

**BEFORE THE NATIONAL GREEN TRIBUNAL**

**SOUTHERN ZONE, CHENNAI**

**Application No.106 of 2016 (SZ)**

**In the matter of**

1. *Suo Motu* Proceedings initiated based on the News item published in “The Times of India” Newspaper, Hyderabad City Edition dated 02.05.2016 Under the Heading “Hacking of trees shameful, Senseless” at KBR Park, Hyderabad

.. Applicant

Vs.

1. The Chief Secretary,  
State of Telangana, Secretariat,  
Hyderabad
2. The Secretary,  
State of Telangana,  
Environment, Forest, Science & Technology,  
Telangana Secretariat,  
Hyderabad
3. The Commissioner,  
Greater Hyderabad Municipal Corporation,  
Tank Bund, Hyderabad.
4. The Principal Chief Conservator of Forests,  
Telangana State, Hyderabad.
5. Dr. K. Purushotham Reddy,  
Environmentalist, R/o 1.9.633  
Vidya Nagar, Hyderabad.  
(R5 impleaded as per the order of the  
Tribunal in M.A.No.71 of 2016 dated 27.05.2016)
6. Dr. D. Narasimha Reddy, Hyderabad  
(R6 impleaded as per the order of the  
Tribunal in M.A.No.75 of 2016 dated 27.05.2016)
7. Human Rights & Consumer Rights Protection  
Trust Cell represented by its Chairman,  
Mr.Thakur Rajkumar Singh, Party in person  
(R7 impleaded as per order of the  
Tribunal in M.A.No.86 of 2016 dated 01.07.2016)
8. The Secretary,  
MoEF&CC, New Delhi

.. Respondents

**Counsel appearing for the applicants:**

**Counsel appearing for the respondents**

Mrs.H.Yasmeen Ali for R1 to R4

Mr.M.C.Mehta, Senior Counsel  
For Mr.Suruchi Singh for R5

M/s.A.Yogeshwaran, Neha Miriam  
Kurian & M.Dinesh for R6

Mr.Thakur Rajkumar Singh  
(Party in person) for R7

Mr.Syed Nurullah Sheriff for R8

**ORDER**

Present

**Hon'ble Justice Dr.P. Jyothimani, Judicial Member**

**Hon'ble Shri P.S.Rao, Expert Member**

Delivered by Shri P.S.Rao, Expert Member

24<sup>th</sup> May, 2017

Whether judgment is allowed to be published on the Internet .. Yes/No

Whether judgment is to be published in the All India NGT Reporter .. Yes/No

Based on a news item published in the 'The Times of India' Hyderabad City Edition dated 02.05.2016 under the caption "*Hacking of Trees shameful, senseless*" reporting that the Government of Telangana is proposing to cut down about 3000 trees at Kasu Brahmananda Reddy National Park (KBR Park) located in the heart of Hyderabad City, this Tribunal has taken up the case *suo motu* since it is an important issue dealing with a substantial question relating to the environment. Notices were issued to the respondents No.1 to 4. As the news paper reported that trees are likely to be cut at any time, *status quo* order was issued to the respondents not to cut the trees until further orders from this Tribunal.

2. Later, one, Dr. K.Purushotham Reddy who is stated to be an Environmentalist, filed Miscellaneous Application (MA) No.71 of 2016 to implead himself as a party which was allowed and the applicant was impleaded as respondent No.5. Similarly, in M.A.No.75 of 2016 filed by one, Dr.D.Narasimha Reddy who is stated to be a Political Scientist and resident of the said area, also made a prayer to get himself impleaded as a party respondent which was agreed to and he was impleaded as respondent No.6. Likewise, in M.A.No.86 of 2016 Human Rights & Consumer Rights Protection Cell Trust represented by its Chairman Mr. Thakur Rajkumar Singh made a prayer to implead the Trust as one of the party respondents to the proceedings in the interest of justice. This M.A. was also considered and the Trust was impleaded as respondent No.7.

