

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 1030/2018

(With Modified Action Plan dated 15.04.2020)

News item published in "The Times of India" Authored by Vijay Pinjarkar
Titled "String of new road projects in Maha to cut off tiger corridors"

Date of hearing: 07.07.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Respondent(s): Mr. A.K. Prasad, Advocate for MoRTH

ORDER

1. The issue for consideration is the obstruction of tiger corridors by new road projects in the State of Maharashtra by the State of Maharashtra and the Ministry of Road Transport (MoRTH), Government of India. It was reported that the necessary steps and precautions in such road projects for protection of environment and wildlife were lacking.

2. On the last on 06.01.2020, the matter was considered in the light of report of the National Tiger Conservation Authority (NTCA) dated 16.11.2019 specifying mitigation measures to be taken in construction of the road projects in question. The report mentioned disagreement of the MoRTH with the stand of the NTCA on the ground that it involves cost.

The Tribunal overruled the said objection. It will be appropriate to quote the entire discussion in the said order as follows:

“ 2. The matter was considered on 26.03.2019 in the light of the letter dated 28.02.2019 from the PCCF (Wildlife), Maharashtra, giving information about the ongoing road projects and the mitigation measures required. The Tribunal directed the Additional Director General Forest (Wildlife), MoEF&CC, to have an action plan prepared and oversee its execution.

3. Thereafter, on 01.08.2019 the Tribunal considered the report dated 29.07.2019 furnished by the Deputy Inspector General of Forest, National Tiger Conservation Authority (NTCA) to the effect that action plan was prepared but the same was required to be agreed upon by the stakeholders. Accordingly, the Tribunal directed that further steps in the matter be taken and report filed.

4. Report dated 16.11.2019 has been filed by the NTCA, MoEF&CC, annexing an action taken report which shows that the matter was duly considered by the Site Appraisal Team and mitigation measures were planned after visit to the animal crossing points. The mitigation measures include animal under passes at various locations. Additional recommendations in the action plan are:-

- “a. Underpasses (flyovers for vehicular traffic) will also have to be integrated with options of light and sound barriers, camouflaging and landscaping including restoration of habitat beneath underpasses after construction. There will not be right of passage to public via underpass.*
- b. To avoid frequent repairs and disturbances, carriageway pavement within corridor patch should be rigid having well planned road side drainage and utility ducts.*
- c. Sections of the road not covered under clear opening and approaches of the underpasses (flyovers for vehicular traffic) will be fenced to prevent animal crossing through those sections and subsequent road hits. Design and dimension of animal proof fencing will be considering large carnivores, reptiles, amphibians and rodents. There will be locking gates in the fence at every 500 m operated by State Forest Department to deal with emergency.*
- d. User agency will make provision of vegetative or mechanical canopy closure option for movement of arboreal wildlife and pipe/ cc culvert for movement of reptiles, amphibians, rodents, etc. (both at every 100 meters of the forest patch not covered through clear opening of underpasses).*
- e. User agency will install overhead signboards at every 500 meter in the forest area about animal crossing, re-*

striction on feeding animal, garbage dumping, parking, honking, etc. as per the advice of Forest department.

- f. There should not be felling of trees. All trees (in a girth class for which there is technology available for transplantation) will be transplanted by user agency with adequate care for maximization of survival.
- g. Monitoring of flow value of corridors before, during and after construction of the roads with mitigation measures will be carried out by State Forest Department. Monitoring committee shall be constituted under chairmanship of concerned Chief Conservator of Forests or equivalent officer having representation from user agency. The Committee shall submit quarterly report to the Chief Wildlife Warden, Govt. of Maharashtra on progress of works and compliance of the conditions laid out in this Action Plan.
- h. Completion Certificate will be issued by User agency to the contractor after written certification from the Chairman of Monitoring Committee countersigned by the Chief Wildlife Warden that the all the conditions are satisfactorily complied.
- i. Post completion monitoring and maintenance of mitigation structures will be done jointly on advice of forest department and at cost of user agency.”

