

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3874 of 2021

Mahidhar Tamboli S/o Munnalal Tamboli Aged About 66 Years Proprietor Maa Sharda Saw Mill, Address Village Katgi, Tahsil Kasdol, District Baloda Bazar Chhattisgarh

---- Petitioner

Versus

1. Union Of India Ministry Of Environment Forest And Climate Change Through Its Secretary, New Delhi., District : New Delhi, Delhi
2. State Of Chhattisgarh Through Its Secretary, Department Of Forest And Climate Change, Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh.
3. Principal Chief Conservator Of Forest Chhattisgarh, Aranya Bhawan Sector - 19, North Block, Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh
4. State Level Committee Chhattisgarh Under Wood Based Industries Guidelines Through Its Member Secretary, Aranya Bhawan Sector - 19, North Block, Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh
5. Divisional Forest Officer Cum Licencing Authority Baloda Bazaar, District Baloda Bazaar Chhattisgarh.,

---- Respondents

WPC No. 3882 of 2021

Praveen Patel S/o Ramnik Patel Aged About 38 Years Proprietor Narayan Saw Mill, Address Village Pendri, Tehsil Bhatapara, District Bhatapara Baloda Bazar Chhattisgarh.,

---- Petitioner

Versus

1. Union Of India Ministry Of Environment Forest And Climate Change Through Its Secretary, New Delhi.
2. State Of Chhattisgarh Through Its Secretary, Department Of Forest And Climate Change, Mantralaya , Mahanadi Bhawan, Nawa Raipur , Atal Nagar, District Raipur Chhattisgarh.
3. Principal Chief Conservator Of Forest Chhattisgarh, Aranya Bhawan Sector 19 , North Block, Nawa Raipur , Atal Nagar, District Raipur Chhattisgarh.
4. State Level Committee Chhattisgarh Under Wood Based Industries Guidelines Through Its Member Secretary , Aranya Bhawan Sector 19, North Block , Nawa Raipur , Atal Nagar, District Raipur Chhattisgarh.

Divisional Forest Office Cum Licencing Authority Baloda Bazaar, District Baloda Bazaar Chhattisgarh.

---- Respondents

WPC No. 3885 of 2021

Sushma Sahu W/o Late Lila Dhar Aged About 44 Years Proprietor, Address Village Pavni, Tahsil Bilaigarh District Baloda Bazar-Bhatapara Chhattisgarh

---- Petitioner

Versus

1. Union Of India Ministry Of Environment Forest And Climate Change Through Its Secretary, New Delhi
2. State Of Chhattisgarh Through Its Secretary, Department Of Forest And Climate Change, Mantralaya, Mahanadi Bhawan, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh
3. Principal Chief Conservator Of Forest, Chhattisgarh, Aranya Bhawan, Sector-19, North Block, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh
4. State Level Committee Chhattisgarh Under Wood Based Industries Guidelines Through Its Member Secretary, Aranya Bhawan, Sector-19, North Block, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh
5. Divisional Forest Officer-Cum-Licencing Authority Baloda Bazar District Baloda Bazar Chhattisgarh

---- Respondents

WPC No. 3886 of 2021

Agrawal Saw Mill, Through Its Proprietor Anil Kumar Agrawal , S/o Shri Ram Gopal Agrawal , Aged About 53 Years , Address Village Khokhli, Tehsil Bhatapara , District Baloda Bazar Bhatapara, Chhattisgarh.

---- Petitioner

Versus

1. Union Of India Ministry Of Environment Forest And Climate Change Through Its Secretary, New Delhi., District : New Delhi, Delhi
2. State Of Chhattisgarh Through Its Secretary, Department Of Forest And Climate Change, Mantralaya , Mahanadi Bhawan, Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh
3. Principal Chief Conservator Of Forest Chhattisgarh , Aranya Bhawan Sector 19, North Block Naya Raipur , Atal Nagar , District Raipur Chhattisgarh.
4. State Level Committee Chhattisgarh Under Wood Based Industries Guidelines Through Its Member Secretary, Aranya Bhawan Sector 19, North Block, Nawa Raipur , Atal Nagar , District Raipur Chhattisgarh.