3. On behalf of the State of Telangana, the respondent No.2, Secretary to the Government, Environment, Forest, Science and Technology (EFS&T) Department has filed reply affidavit dated 27.05.2016 stating that the then Government of undivided Andhra Pradesh in G.O. Rt. No. 539, EFS&T (For.III) Dept. dated 11.12.2008 has constituted District Level Tree Protection Committee (TPC) to regulate tree felling in the twin cities of Hyderabad and Secunderabad and Ranga Reddy District under the Andhra Pradesh Water, Land and Trees Act, 2002 (WALTA) with the following members:

1. Additional Principal Chief Conservator of Forests (Env) – Chairman
2. Conservator of Forests, Hyderabad – Member/Convenor
3. Director, Urban Forestry, HUDA – Member
4. Divisional Forest Officer (DFO), Hyderabad – Member
5. Additional Commissioner, GHMC (dealing with plantation) – Member
6. Superintending Engineer (R&B) R.R. District – Member
7. Forum for Better Hyderabad (NGO), - Member
8. World Wide Fund (WWF) (NGO) – Member
9. United Federation of Residents Welfare Association (NGO) –Member

4. It was further stated in the affidavit that the Executive Engineer, PD-I of 3<sup>rd</sup> respondent Greater Hyderabad Municipal Corporation (GHMC) has submitted

proposals to the DFO, Hyderabad through the Deputy Director, Urban Biodiversity, GHMC, Hyderabad on 23.04.2016 informing that the GHMC is considering construction of multi-level flyovers at 4 important road junctions on the peripheral radial road around KBR Park to ease the traffic flow and the following number of trees are required to be cut:

S. No.	Junction	No. of Trees
1.	KBR Entrance Junction 1 <sup>st</sup> level flyover	225
2.	KBR Entrance Junction 2 <sup>nd</sup> level flyover	181
3.	Road No.45 Junction 1 <sup>st</sup> level flyover	164
4.	Road No.45 Junction 2 <sup>nd</sup> level flyover	98
5.	Film Nagar Junction 1 <sup>st</sup> level flyover	167
6.	Film Nagar Junction 2 <sup>nd</sup> level flyover	139
7.	Maharaja Agrasen Junction 1 <sup>st</sup> level flyover	248
8.	Maharaja Agrasen Junction 2 <sup>nd</sup> level flyover	172
	Total	1394

The DFO, Hyderabad, who is the Designated Officer to grant permission for cutting the trees under WALTA, placed the proposal before the TPC. The Members of the TPC inspected the site on 19.04.2016, 27.04.2016 and 30.04.2016 and held a meeting on 02.05.2016 and have drawn the minutes of the meeting. During the meeting, the officials of the GHMC informed the TPC members that the GHMC was planning to work towards reducing vehicular traffic congestion in the twin cities of Hyderabad and Secunderabad under the Strategic Road Development Programme (SRDP). The GHMC explored and examined various alternatives to decongest the vehicular traffic around the KBR Park and concluded that there was no alternative except either to construct elevated expressway or multi-level flyovers. After examining the technical and financial aspects of the proposals it was decided to develop multi-level flyovers at the existing 6 road junctions around the National Park and on enumeration it was found that a total of 2319 trees of different species and girth are required to be felled/translocated to take up the construction work. Initially in the 1<sup>st</sup> phase it was decided to take up the work at 4 junctions and subsequently at the remaining 2 junctions.

5. It was further stated that in the 1<sup>st</sup> Phase at 4 junctions a total of 1394 number of trees existing along the Hyderabad Metropolitan Development Authority (HMDA) walkway, are required to be felled/translocated to facilitate the construction work. The TPC members wanted to know whether any cost benefit analysis for the project has been made before examining the request. The Consultant appointed by GHMC, made a PowerPoint presentation before the members of the TPC giving full details of the project such as increase in the traffic density and its impact, road improvement works proposed under the SRDP with specific reference to reduction in pollution levels etc. It was further informed to the TPC members that the road network in Hyderabad city is far less than required and there is an immediate need to improve the capacity of the road network. Taking into consideration of the projected increase in the volume of traffic, multi mode transport network was proposed by the GHMC besides widening of existing roads, improvement of traffic junctions by constructing multi-level flyovers, in addition to giving thrust to other modes of public transportation such as Metro Rail, BRTS, MMTS etc.

6. It was informed to the TPC members that a Comprehensive Traffic Study (CTS) for the twin cities of Hyderabad and Secunderabad was conducted by the Consultant which revealed that in the year 2015 the total traffic volume at the six road junctions around the KBR Park was 2.5 lakh vehicles per day which is likely to go up to 5.5 lakh vehicles per day in the year 2035. While giving details of traffic flow and pollution caused by the vehicles at the traffic junctions it is stated that because of traffic congestion about 32,096 litres of fuel is wasted every day due to keeping the vehicle engine in idling condition and operating the vehicles at lower speed resulting in emission of 101.87 tonnes of Carbon Dioxide, 0.05 tonne of Methane, 0.02 tonne of Nitrous Oxide per day and all these are equivalent to