5. It is further stated that the above action plan was discussed with the user agencies- MoRTH, State PWD (NH Division), State PWD, Nagpur NH Section and Chandrapur MSH Section, Govt. of Maharashtra. The said agencies gave their respective comments. Based on the said comments, summary prepared in the report is as follows:-

“The summary of concurrence for implementation of mitigation measures for all 9 (nine) roads are as under:-

S. No.	Road	Nomenclature as per PWD/NH	Status of concurrence for construction of mitigation measures
1.	Nagbhir-Bramhapuri-Armori	NH 253 D	Agreed by MoRTH
2.	Malewada-Chimur	NH 353 E	No mitigation prescribed
3.	Chimur-Warora*	NH 353 E	Agreed by MoRTH
4.	Mul-Chandrapur*	NH 930	Not agreed by MoRTH
5.	Bamni-Navegaon*	NH 353 B	Not agreed by MoRTH
6.	Gadchiroli-Mul	NH 930	Agreed by MoRTH

7.	Chimur-Kanpa	MSH 314 (Principally declared as NH)	No mitigation prescribed. This road will be tackled after final declaration of NH
8.	Hinganghat-Nandori-Kora-KhOsangi-Neri-Pendhri-Sindewahi-Mul*	MSH 322 (Principally declared as NH)	This road will be tackled after declaration of NH
9.	Nagbhir-Mul*	MSH 9	Budgeting is done by PWD along with mitigation measures

**indicates priority roads necessary for maintaining functional connectivity of tiger corridors.”*

6. The report further mentions as follows:-

*“In response to the above meeting, the **MoRTH vide letter dated 17.10.2019 (copy enclosed as Annexure-X)** has expressed its inability to fund any additional expenditure over and above Rs. 100.81 crore for the proposed mitigation structures (agreed upon earlier) and requested the State Government and the Chief Wildlife Warden, Govt. of Maharashtra for funding the expenditure towards mitigation measures proposed for the two roads viz. Mul Chandarpur & Bamni-Navegaon (NH 930 & NH 353B). The Chief Wildlife Warden, Government of Maharashtra vide letter dated 25.10.2019 (copy enclosed as **Annexure-XI**) provided the concurrence of the decision taken in the meeting held on 30.09.2019 as mentioned above and agreed that mitigation measures proposed for the above mentioned two roads are essential in the interest of wildlife conservation. However, the Forest Department has explored the option of utilizing State CAMPA/TCF funds and activities to be taken under rules made thereunder and shall not be possible to fund the cost of construction of these mitigation structures from State CAMPA funds. Further it is stated that the TCF funds approved for expenditure in the year 2019-20 for all 6 Tiger Reserve in the state, amounts to Rs. 32 crore and therefore, will nowhere suffice for funding the cost of mitigation measures. Hence, taking in to consideration the limited amount of funds under State CAMPA/ TCF, the provisioning of funds for mitigation measures through State CAMPA / TCF will not be feasible. However, the possibility of funding the mitigation measures through the State PWD is being explored.*

The joint team was asked to provide the phase wise mitigation plan for the two roads viz Chandrapur-Mul and

*Bamni-Navegaon. The Phase wise (with five phases) implementation plan (given by the team) for the construction of mitigation structures on these two roads is annexed as **Annexure-XII.***

7. Apart from above, the report recommends following non-structural mitigation measures:-

“Non-structural mitigation measures (as part of Action plan)

These measures are in addition to structural measures recommended and should mandatorily be taken up where recommended structural measures are not yet taken up. The following non-structural mitigation measures are proposed:

