

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No(s).2407-2412 of 2021

THE STATE OF UTTAR PRADESH & ORS.ETC.

.... Appellant(s)

Versus

UDAY EDUCATION AND WELFARE TRUST & ANR.ETC.

.... Respondent (s)

With

**Civil Appeal No. _____ of 2022
@ Diary No(s). 13067 of 2020)**

**Civil Appeal No. _____ of 2022
@ Diary No. 13642 of 2020)**

**Civil Appeal No. _____ of 2022
@ Diary No. 20888 of 2021)**

**Civil Appeal No. _____ of 2022
@ Diary No. 13568 of 2020)**

**Civil Appeal No. _____ of 2022
(@ SLP(C) No. 8296-8297 of 2020)**

**Civil Appeal No. _____ of 2022
@ Diary No. 17445 of 2020)**

Civil Appeal No. _____ of 2022
@ Diary No. 6948 of 2021)

Civil Appeal No. _____ of 2022
@ Diary No. 27465 of 2021)

C.A. No. 2547-2548 of 2020

O R D E R

Leave granted.

1. These Appeals have been filed against the judgment passed by the National Green Tribunal, Principal Bench, New Delhi (hereinafter, 'the Tribunal') dated 18.02.2020 and the orders dated 02.12.2020 and 21.12.2020 by which the review applications against the judgment dated 18.02.2020 were dismissed.

2. The State of Uttar Pradesh proposed to grant licences to 1350 new wood-based industries by a notice dated 01.03.2019. The said notice was challenged in public interest by Samvit Foundation, Uday Education & Welfare Trust and U.P. Timber Association by filing Original Applications before the National Green Tribunal, Principal

Bench, New Delhi. The Tribunal passed an order dated 28.03.2019 directing the joint committee comprising of Principal Secretary (Forest) U.P. and Principal Chief Conservator of Forest, U.P. to submit a report. The said report was submitted on 03.08.2019 in which it was stated that sufficient wood was available for establishing new wood-based industries in the State of UP. However, the Tribunal had expressed *prima facie* disapproval for establishment of the new wood-based industries and directed status quo to be maintained by an order dated 01.10.2019.

3. The State of Uttar Pradesh filed an application for modification of the order dated 01.10.2019. On 08.12.2019, the Tribunal directed the State to furnish the following data -

“(i) District wise data of the existing saw mills/Wood Based Industries with their number, capacity and availability of wood species wise for the said saw mills for the period of three years.

(ii) Justification for new saw mills/Wood Based Industries in terms of availability of demand and supply of timber-species wise. This data be supplied for the districts where such new saw mills/Wood Based Industries are proposed to be set up along with the note on carrying capacity of such areas to sustain new saw mills/Wood Based Industries.

(iii) Mechanism to ensure that no trees are cut from the government forests or private trees of categories which are not exempted.”

4. In compliance of the order of the Tribunal dated 18.12.2019, an affidavit was filed on behalf of the State of Uttar Pradesh on 22.01.2020 giving details of the district wise data of the existing saw mills and wood-based industries with their number, capacity and availability of wood species wise for the saw mills for a period of 3 years. The State of Uttar Pradesh justified its notice for issuance of licenses for new wood-based industries on the ground that such industries would lead to development of market, generate employment, encourage planting of seedlings, reduce migration of people, reduce dependence on traditional /cash crops, boost new technology, boost export, reduce import and utilization of resources. It was further mentioned by the State Government that there would be an investment of about Rs. 3,000 crores in the State with the establishment of new wood-based industries and 80,000 people, mostly in the rural areas of the State would be benefited by getting employment. It was also brought to the notice of the Tribunal that 632 out of 1215 wood-based industries having provisional licenses were ready for operation and therefore

the status quo granted on 01.10.2019 will cause irreparable hardships.

5. *Vide* the Impugned Order, the Tribunal disposed of the Original Applications by quashing the notice dated 01.03.2019 issued by the State of UP for establishing new wood-based industries/saw mills, including all provisional licenses given in pursuance to the same. While doing so, the Tribunal expressed its view that it is necessary for the State to have District-wise, species-wise and diameter class wise inventory for arriving at a clear assessment of the availability of timber for consumption by the wood-based industries. If such study has not already been done, the Tribunal observed that Forest Survey of India (FSI) could be assigned the task of conducting such study and it was only after such credible study and assessment that any decision on the establishment of new wood-based industries can be taken. On the basis of the data placed before it, the Tribunal was of the opinion that there would hardly be any industrial wood available for new wood-based industries. It observed that establishment of new wood-based industries would lead to shortage of timber which would result in the industries resorting to illegal means to procure round timber. Applying

the precautionary principles of environmental law, the Tribunal directed the State to not proceed with the proposal for establishment of new wood-based industries till an assessment of the actual availability of timber was done.

6. The review applications filed against the order passed by the Tribunal on 18.12.2020 were disposed of by orders dated 02.12.2020 and 21.12.2020.