107.92 tonnes of Carbon Dioxide emission per day. By taking up traffic improvement at the road junctions around the National Park as proposed under the project, the pollutant load is likely to come down to about 47.65 tonnes of Carbon Dioxide equivalent per day viz., a reduction of 55.85%. However, if the proposed interventions were not taken up, due to increase in traffic volume, the pollution load going to be generated by the year 2035 will be 456.19 tonnes of Carbon Dioxide equivalent per day. On account of grounding the project, the pollution load is estimated to come down to 126.01 tonnes of Carbon Dioxide equivalent per day which amounts to a decrease of 72.38%. Therefore, the project will help in significant reduction of pollution load besides saving a staggering 40.59 crore litres of fuel over of period of 20 years from 2015 to 2035 which amounts to a cumulative reduction of 13.66 lakh tonnes of Carbon Dioxide equivalent emissions.

7. It was further stated by the State of Telangana that the effect on carbon sequestration on account of felling of 1394 trees at 4 junctions (Maharaja Agrasen Junction, KBR entrance Junction, Filmnagar Junction and Road No.45 Junction under Phase-I) was estimated to be 76.05 tonnes considering that the average age of the trees to be felled is about 15 years and as per the cost benefit analysis the project is highly beneficial in reducing the pollution and improving the environment. Accordingly, the TPC discussed the proposals threadbare and opined that the benefits of the project far outweigh the loss of carbon sink due to removal of trees during the period of implementation of the project and the loss of the trees could be compensated by taking up Compensatory Afforestation (CA) by planting trees equivalent to 3 times the number of trees proposed to be removed. Further, reduction of time for the movement of traffic and reduction of pollution levels around the Park were considered to be added bonus. After thorough

deliberations the TPC recommended and authorised the Designated Officer to accord permission for felling/translocation of trees with certain conditions mainly that the felling should not be in one go, but it should be in a staggered manner depending on the progress of work. Initially the felling has to be restricted to only the trees which are essentially required to be removed for laying foundation of pillars. Based on the recommendation of the TPC which includes representatives of 3 prominent NGOs, viz., Forum for Better Hyderabad, WWF and United Federation of Residents Welfare Association the Designated Officer has issued permission for felling /translocation of 1394 trees duly listing out all the conditions suggested by the TPC.

8. The respondent State of Telangana further contended that this project is taken up in the interest of smooth flow of traffic which in turn leads to protection and improvement of the environment and no damage is going to be caused to the flora and fauna existing inside the National Park which is located in the heart of the city in a densely populated locality and the Government has taken up appropriate steps to maintain the ecological balance while speeding up of the projects to meet the developmental needs of the city which ultimately provide long lasting benefits like reduction in emission levels, reduction in fuel consumption, reduction in travel time etc. and 'The Times of India' report based on which the Tribunal has taken up the case *suo motu*, is one sided and does not project the issue in proper perspective. SRDP has huge environmental benefits which far outweigh the loss of few hundred trees and the KBR National Park spread over an area of 390 acres will not be touched and there will be no damage to the flora and fauna existing inside the Park and in fact the pollution levels around the Park will be considerably reduced benefiting the flora and fauna once the project becomes operational. Moreover, the project has been examined from all angles and all the required efforts were

made to maintain the balance between environment and development and minimise the number of trees to be removed keeping the same to the barest minimum and loss of tree cover is compensated by planting 3 times the number of trees permitted to be removed. It was stated that the GHMC will take up the construction work only after obtaining all the requisite permissions in accordance with law. The annexures enclosed with the reply affidavit of the State of Telangana list out the proceedings of the DFO, Hyderabad dated 03.05.2016 given under WALTA permitting the GHMC to fell /translocate a total of 1394 trees.

9. In the additional reply filed by the 2<sup>nd</sup> respondent dated 30<sup>th</sup> August, 2016 the issue raised by the 5<sup>th</sup> respondent in M.A.No.71 of 2016 that under the provision made in TS-iPASS common application form for obtaining permission to cut the trees under WALTA by the Designated Officer in the State of Telangana, permission is deemed to have been granted within 3 days after submitting the application as provided under Clause 21 of Appendix to G.O. Ms. No.19 EFS&T (For.I) Dept., dated 13.05.2016, will set a dangerous trend and people will indiscriminately cut the trees in the State, was dealt. It is stated by the 2<sup>nd</sup> respondent that the apprehension of the 5<sup>th</sup> respondent is misplaced. It is further stated by the 2<sup>nd</sup> respondent that the aforesaid G.O. has been issued for 'Ease of Doing Business' and for attracting investors to establish new industries in the State in pursuance of 344 Point Reform Action Plan prepared by the Government of India. It was stated that if the concerned Designated Officer/DFO fails to accord tree felling permission within 3 days of receipt of application, provided it is in complete shape, permission is deemed to have been granted under WALTA 2002 so as to ensure that the Designated Officers quickly act on the applications and avoid delay in granting permission to the applicant to cut the trees to enable the applicant to go ahead with the process of establishing the industry. Though it is

