



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

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CWP-3563-2023 (O&M)
Date of Decision: 25.02.2025

Mega Infratech Private Limited and another

....Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Aashish Chopra, Senior Advocate with
Ms. Radhima Sharma, Advocate for the petitioners.

Mr. Ankur Mittal, Additional Advocate General, Haryana
Ms. Svaneel Jaswal, Additional Advocate General, Haryana
Mr. P.P.Chahar, Sr. Deputy Advocate General, Haryana
Mr. Saurabh Mago, Deputy Advocate General, Haryana
Mr. Gaurav Bansal, Deputy Advocate General, Haryana and
Mr. Karan Jindal, Assistant Advocate General, Haryana.

Mr. Himanshu Malik, Advocate for respondent No.7.

Sureshwar Thakur, J. (Oral)

1. It is not contested amongst the counsel appearing before this Court, that the proposed subject project to be executed by the present petitioners over Sector 95, Gurugram, falls within the eco-sensitive zone, as declared in the master plan drawn by the State of Haryana.

2. Therefore, in the light of the provisions embodied in Section 5, 5A and 5B of the Wild Life (Protection) Act, 1972, (hereinafter in short to be referred as 'the Act of 1972') provisions whereof becomes extracted hereinafter, the subject project requires environmental clearance becoming granted by the Standing Committee of National Board for Wild Life.



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“5. Power to delegate.—

(1) The Director may, with the previous approval of the Central Government, by order in writing, delegate all or any of his powers and duties under this Act to any officer subordinate to him subject to such conditions, if any, as may be specified in the order.

(2) The Chief Wild Life Warden may, with the previous approval of the State Government, by order in writing, delegate all or any of his powers and duties under this Act, except those under clause (a) of sub-section (1) of section 11, to any officer subordinate to him subject to such conditions, if any, as may be specified in the order.

(3) Subject to any general or special direction given or condition imposed by the Director or the Chief Wild Life Warden, any person, authorised by the Director or the Chief Wild Life Warden to exercise any powers, may exercise those powers in the same manner and to the same effect as if they had been conferred on that person directly by this Act and not by way of delegation.

5A. Constitution of the National Board for Wild Life.—

(1) The Central Government shall, within three months from the date of commencement of the Wild Life (Protection) Amendment Act, 2002 (16 of 2003), constitute the National Board for Wild Life consisting of the following members, namely:—

- (a) the Prime Minister as Chairperson;*
- (b) the Minister in-charge of Forests and Wild Life as Vice-Chairperson;*
- (c) three members of Parliament of whom two shall be from the House of the People and one from the Council of States;*
- (d) Member, Planning Commission in-charge of Forests and Wild Life;*
- (e) five persons to represent non-governmental*



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organizations to be nominated by the Central Government;

- (f) ten persons to be nominated by the Central Government from amongst eminent conservationists, ecologists and environmentalists;*
- (g) the Secretary to the Government of India in-charge of the Ministry or Department of the Central Government dealing with Forests and Wild Life;*
- (h) the Chief of the Army Staff;*
- (i) the Secretary to the Government of India in-charge of the Ministry of Defence;*
- (j) the Secretary to the Government of India in-charge of the Ministry of Information and Broadcasting;*
- (k) the Secretary to the Government of India in-charge of the Department of Expenditure, Ministry of Finance;*
- (l) the Secretary to the Government of India, Ministry of Tribal Welfare;*
- (m) the Director-General of Forests in the Ministry or Department of the Central Government dealing with Forests and Wild Life;*
- (n) the Director-General of Tourism, Government of India;*
- (o) the Director-General, Indian Council for Forestry Research and Education, Dehradun;*
- (p) the Director, Wild Life Institute of India, Dehradun;*
- (q) the Director, Zoological Survey of India;*
- (r) the Director, Botanical Survey of India;*
- (s) the Director, Indian Veterinary Research Institute;*
- (t) the Member-Secretary, Central Zoo Authority;*
- (u) the Director, National Institute of Oceanography;*
- (v) one representative each from ten States and Union*



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territories by rotation, to be nominated by the Central Government;

(w) the Director of Wild Life Preservation who shall be the Member-Secretary of the National Board.

(2) The term of office of the members other than those who are members ex officio, the manner of filling vacancies referred to in clauses (e), (f) and (v) of sub-section (1), and the procedure to be followed in the discharge of their functions by the members of the National Board shall be such, as may be prescribed.

(3) The members (except members ex officio) shall be entitled to receive such allowances in respect of expenses incurred in the performance of their duties as may be prescribed.

(4) Notwithstanding anything contained in any other law for the time being in force, the office of a member of the National Board shall not be deemed to be an office of profit.

5B. Standing Committee of the National Board.—

(1) The National Board may, in its discretion, constitute a Standing Committee for the purpose of exercising such powers and performing such duties as may be delegated to the Committee by the National Board.

(2) The Standing Committee shall consist of the Vice-Chairperson, the Member-Secretary, and not more than ten members to be nominated by the Vice-Chairperson from amongst the members of the National Board.