- i. Traffic regulation:** This includes restriction of traffic on road sections frequently used by animals for crossing during certain times of the day, particularly during peak animal activity hours, Barriers may be set-up at entry and exit points of pre-determined road sections where animals are known to cross. This measure would ensure minimal overlap of peak animal and traffic activity periods, thereby reducing the probability of animal-vehicle collisions. Efforts would be made in consultation with the District administration to ensure its implementation.*
- ii. Speed reduction measures:** These may be imposed in several ways-installations of speed breakers, rumble strips, posting of speed limits through signboards and penalizing of speeding vehicles, Reduction in vehicle speeds gives drivers enough reaction time to brake and avoid possible collisions with animals, However, speed reduction at higher traffic volumes may lead to lesser space between two vehicles or stagnation of traffic, which would ultimately cause the traffic to become a complete barrier for animal movement. The type of traffic (heterogeneity of vehicles) plying on the roads is also an important factor that would influence the effectiveness of such speed regulations. Traffic composed mostly of small vehicles would not pose a barrier to animal movement as compared to traffic composed of majority large vehicles, which could create barrier to animal movement even at low volumes.*
- iii. Sign-boards indicating presence of animals I crossing zone:** Installation of sign-boards at critical vulnerable road stretches would help in informing drivers of animal movement areas so that they may be careful and alert. These signs may be of different types- standard roadside signs with animal silhouettes, overhead signs indicating approaching animal corridor, signs with illuminating material for visibility at night. These boards would additionally help*

generate awareness about the important issue of animal-vehicle collisions among public.

- iv. Monitoring of vulnerable road sections:** In areas with high movement of animals at the roadsides, manual monitoring by forest department staff by patrolling or by use of camera traps to determine movement of animals such as tigers.
- v. Verge management:** The roadside verge, i.e. the space on either side of the road corridor may be cleared regularly of vegetation till about a distance of at least 5 m on either side. This would provide better visibility for the animals that are attracted by forage at roadsides, thereby reducing the probability of collision with vehicles.

*The action taken report finalized as above is submitted for kind perusal of Hon'ble Tribunal with the request to pass appropriate orders to the concerned user agencies for (MoRTH & State PWD) and State Government of Maharashtra for implementing the **Action Plan** suggested in letter & spirit."*

8. **Having regard to the *Precautionary and Sustainable Development Principles, required to be enforced by this Tribunal under Section 20 of the National Green Tribunal Act, 2010, whether or not the project proponent is agreeable, safety precautions for protection of the wildlife cannot be ignored.*** To ensure this, the project proponent cannot be allowed unduly long time, making it difficult to enforce such measures. **Period extending upto seven years in five phases as proposed needs to be reduced to maximum of three years. The NTCA may modify its action plan to this effect. The plan will be binding on the project proponents irrespective of their consent and may be enforced by halting the projects wherever necessary till the suggested measures are duly adopted.** It is not for this Tribunal to comment upon the source of funding which is a matter to be worked out by the MoRTH and State of Maharashtra. If the MoRTH and State of Maharashtra have any objection to the safeguards proposed by the NTCA, it will be open to them to move this Tribunal within fifteen days from today. Otherwise the said measures will be treated final.

9. *Let a further status report be filed by the Additional Director General (Wildlife), MoEF&CC after three months but before 15.04.2020 by e-mail at judicial-ngt@gov.in."*

3. A modified action plan has now been filed on behalf of the Additional Director General of Forest (Project Tiger)/Member Secretary, National Tiger Conservation Authority on 15.04.2020 reducing the period in terms of observations of this Tribunal. But in the said report in

column no. 10, it is again stated that **the MoRTH has not agreed in respect of two roads**. As already held by this Tribunal, the MoRTH cannot proceed with the project without complying with the action plan prepared by the NTCA which is necessary for precautions in view of potential of affecting the wildlife. We also note that the MoRTH has stated that the Ministry cannot fund any additional expenditure for the mitigation measures. We are unable to accept such a plea for the reasons already mentioned. If the project proponent wishes to proceed with a project, he cannot do so without taking measures for safety precautions for protection of wildlife.

4. Accordingly, the project proponent may proceed only subject to the action plan prepared by the NTCA.

The application is disposed of accordingly.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Satyawan Singh Garbyal, EM

Dr. Nagin Nanda, EM

July 7, 2020
Original Application No. 1030/2018
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