evident that under Clause 21 of Appendix to the aforesaid G.O., if permission is not accorded within 3 days of submitting application under TS - iPASS, the applicant industrialist himself can fell the trees in his land, he cannot transport the felled material from the site unless he obtains a valid Transit permit under the Telangana Forest Produce (Transit) Rules, 1970 for the trees which belong to non-exempted species. However, the 2<sup>nd</sup> respondent stated that considering the apprehension expressed by the 5<sup>th</sup> respondent, the Government of Telangana will be amending clause 21 of the Appendix to the G.O. Accordingly, the G.O. was amended and an amendment was issued vide G.O. Ms No.61 dated 24.10.2016 modifying the deemed provision from 3 days to 12 days and a copy of the G.O. has been produced before the Tribunal on 01.03.2017. The Additional Advocate General, State of Telangana pleaded that this will take care of the fear expressed by the respondent No.5.

10. The respondent No.3, Commissioner, GHMC in his reply dated 27.05.2016, submitted that the KBR National Park is located in the Centre of Hyderabad city and all the link roads joining the peripheral road of the National Park act as major arteries for carrying heavy traffic from one part of the city to the other in all directions and the total length of the corridor is 5.3 km. The major roads passing through this corridor connect busy places such as Hi-Tech City, Financial District etc. handling huge volume of traffic. Since these arterial road junctions are connecting the newly developing High-Tech City, IT corridors and other commercial and business centres there is a rapid growth in the traffic density in the past few years resulting in severe traffic congestion and further development is going on in Madhapur and Kondapur areas. The present road junctions are controlled and managed with traffic signals without any flyovers due to which there is a heavy traffic congestion and release of large amount of vehicular

emissions causing severe air pollution in the surroundings of the KBR Park particularly during the peak traffic hours in the morning and evening. Therefore the GHMC has proposed to take up construction of multi-level fly-overs/grade separators at six junctions including widening and strengthening of existing peripheral and radial roads around KBR Park under SRDP to provide relief and allow free flow of traffic and consequently reduce pollution levels, based on the Consultant's report who is experienced in the field of Traffic Management. The Commissioner, GHMC further stated that the proposed project is not going to affect the Park in any way and the proposed activities are outside the Park boundary. Accordingly District Level TPC examined the proposal and recommended to grant permission for removal of trees with certain conditions and Designated Officer viz., DFO, Hyderabad has granted permission to cut the trees under WALTA, 2002. It was further stated by the respondent No.3 that while executing the project the trees will not be removed in one go. Initially, trees falling within the foundation limits of piers and the trees required to be felled for construction of ramps will be taken up in a staggered manner as per the progress of work and utmost care will be taken to avoid felling of trees during construction and efforts will be made to pollard the trees falling below the slab rather than cutting the entire tree itself. Wherever possible the trees will be carefully translocated under the supervision of the experts and all out efforts will be made to ensure the survival of translocated trees. After completion of the works, indigenous tree species will be planted along the footpath besides undertaking CA by planting 3 times the number of trees removed as per the conditions prescribed. The 3<sup>rd</sup> respondent further stated that a larger public interest is involved in the project and the GHMC undertakes to develop green belt in the vicinity of proposed project which is environment friendly and in fact once the project comes into being, it will

considerably improve the ambient air quality in the surroundings of the Park by reducing the vehicular emissions.

11. The 4<sup>th</sup> respondent Principal Chief Conservator of Forests (PCCF), State of Telangana in his reply dated 27.05.2016, has reiterated what has already been stated in the reply affidavit of the respondent No.2, Secretary EFS&T Department. He quoted the recommendations made by the Consultant appointed by GHMC on the CTS conducted for the Hyderabad city and how the construction of flyovers around KBR National Park will help in reducing the pollution as the existing road length in Hyderabad city is only about 8% whereas for urban areas ideally it should be at least 20% of the geographical area of the city, therefore immediate action is required to improve the capacity of the road network.