5. Divisional Forest Officer Cum Licencing Authority Baloda Bazaar, District Baloda Bazaar Chhattisgarh.

---- Respondents

WPC No. 3888 of 2021

Bhupendra Kumar Agrawal, S/o. Bhagwan Agrawal Aged About 50 Years Proprietor Agrawal Saw Mill, Address Village Lahaud, Tahsil Baloda Bazaar, District Baloda Bazar-Bhatapara Chhattisgarh

---- Petitioner

Versus

1. Union Of India Ministry Of Environment Forest And Climate Change Through Its Secretary, New Delhi
2. State Of Chhattisgarh Through Its Secretary, Department Of Forest And Chclimate Change, Mantralaya, Mahanadi Bhawan, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh
3. Principal Chief Conservator Of Forest, Chhattisgarh, Aranya Bhawan, Sector-19, North Block, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh
4. State Level Committee Chhattisgarh Under Wood Based Industries Guidlines Through Its Member Secretary, Aranya Bhawan, Sector-19, North Block, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh
5. Divisional Forest Officer-Cum-Licencing Authority Baloda Bazar District Baloda Bazar Chhattisgarh

---- Respondents

WPC No. 3889 of 2021

1. Raju Kumar Banjare S/o Late Nirat Ram Banjare Aged About 35 Years Proprietor, Address Village Sarsiwa, Tehsil Bilaigarh, District Baloda Bazar Bhatapara Chhattisgarh

---- Petitioner

Versus

1. The Union Of India Ministry Of Environment Forest And Climate Change Through Its Secretary, New Delhi., District : New Delhi, Delhi
2. State Of Chhattisgarh Through Its Secretary, Department Of Forest And Climate Change, Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh.
3. Principal Chief Conservator Of Forest Chhattisgarh, Aranya Bhawan Sector - 19, North Block, Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh
4. State Level Committee Chhattisgarh Under Wood Based Industries Guidelines Through Its Member Secretary, Aranya Bhawan Sector - 19, North Block, Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh

5. Divisional Forest Officer Cum Licencing Authority Baloda Bazaar, District Baloda Bazaar Chhattisgarh.

---- Respondents

WPC No. 3895 of 2021

Jaiswal Rice And Flour Mill Through Its Proprietor Ramesh Kumar Jaiswal, S/o Late Murlidhar Jaiswal, Aged About 63 Years, Address Village Cherkapur, Tehsil Palari, District Baloda Bazar-Bhatapara Chhattisgarh,

---- Petitioner

Versus

1. Union Of India Ministry Of Environment Forest And Climate Change Through Its Secretary, New Delhi, District : New Delhi, Delhi
2. State Of Chhattisgarh Through Its Secretary, Department Of Forest And Climate Change, Mantralaya, Mahanadi Bhawan, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh
3. Principal Chief Conservator Of Forest, Chhattisgarh, Aranya Bhawan, Sector-19, North Block, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh
4. State Level Committee Chhattisgarh Under Wood Based Industries Guidelines Through Its Member Secretary, Aranya Bhawan, Sector-19, North Block, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh
5. Divisional Forest Officer-Cum-Licencing Authority Baloda Bazar District Baloda Bazar Chhattisgarh

---- Respondents

WPC No. 3952 of 2021

Rakesh Jaiswal, S/o Banshi Lal Jaiswal Aged About 48 Years Proprietor, Address Village Purgaon, Tehsil Bilaigarh District Baloda Bazar-Bhatapara Chhattisgarh

---- Petitioner

Versus

1. Union Of India Ministry Of Environment Forest And Climate Change Through Its Secretary, New Delhi
2. State Level Committee Chhattisgarh Under Wood Based Industries Guidelines Through Its Member Secretary, Aranya Bhawan, Sector-19, North Block, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh
3. Principal Chief Conservator Of Forest, Chhattisgarh, Aranya Bhawan, Sector-19, North Block, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh
4. State Of Chhattisgarh Through Its Secretary, Department Of Forest And Climate Change, Mantralaya, Mahanadi Bhawan, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh

5. Divisional Forest Officer-Cum-Licencing Authority Baloda Bazar District Baloda Bazar Chhattisgarh

---- Respondents

WPC No. 3953 of 2021

Om Saw Mill Through Its Proprietor Om Nath Sahu S/o Late Govind Ram Sahu Aged About 49 Years Address Village Amera, Tehsil Baloda Bazar, District Baloda Bazar-Bhatapara Chhattisgarh

---- Petitioner

Versus

1. Union Of India Ministry Of Environment Forest And Climate Change Through Its Secretary, New Delhi
2. State Of Chhattisgarh Through Its Secretary, Department Of Forest And Chlimate Change, Mantralaya, Mahanadi Bhawan, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh
3. Principal Chief Conservator Of Forest, Chhattisgarh, Aranya Bhawan, Sector-19, North Block, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh
4. State Level Committee Chhattisgarh Under Wood Based Industries Guidlines Through Its Member Secretary, Aranya Bhawan, Sector-19, North Block, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh
5. Divisional Forest Officer-Cum-Licencing Authority Baloda Bazar District Baloda Bazar Chhattisgarh

---- Respondents

WPC No. 3954 of 2021

Sandeep Saw Mill Through Its Proprietor Krishnanand, S/o Bholu Prasad Agarwal, Aged About 50 Years , Address Village Bharsoli, The Baloda Bazar , District Baloda Bazar Bhatapara Chhattisgarh.

