



Newsletter

A Bi-monthly Newsletter of
The Center of Excellence for Environment and Forest Laws

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Recent Judicial Pronouncements

Himachal Pradesh Bus Stand Management and Development Authority (HPBSM&DA) v. The Central Empowered Committee Etc. & Ors., Civil Appeal Nos. 5231-32 of 2016.

Judgement Date: 12th January 2021

Editorial Board

Dr. Ramadevi Gudemela

Mr. D.V.N. Murty

Mrs. Monisha Gade

Ms. Aditi Nidhi

Center Coordinator's Message

Season's Greetings!

The ICFAI Law School, Hyderabad under the expert guidance of Dr. A V Narsimha Rao, Director has constituted The Center of Excellence for Environment and Forest Laws for the dissemination of knowledge in the area of environment and forest laws and related issues. A Bi-monthly Newsletter is released to this effect. This Newsletter brings coverage on the various events viz., Forest Officers Training Program, Webinars, Faculty achievements, Books and judgments on Environment and Forest Laws.

Events Organized

Forest Officers Training Program

Forest Officers Training Program Organized One-week refresher training program was for the Senior Forest Officers on 'Intellectual Property Rights: Forest and Trade' during 2nd to 6th November, 2020 nominated by the R & T Dept. of Ministry of Environment Forest and Climate Change.

Guest of Honour:

Dr. Irene Calboli, University of Texas, USA.

About the Event: In this training program inputs on the interface between the Intellectual Property Rights with the forest produce and trade were given. The training includes discussion on various forms of the Intellectual Property such as Patents, Trademarks, New Plant Varieties, Geographical Indications Laws and Biodiversity Laws.

WEBINARS

Organised a national webinar on “*Wild Life Crimes and Legal Aspects*” on 13th December, 2020.

Speaker of the Webinar:

❖ **Dr. S. Rajesh, IFS**, Director, NITI Ayog, New Delhi, Covid 19 Core Team, Dept. of Health Research, Government of India.

About the event: The during the session has highlighted the risks the wild life is facing due to anthropocentrism. Speaker presented about the species of the wild life that are already extinct or on the verge of extinction. He called for a concentrated effort to curb poaching in the wild.

Student Achievements

1. Taking part in ECHO (Environmental Conservation Hero's) on the Topic “**Change The Way We Consume Food**” for the academic year 2020-21, organised by WWF, India.
2. GAIANs have participated in the “**TIDE TURNERS PLASTIC CHALLENGE**” organised by WWF, India in collaboration with UNEP in the month of June, 2020.

GAIA - The Environmental Club

‘GAIA’ stands for Green Ambassadors Inspiring All. This Club has been created to ingrain the future generations with the idea of environmental protection and to train the students in a clinical manner where they conduct the activities for the protection and upgradation of the environment. GAIA Club has been student centric since its inception having the participation from all the batches of BBA.LLB (H) and BA.LLB (H) being supervised by a faculty coordinators’.

Faculty Achievements

1. Guest Lectures given for ‘One Day Training Program On Intellectual Property Rights and Forest Laws’ in November 2019 organised by Institute of Forest Biodiversity, Dhullapaly, Hyderabad.
Speakers
 1. Dr. Veena, Associate Professor, ICFAI Law School, Hyderabad, Telangana, India.
 2. Mr. Dilip Sharma, Assistant Professor, ICFAI Law School, Hyderabad, Telangana, India.
 3. Mr. DVN Murty, Assistant Professor, ICFAI Law School, Hyderabad, Telangana, India.
 4. Mr. Neelesh Shukla, Assistant Professor, ICFAI Law School, Hyderabad, Telangana, India.
2. Guest lectures given by Mr. D.V.N. Murty at National Institute of Rural Development on Forest laws and Rural Development in the month of December, 2019.
3. Dr. Rama Devi Gudemela, completed ADB Regional Capacity Development Technical Assistance Strengthening the Capacity for Environmental and Climate Change Laws in Asia and the Pacific India "Train-in-the-Trainers Program" 2.0 Conducted jointly by ADB, GNLU, JNU and UNEP, from 22 - 28th November, 2020.

SC Recent Judgment

Himachal Pradesh Bus Stand Management and Development Authority (HPBSM&DA) v. The Central Empowered Committee Etc. & Ors., Civil Appeal Nos. 5231-32 of 2016.

Judgement Date: 12th January 2021

Bench: Hon'ble Justice Dr. D. Y. Chandrachud and Justice Sanjiv Khanna.

Author: Hon'ble Justice Dr. D. Y. Chandrachud

Brief Facts

Ministry of Environment and Forest (MoEF) by its orders dated 12th November, 1997 and 1st March, 2001, permitted the diversion of 0.093 hcts and 0.48 hcts of forest land for the purpose of construction of parking space and bus stand respectively at the McLeod Ganj on a proposal submitted by the State of Uttar Pradesh. The land so diverted shall be subject to the compensatory afforestation of 250 trees, minimum of not exceeding 17 trees can be felled and the lands will be used only for the purposes mentioned in the proposal. The appellant authority was constituted in April 2000.