7. Notice was issued by this Court in the Appeals filed against the aforementioned judgment and orders of the Tribunal on 10.12.2021. On 04.04.2022, arguments were heard on grant of interim relief as claimed by the State of Uttar Pradesh and the provisional licence holders of the proposed wood-based industries for the stay of operation of the impugned judgment. It was argued on behalf of the State of Uttar Pradesh that there is no dearth of timber availability in the State and that the decision taken for permitting new wood-based industries is in larger public interest as there would be generation of revenue as well as employment for a large number of rural populations. It was brought to the notice of this Court by the learned Senior Counsel appearing for the State of Uttar Pradesh that timber is available in excess in the State, so much so that it was

being exported to other States. It was argued by the learned Senior Counsel for the State that the State Level Committee has examined the matter relating to permission to be granted to new wood-based industries and has taken a decision in favour of granting the licenses based on the expert opinions and studies. Therefore, at least 632 wood-based industries should be granted permission to operate. As reliance was placed on a study conducted by the technical committee, we directed the State of Uttar Pradesh to place on record the particulars relating to the deliberations of the State Level Committee after 04.05.2018.

8. During the course of hearing, we perused the minutes of meetings of the State Level Committee held on 04.05.2018, 06.06.2018 and 07.09.2018. In the minutes of meeting recorded on 04.05.2018, it was mentioned that technical committee had assessed the consumption of timber by the existing different type of wood-based units viz. plywood & veneer etc. by using the data on annual consumption. The assessment of the technical committee was based on the data provided by the Central Empowered Committee in its meeting dated 26.05.2010. It was recorded that the said data on annual consumption of timber may not

be taken into account in view of the advance and sophisticated machines which are being used by wood-based units, which fact was not taken into account by the report of the technical committee. The grant of new licences which was on the basis of the report of the technical committee would lead to more wood-based units than the availability of timber. Therefore, it was decided by the State Level Committee that the re-assessment has to be done by the Indian Plywood Industries Research & Training Institute (IPIRTI), Bengaluru to determine the correct number of new licences to be issued to wood based units, under different categories against the timber available in the State. It was only after receiving the report from IPIRTI regarding annual consumption of timber, that the decision of issuance of new wood-based industries should be taken.

9. On 06.06.2018, a meeting of the State Level Committee was held and the grant of new licences to wood-based industries against the availability of timber was considered again. It was mentioned in the said minutes of the meeting that actual consumption of MDF/HDF/Particle Board has not been assessed by them and it was recorded that a request was made to IPIRTI, Bengaluru to submit a report by

10.06.2018 with regard to the actual consumption of timber against the maximum installed capacity of the plants and machineries.

10. As against this, in the meeting of the State Level Committee held on 07.09.2018 it was unanimously resolved that there was no need for any fresh study/assessment for consumption of timber by wood-based industries to be conducted by the IPIRTI, Bengaluru. In support of the said decision, it was stated that the notice dated 01.03.2019 proposing for grant of license to new wood-based industries was in conformity with the directions issued by this Court on 05.10.2015 in W.P. (C) No. 202 of 1995 titled as '**T.N. Godavarman Thirumulpad v. Union of India & Ors**'. It was further mentioned in the minutes of the meeting that there is no provision for any new assessment/ survey to be conducted regarding consumption of timber in the Wood Based Industries (Establishment and Regulation) Guidelines, 2016 issued by the Ministry of Environment, Forest and Climate Change, Government of India. It was also noted that IPIRTI, Bengaluru has not done any new study/assessment of the consumption of timber by various wood-based industries in any State/Union Territories. Thus, the State Government

decided to adopt the figures given by the Central Empowered Committee on 26.05.2010.

11. In its judgement dated 18.02.2020, the Tribunal set aside the notice dated 01.03.2019 on the ground that the available data would not support the contention of the State regarding the availability of sufficient timber for setting up new wood-based industries. The correctness of the said judgment will have to be determined by this Court as and when these appeals are finally heard. In the interregnum, the Appellants are insisting for an interim order being passed by this Court permitting the new wood-based industries to commence their operations during the pendency of these appeals. As a submission on behalf of the State of Uttar Pradesh was made that the decision to permit new wood-based industries was based on the recommendations made by the State Level Committee, we directed the learned Senior Counsel for the State to provide the copies of minutes of meetings of the State Level Committee held on 04.05.2018, 06.06.2018 and 07.09.2018. The decision taken by the State Level Committee on 04.05.2018 to grant permission for new wood-based industries only after getting a report from IPIRTI, Bengaluru which was requested to

conduct an assessment as recorded in the minutes of the meeting dated 06.06.2018, was given a go bye in the resolution dated 07.09.2018.

12. We have heard the learned counsel at some length and at present, we are not convinced that the judgment of the Tribunal needs to be stayed. *Prima facie*, we are in agreement with the Tribunal that data has to be collected by the State before permitting new wood-based industries. Of course, this view is subject to a decision to be taken after hearing the parties in detail at a later stage. The State Government is at liberty to pursue their request to the IPIRTI, Bengaluru to conduct an assessment before taking a decision to grant licence to new wood-based industries.

13. In view of the importance of issue involved in these Appeals, the same is directed to be listed for final hearing during the summer vacation, if the learned counsel for the parties agree, or else, the appeals may be listed in August, 2022.

.....J.
[L. NAGESWARA RAO]

.....J.
[B. R. GAVAI]

**New Delhi,
April 22, 2022**