---- Petitioner

Versus

1. Union Of India Ministry Of Environment Forest And Climate Change Through Its Secretary, New Delhi., District : New Delhi, Delhi
2. State Of Chhattisgarh Through Its Secretary, Department Of Forest And Climate Change , Mantralaya, Mahanadi Bhawan, Nawa Raipur , Atal Nagar , District Raipur Chhattisgarh.
3. Principal Chief Conservator Of Forest Chhattisgarh , Aranya Bhawan Sector 19, North Block, Nawa Raipur , Atal Nagar , District Raipur Chhattisgarh.
4. State Level Committee Chhattisgarh Under Wood Based Industries Guidelines Through Its Member Secretary, Aranya Bhawan Sector 19, North Block , Nawa Raipur , Atal Nagar, District Raipur Chhattisgarh.
5. Divisional Forest Office Cum Licencing Authority Baloda Bazaar , District Baloda

Bazaar Chhattisgarh.

---- Respondents

WPC No. 3955 of 2021

Laxmi New Aaramill Through Its Proprietor Jatiram Verma S/o Shri Deendayal Verma, Aged About 62 Years. Address- Village And Post- Arjuni Via. Bhatapara, District Baloda Bazar- Bhatapara Chhattisgarh.,

---- Petitioner

Versus

1. Union Of India Ministry Of Environment Forest And Climate Change Through Its Secretary, New Delhi., District : New Delhi, Delhi
2. State Of Chhattisgarh Through Its Secretary, Department Of Forest And Climate Change, Mantralaya, Mahanadi Bhawan, Nawa Raipur , Atal Nagar, District Raipur Chhattisgarh.
3. Principal Chief Conservator Of Forest Chhattisgarh, Aranya Bhawan Sector 19 , North Block, Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh.
4. State Level Committee Chhattisgarh Under Wood Based Industries Guidelines Through Its Member Secretary, Aranya Bhawan Sector 19, North Block, Na., District : Raipur, Chhattisgarh
5. Divisional Forest Officer- Cum- Licencing Authority Baloda Bazaar, District Baloda Bazaar Chhattisgarh.,

---- Respondents

WPC No. 3956 of 2021

Mulji Bhai Patel S/o Shri Karmasi Bhai Patel Aged About 70 Years Proprietor Of Mahalaxmi, Saw Mill, Address- Village Saraipali Road, Sarsiwa, District- Baloda Bazar- Bhatapara (C.G.), Chhattisgarh

---- Petitioner

Versus

1. The Union Of India Ministry Of Environment Forest And Climate Change Through Its Secretary, New Delhi, Delhi
2. State Of Chhattisgarh Through- Its Secretary, Department Of Forest And Climate Change, Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, District- Raipur (C.G.), Chhattisgarh
3. Principal Chief Conservator Of Forest Chhattisgarh, Aranya Bhawan Sector- 19, North Block, Nawa Raipur, Atal Nagar, District- Raipur (C.G.), Chhattisgarh
4. State Level Committee Chhattisgarh Under Wood Based Industries Guidelines Through- Its Member Secretary, Aranya Bhawan Sector- 19, North Block, Nawa Raipur, Atal Nagar, District- Raipur (C.G.), Chhattisgarh

5. Divisional Forest Officer-Cum-Licencing Authority Baloda Bazaar, District- Baloda Bazaar (C.G.), Chhattisgarh

---- Respondents

WPC No. 3957 of 2021

Guljari Lal Sahu, S/o Late Dashrath Lal Sahu Aged About 53 Years Proprietor Sahu Saw Mill, Address Village Lahoud, Tehsil Baloda Bazaar District Baloda Bazar Bhatapara Chhattisgarh.

---- Petitioner

Versus

1. Union Of India Ministry Of Environment Forest And Climate Change Through Its Secretary, New Delhi., District : New Delhi, Delhi
2. State Of Chhattisgarh Through Its Secretary, Department Of Forest And Climate Change, Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh.,
3. Principal Chief Conservator Of Forest Chhattisgarh, Aranya Bhawan, Sector 19, North Block, Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh.
4. State Level Committee Chhattisgarh Under Wood Based Industries Guidelines Through Its Member Secretary, Aranya Bhawan, Sector 19 North Block Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh.
5. Divisional Forest Officer Cum Licencing Authority Baloda Bazaar, District Baloda Bazaar Chhattisgarh.

