

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

CWP No. 26647 of 2016 (O&M)

Date of decision: 24.01.2017.

Dilip Buildcon 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.S. Khosla, Senior Advocate, with
Mr. Aman Sharma, Advocate, for the petitioner.

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

Mr. P.P.S. Thethi, Additional Advocate Genera, Punjab,
for respondents No. 2 and 4.

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

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.

The civil writ petition has been filed by Dilip Buildcon Limited through its authorized representative Shri Yogendra Kumar under Articles 226/227 of the Constitution of India seeking 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 trees. It is submitted that the said order has been passed without taking into account the various projects like the present one that had been initiated only after

obtaining all the requisite sanctions including those of the Department of Environment as well as Forests for felling the trees. A further direction has been sought for directing respondents No. 2 and 3 to complete the felling of trees so as to allow the petitioner - Company to complete its project.

It is submitted that the petitioner - Company is a leading private sector road focused Company which is mainly developing infrastructure all over the country in many diverse areas such as roads and bridges. The petitioner - Company was a successful bidder for widening and strengthening of existing two lanes carriage way to four lanes with paved side shoulders of Amritsar-Tarn Taran-Hariker section of NH-15 (New NH No.54) from existing KM 445.250 of NH-1 to existing KM 158.350 of NH-15 including construction of Amritsar and Naushera bypasses in the State of Punjab on EPC mode under NHDP-IV. The said project is near the Indo-Pak Border and, thus, construction of widening of this National Highway would not only help the ordinary vehicular traffic but also ensure the speedy and unobstructed movement of heavy defence infrastructure in this area which is vital for the security of the nation.

The petitioner - Company made a bid for widening and strengthening of existing two lanes carriage way to four lanes carriage ways, as mentioned above, and it was declared a successful bidder. Letter of Award dated 27.03.2015 (Annexure P1) for the said work was given to it. In pursuance thereto, the petitioner gave its Letter of Acceptance dated 28.03.2016 (Annexure P2).

The Additional Principal Chief Conservator of Forest (Central) addressed a letter dated 10.08.2016 (Annexure P4) to the Chief Secretary (Forests), Government of Punjab conveying that approval had been given for

diversion of 4.80 hectares of forest for widening and strengthening of two lane to four lanes with paved shoulders of Amritsar-Tarn Taran to Harike section of NH-15 from KM 112+500 in the State of Punjab (under NHDP-4) under Forest Division and District Amritsar, Punjab.

In compliance with the conditions as stipulated in the letter dated 10.08.2016 (Annexure P4), Secretary to Government of Punjab, Public Works Department (B&R), Punjab (respondent No.4) deposited the requisite amount of Rs.1,31,49,512/- against the demand notices in the account of Compensatory Afforestation Fund Management and Planning Authority (CAMPA), Punjab vide 'challan' dated 05.12.2016 (Annexure P5).

However, despite the aforesaid position, the project work of the petitioner - Company cannot be carried out in view of the blanket order dated 19.05.2016 (Annexure P8) passed by the learned Tribunal (respondent No.5) restraining the felling of trees in the entire State of Punjab. According to the petitioner, the Principal Conservator of Forests (respondent No.2) was not giving necessary sanction for cutting trees in view of the aforesaid order dated 19.05.2016 (Annexure P8).

Notice of motion was issued by this Court on 21.12.2016 and in the meanwhile operation of the impugned order dated 19.05.2016 (Annexure P8) passed by the learned Tribunal (respondent No. 5) was stayed in respect of the aforementioned work of the petitioner - Company.

We have given our thoughtful consideration to the matter and perused the record.

It is to be noticed that the working of widening and strengthening the existing two lanes carriage way to four lanes with paved side shoulders of Amritsar - Tarn Taran - Harike section of NH 15 (New NH

No.54) from existing KM 445.250 to NH-1 to existing KM 158.350 of NH-15 including the construction of Amritsar and Naushera bypasses in the State of Punjab on EPC mode under NHDP-IV is to be carried out, which cannot be carried out in view of the order dated 19.05.2016 (Annexure P8) passed by the learned Tribunal (respondent No.5).

We propose to dispose of the matter in terms of the order passed by Hon'ble the Supreme Court in an appeal filed by the State of Punjab i.e. 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). In the said appeal, it was submitted on behalf of the State that the order dated 19.05.2016 (Annexure P8) 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 - Company 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