(3) The National Board may constitute committees, sub-committees or study groups, as may be necessary, from time to time in proper discharge of the functions assigned to it.

5C. Functions of the National Board.—

(1) It shall be the duty of the National Board to promote the conservation and development of wild life and forests by such measures as it thinks fit.



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(2) Without prejudice to the generality of the foregoing provision, the measures referred to therein may provide for—

- (a) framing policies and advising the Central Government and the State Governments on the ways and means of promoting wild life conservation and effectively controlling poaching and illegal trade of wild life and its products;*
- (b) making recommendations on the setting up of and management of national parks, sanctuaries and other protected areas and on matters relating to restriction of activities in those areas;*
- (c) carrying out or causing to be carried but impact assessment of various projects and activities on wild life or its habitat;*
- (d) reviewing from time to time, the progress in the field of wild life conservation in the country and suggesting measures for improvement thereto; and*
- (e) preparing and publishing a status report at least once in two years on wild life in the country.”*

3. The learned counsel for the petitioners submits, that the said permission be endowed to the present petitioners, as there are no violations, as such made by the present petitioners, so as to preclude the Standing Committee of National Board for Wild Life to grant the espoused permission.

4. Be that as it may, yet the learned counsel appearing for respondent No.7, has alluded to paragraphs 6, 10 and 11 of the affidavit sworn by Dr. K.M.Selvan, paras whereof are extracted hereinafter, wherein, it is stated that the subject project is under consideration of the Standing Committee of National Board for Wild Life, thus for the espoused permission



being granted.

“6. It is submitted that in the said meeting, the Standing Committee of National Board for Wild Life (SCNBWL), after detailed deliberations, has decided that a committee under the Chairmanship of Inspector General of Forests (WL) shall be constituted for organisation of co-ordination meeting within fifteen days of its constitution, study of cumulative impact of the housing and other building infrastructure projects on the Sultanpur National Park, identification of no-development areas for such constructions around the National Park and submission of report to the Ministry for placing before the Standing Committee. The Chief Wild Life Warden, Haryana, shall be made arrangements for the meeting, including, issuance of meeting notice, co-ordination with the invitees, recording the proceedings for the meeting, compilation of the Ministry. The SCNBWL therefore decided to defer the proposal till the submission of the report by the Committee under the Chairmanship of Inspector General of Forests (WL). Accordingly, the MOEFCC has constituted the committee.

10. It is further submitted that as several large infrastructure development projects have been coming up in the eco-sensitive zone of the Sultanpur National Park in addition to those which do not require environment clearance and thereby not requiring consideration by the SCNBWL, a larger issue of cumulative impact of such projects on the Sultanpur National Park, which is a wetland also designated as a Ramsar Site and wildlife therein has seized been of by the SCNBWL.

11. It is submitted that the report of the committee constituted pursuant to the directions of the SCNBWL shall be placed before the SCNBWL for its consideration.”

5. However, the learned counsel for the petitioners, yet submits that



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since the subject agendas, which have fallen for consideration before the Standing Committee of National Board for Wild Life, thus besides the subject project, also includes two other agendas, as such, the present subject project is required to be segregated from the other two agendas, as are set forth, for consideration before the Standing Committee of National Board for Wild Life.

6. The said argument becomes built on the premise, that since no violations have been made qua the subject project therebys, the subject project is to be excluded from the other two projects, as when qua the other two projects, which are simultaneously to be considered by the Standing Committee of National Board for Wild Life, rather there are some violations, wherebys when permission theretos may not be granted by the Standing Committee of National Board for Wild Life, therebys it may also lead but to refusal of permission even to the present subject project.

7. However, the said prayer is not accepted, as the same is prematurely raised apprehension, besides can become mitigated, through the present petitioner, making through its representative an appearance, before the Standing Committee of National Board for Wild Life, so that therebys, personal hearing is granted to its representative, wherebys the present petitioner's case can become expressed, for permission thereto becoming accorded, thus on the premise, that no violations are made by the petitioner to any of the provisions as embodied in the Act of 1972, nor there is any breach to the judgment passed by the Hon'ble Supreme Court in ***W.P. (C) 460 of 2004***, titled as ***"Goa Foundation v/s Union of India and others"***, decided on ***04.12.2006***.



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8. Accordingly, the writ petition is closed with a direction to the Standing Committee of National Board for Wild Life, to conclude the deliberations upon the subject matters concerned, but within three months from today. However, the Standing Committee of National Board for Wild Life, is directed to ensure that personal hearing is granted to the representative of the present petitioners, besides it is also directed, to ensure that all the relevant material suggestive, that there is no violation made to any of the statutory provisions, or to the judgment supra, becomes permitted to be adduced. Ultimately, a reasoned decision is directed to be passed on the subject matter.

9. At this stage, the other prayer relating to the requisite waiving off, is also withdrawn, but subject to, that it is yet open to the petitioner to re-access this Court, upon a decision favourable to him becoming recorded by the Standing Committee of the National Board for Wild Life.

10. Disposed of along with all pending applications, if any.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

February 25, 2025

Varinder

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No