In contravention of the above mentioned permissions by the MoEF, for parking space and bus stand at McLeod Ganj, additional structure of Hotel-cum-Restaurant was raised without the approval from the Town and Country Planning Department (TPC). TPC further have halted such construction but still the constructions were completed.

During the construction, sixth and seventh respondent applied to CEC complaining about the violation of the Forest Act.

CEC Recommendations

Members of CEC after investigating and hearing the parties have given the following recommendations:

- a) The hotel structures must be pulled down immediately and the forest land to be cleared of debris within three months.
- b) Parking place may be constructed as originally visualized with the prior approval of the Town and Country Planning Department.
- c) State Government may constitute a Committee with the Chief Secretary as Chairman with the Principal Chief Conservator of Forests, Senior most Engineer in the State of PWD and a representative of MoEF as members.
- d) The Committee would, in time bound manner propose the efficient use of the bus stand and ensure maximum parking place for the vehicles.

NGT Proceedings

Supreme Court transferred the case to NGT on an application being filed by the second respondent to set aside the report of the CEC as the principles of natural justice have not been followed.

The NGT accepted the findings of the CEC, observing that the Bus Stand Complex seriously disturbs the ecology of the area in which it has been constructed. The NGT directed, inter alia, that:

- i) The structure of the Hotel-cum-Restaurant in the Bus Stand Complex be demolished by the second respondent;

- ii) The second respondent shall pay a compensation of Rs. 15 lacs in terms of Sections 15 and 17 of the NGT Act;
- iii) The appellant shall pay a compensation of Rs. 10 lacs, while the State of Himachal Pradesh and its Department of Tourism shall pay a compensation of Rs. 5 lacs each; and
- iv) The Chief Secretary of the State of Himachal Pradesh shall conduct an enquiry against the erring officers of the appellant, in order to fasten the responsibility for the illegal project.

Supreme Court decision in the present Appeal

“We uphold the directions which have been issued by the NGT in its judgment. By the earlier orders dated 16 May 2016 and 9 September 2016, this court only stayed NGT’s direction in relation to the demolition of the Hotel-cum-Restaurant structure. The appellant has tried to argue against the demolition of the Hotel-cum-Restaurant structure in the Bus Stand Complex, submitting that it may be allowed to stand for their use. However, we cannot accept this submission. Doing so would legalise what is an otherwise entirely illegal construction.

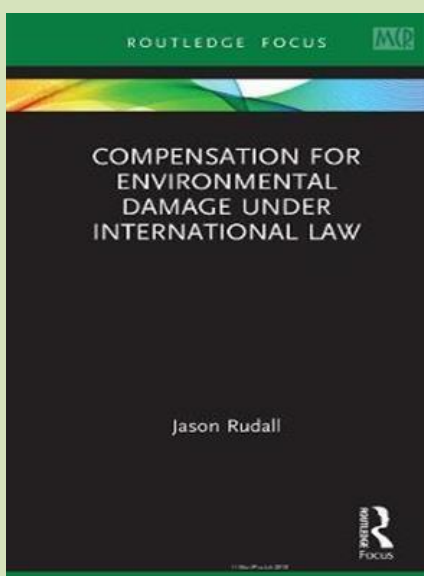
Hence, we direct that the process of demolishing the Hotel-cum-Restaurant structure in the Bus Stand Complex be commenced within two weeks from the date of the judgment and the structure shall be demolished by the second respondent within one month thereafter. In the event of default, the Chief Conservator of Forest along with the administration of district Dharamshala shall demolish the structure and recover the cost and expenses as arrears of land revenue from the second respondent.

Further, as directed by the NGT, the State of Himachal Pradesh and the second respondent can utilize the parking space and the bus stand in the Bus Stand Complex, after the demolition of the Hotel-cum-Restaurant structure. However, this has to be in accordance with orders dated 12 November 1997 and 1 March 2001 issued by the MOEF, i.e., it shall not be used for any purpose other than parking of cars and buses, as the case may be.”

New Books

Compensation for Environmental Damage under International Law - 1st Edition, January, 2020

Author: Jason Rudall



Inspired by recent litigation, this book identifies and critically appraises the manifold and varied approaches to calculating compensation for damage caused to the environment. It examines a wide range of practice on compensation - in general and specifically for environmental damage - from that of international courts and tribunals, as well as international commissions and regimes, to municipal approaches and other disciplines such as economics and philosophy. *Compensation for Environmental Damage Under International Law* synthesizes these approaches with a view to identifying their blind spots, bringing clarity to an area where there exists broad discrepancy, and charting best practices that appropriately balance the manifold interests at stake. In particular, it is argued that best practice methodologies should ensure compensation serves to fully repair the environment, reflect the emerging ecosystems approach and any implications environmental damage may have for climate change.