---- Respondents

WPC No. 3958 of 2021

Surendra Kumar And Brothers Saw Mill Through Its Proprietor Surendra Kumar Sahu, S/o. Dansai Sahu, Aged About 42, Address - Village Pavni, The Bilaigarh, Distt. Baloda Bazar Bhatapara (Chhattisgarh)

---- Petitioner

Versus

1. Union Of India Ministry Of Environment Forest And Climate Change Through Its Secretary, New Delhi.
2. State Of Chhattisgarh Through Its Secretary, Department Of Forest And Climate Change, Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, Distt. Raipur (Chhattisgarh),
3. Principal Chief Conservator Of Forest Chhattisgarh, Aranya Bhawan, Sector-19, North Block, Nawa Raipur, Atal Nagar, Distt. Raipur (Chhattisgarh)
4. State Level Committee Chhattisgarh Under Wood Based Industries Guidelines Through Its Member Secretary, Aranya Bhawan, Sector-19, North Block, Nawa Raipur, Atal Nagar, Distt. Raipur (Chhattisgarh)

5. Divisional Forest Officer-Cum-Licensing Authority Baloda Bazaar, Distt. Baloda Bazaar (Chhattisgarh), District : Balodabazar-Bhathapara, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Vaibhav Shukla, Mrs. Astha Shukla, & Mr. Chandradeep Prasad, Advocates
For State	:	Mr. Rahul Jha G.A., Mr. Ashish Tiwari G.A., Mr. Pawan Kesharwani P.L., Mr. Aman Kesharwani P.L., Mr. Anmol Sharma P.L., Mr. Aditya Bhardwaj P.L., Ms. Shriya Mishra P.L. & Ms. Sameeksha Gupta P.L.
For Respondent-Union of India	:	Mr. Tushar Dhar Diwan, Advocate on behalf of Mr. Ramakant Mishra ASG

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

27.09.2021

1. These bunch of writ petitions have been filed by the petitioners seeking following reliefs :-

“(i) That, the Hon'ble Court may issue appropriate writ quashing clause 7 (ii) of the impugned 2016 Guidelines dated 11.11.2016 issued by Respondent No. 1 (Annexure P/1) and consequential notification bearing no. F 19-51/Va/ 10-2/2005 (Part) dated 13.08.2021 (Annexure P/2) issued by respondent No. 2 and show cause notice dated 05.08.2021 and 16.08.2021 (Annexure P/3).

(ii) That, the Hon'ble Court may issue appropriate writ directing the SLC/expert committee (Respondent No. 4) to decide the optimum distance for establishment of saw mills from protected and notified area for the State of Chhattisgarh as directed by the Hon'ble Supreme Court in the matter of *WPC No. 202/98 T.N. Godavarman Thirumulpad vs. Union of India*.

(iii) Pass any order(s) as this Hon'ble Court may deem fit and proper in the interest of justice.”

2. Learned counsel for the petitioners submit that pursuant to the guideline issued in the case of **T.N. Godavarman Thirumulpad vs. Union of India & Ors. in WPC No. 202/98**, initially a notification was made by the Expert Committee and thereafter by the State Government which had fixed the aerial distance of 10 kms and within the periphery of forest, the operation of the Wood Based Industries have been prohibited. It is contended that pursuant thereto the show cause notice was issued by the State on 05.08.2021 and 16.08.2021 (Annexure P/3) to the petitioners. It is contended that the said show cause notice is premeditated for the reason that the notification of fixing the limit of 10 kms aerial distance from forest have been issued on 13.08.2021 (Annexure P/2) by the State much after the issuance of show cause notice. It is further contended that as per the guideline issued by the Ministry of Environment and Forest and Climate Change (hereinafter referred to as 'MoEFCC'), the restriction on location of wood based industries as per clause-7(ii), the 10 kms of aerial distance from the boundary of nearest notified forests and protected areas was notified. It is stated that as per the Hon'ble Supreme Court's guideline, it was for the SLC who should have decided the optimum distance on which such restriction can be placed. It is further contended that the show cause notices dated 05.08.2021 and 16.08.2021 by Forest Department is completely premeditated and will not serve any purpose during the hearing. Since the notice is served with decision already arrived at hearing would be a mere formality. As such, the notification of the Union of India dated 11.11.2016 (Annexure P/1) and the consequential notification dated 13.08.2021 (Annexure P/2) and the show cause notice dated 05.08.2021 and 16.08.2021 (Annexure P/3) be quashed as it is against the Hon'ble Supreme Court guideline and is issued arbitrarily.

