted that out of total number of trees, the petitioner has cut/cleared 1900 trees. It is mentioned that the said trees have either already fallen or even if they are standing, it takes a mild push by the labourers to ground it because these have no life at all. The petitioner now is unable to execute the work in view of the order dated 19.05.2016 (Annexure P8) passed by the learned Tribunal (respondent No.5). 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, he is unable to cut the same due to the order dated 19.05.2016 (Annexure P8) 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 08.11.2016 and in the meantime, the operation of the impugned order dated 19.05.2016 (Annexure P8) and order dated 20.05.2016 (Annexure P9) passed by the learned Tribunal (respondent No.5) and the Principal Chief Conservator of Forests (Head of Forest Force), S.A.S. Nagar, Mohali, Punjab (respondent No.2), respectively, to the extent the same related to the cutting of 3118

dead and dried trees was stayed by this Court.

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 P8) 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 P8) 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