3. Per contra, learned State counsel oppose the argument and would submit that the directions have been issued pursuant to the order passed by the Hon'ble Supreme Court on 05.10.2015 and as per the guideline, the MoEF is authorised to issue the

appropriate guideline to decide the distance for establishing a Wood Based Industry near a forest. It is submitted that further the order purport that the person aggrieved by the decision taken by the SLC may filed an appeal before the MoEFCC seeking appropriate relief and thereafter may approach the concerned Court, therefore this petition against show cause notice would not be maintainable.

4. Having heard the learned counsel for the parties on admission.
5. The order of the Hon'ble Supreme Court dated 05.10.2015 in the matter of **T.N. Godavarman Thirumulpad** (supra) is perused. The relevant consideration with the guideline which was issued by the Hon'ble Supreme Court is reproduced hereinbelow :-

“(iii) The MoEF is authorized to issue appropriate guidelines in conformation with the orders and directions issued by this Court and also the existing guidelines to the SLCs relating to assessment of timber availability for wood-based industries and grant of license/permission to the wood-based industries including addition of new machineries and also utilization of amounts recovered from the wood-based industries and connected matters;

(iv) Any person aggrieved by the decision taken by the SLC may file an appeal before the MoEFCC seeking appropriate relief within 60 days' time. If, for any reason, any person is aggrieved by the orders so passed in the appeal, he may prefer an appropriate petition/application/appeal before the appropriate forum/Court for grant of appropriate relief(s).”

6. Pursuant thereto, the MoEFCC issued a notification on 11.11.2016 (Annexure P/1), the relevant part of restriction on the location of Wood Based Industries was resolved as under :-

“7. Restriction on location of wood based industries.

(i) In the North Eastern States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and Sikkim the wood based Industries shall be permitted to be established within the Industrial estates.

(ii) In the State other than the afore-mentioned North Eastern States, wood based industries shall ordinarily be not allowed to be established within ten kilometers aerial distance from the boundary of nearest notified forests and

protected areas. The State Level Committee for the reasons to be recorded in writing and after obtaining prior approval of the Central Government in the Ministry of Environment, Forest and Climate Change may permit to establish/operate a wood based industry at an aerial distance less than 10 kilometers from the boundary of a notified forest or a protected area.”

7. Subsequently, this notification was further amended on 11.09.2017 which reads as under:-

“5. The entries under Para-7 (ii) of these Guidelines are substituted with the following:-

(a) In the States/UTs (other than North Eastern States), in respect of distance from the boundary of nearest notified forests or protected areas, wood based industries shall be allowed to operate as per state-specific order/approval of the Hon'ble Supreme Court/ Hon'ble High Court of the concerned state/Central Empowered Committee;

Or, beyond ten kilometers of aerial distance from the boundary of nearest notified forests or protected areas, excluding roadside/railway side/canal side plantations, whichever is less.

(b) A Wood Based industry can be established in an industrial Estate or a Municipal area, irrespective of the aerial distance from the boundary of nearest notified forest or protected area.”

8. The reading of the aforesaid direction of the Hon'ble Supreme Court and the notification show that the *prima facie* the MoEF was authorised by the direction of the Hon'ble Supreme Court to issue the guideline. The State Government thereafter has issued the notification on 13.08.2021 (Annexure P/2) wherein aerial distance of 10 kms from the forest has been fixed to put up the Wood Based Industry. Simply for the reason that the show cause notice has been issued prior to the said notification, the show cause notice dated 05.08.2021 and 16.08.2021 (Annexure P/3) cannot be said to be premeditated, otherwise also, it is for the State to ensure the protection of the forest and to establish Wood Based Industry at a particular distance from the forest.

9. Since at present, the reply has already been filed by the petitioners to the show

cause notice, therefore it is for the respondent authority to take a final decision on this issue. The petitioners are also at liberty to raise the grounds before the respondent authority. The respondent authority, it is expected that, would hear the case of the petitioners and thereafter decide it in accordance with law and the guideline which is issued by Hon'ble Supreme Court.

10. In the meanwhile, it is directed that no coercive action shall be taken against the petitioners till final orders on show cause notice is passed. The case of the petitioners should be decided expeditiously.

11. With the aforesaid observation/ direction, the writ petitions stand disposed off.

**Sd/-
(Goutam Bhaduri)
Judge**