12. With regard to permission granted by the DFO, Hyderabad under WALTA, 2002, the respondent PCCF averred that only after conducting inspection of the site by the Members of TPC and based on their recommendation, the DFO, Hyderabad has invoked the powers vested with him under WALTA, 2002 and granted permission for felling /translocation of 1394 number of trees existing outside the National Park for the purpose of the project and without going into the various issues of the project, the “The Times of India” has published incomplete news report providing only half truth and projected one side view of the project. He states that the project will not cause any harm to the flora and fauna existing inside the Park since the activities are confined outside the Park and only after exploring all the alternatives, the project proponent GHMC has approached the DFO, Hyderabad who, based on the recommendations of the TPC, granted permission for cutting the trees. CA is proposed to offset the loss of trees

which were planted outside the Park about 15 years ago and the project is taken up by the project proponent GHMC in public interest.

13. The respondent No.5 has filed reply affidavit dated 25.10.2016 stating that he is an environmentalist and he has also filed public interest litigation petition challenging G.O. Rt. No. 208 dated 30.05.2015 issued by Municipal Administration and Urban Development (MA&UD) Department of Telangana according sanction of the SRDP and questioning the G.O. Ms. No.19 dated 13.05.2016 issued by EFS&T Department on simplifying the process of according permission for tree felling under WALTA 2002. Squarely denying the averments made in the replies filed by respondents No.1 to 4, the 5<sup>th</sup> respondent stated that the KBR National Park stands as one of the last vestiges of flora and fauna and unique rock formations representing the rich biodiversity of the Deccan Plateau which includes over 600 species of plant life, 120 species of birds, 20 mammal species and 20 species of reptiles and amphibians etc., and therefore the National Park needs to be treated as a heritage site for preservation of biodiversity of Telangana. The Park also consists water conservation system and plays a crucial role in replenishing the groundwater table and contributes to moisture conservation and acts as a lung space and as a 'carbon sink'.

14. The 5<sup>th</sup> respondent further stated that as per the satellite data the urban built up area in Hyderabad city has risen 400% between 1999 and 2009. The built up area which was just 2.55% of the total geographical area in the year 1999 is predicted to go upto 51.27% by 2030. Whereas the tree cover in Hyderabad city fell from 2.71% to 1.66% over a period of 20 years. There will be a tremendous pressure on land for residential, commercial etc. uses shooting up from 540 sq. km in the year 2001 to 1056 sq. km by 2021 as a result of which the agricultural, recreational and conservation areas are shrinking rapidly. Further reduction of

lung spaces will make the city more difficult to live in. In this situation, the State Government has come forward for undertaking SRDP without conducting Environment Impact Assessment (EIA) study.

15. The 5<sup>th</sup> respondent further quoted the provisions of the Wildlife (Protection) Act, 1972 on the declaration of National Parks and the activities and protection measures permitted to be taken and has brought out the necessity of declaring Eco Sensitive Zone (ESZ) around the National Parks and Wildlife Sanctuaries to create some kind of “Shock Absorber” and “Buffer Zone”. He emphasizes that as per the Wildlife Conservation Strategy-2002, the land falling within 10 km of the boundaries of the National Parks and Wildlife Sanctuaries shall be notified as eco-fragile zone and in this regard the Hon’ble Supreme Court in Writ Petition No. 460/2004 in *Goa Foundation* case dated 4<sup>th</sup> December, 2006 stressed the importance of ESZ and directed the Ministry of Environment, Forests & Climate Change (MoEF&CC) to inform all the State Governments to send proposals for declaring ESZ around the Protected Areas (PAs). The 5<sup>th</sup> respondent states that the Government of Telangana did not submit proposals to declare ESZ around the National Parks in the State. However, the draft notification of the ESZ for KBR Park identifies 25 to 30 meters width of the walkway around the Park as the ESZ and any changes to this notification should have been contested within 60 days but the State Government has now requested the MoEF&CC to reduce the walkway to 3 to 5 m to accommodate the SRDP. Further, the multi-level flyovers as planned by Government of Telangana, will take away the ESZ space around the National Park affecting the flora and fauna and the State Government failed to conduct impact assessment on different ecological and environmental parameters before granting the project.

16. The 5<sup>th</sup> respondent has also brought out the issues such as the ambient air quality in Hyderabad city particularly PM<sub>2.5</sub> and PM<sub>10</sub> levels which are very high besides increase in the Sulphur Dioxide levels. Among the many sources of air pollution, the Transport Sector is contributing significant amount with direct correlation to the increasing particulate matter and it has been found that ambient PM<sub>10</sub> levels have increased for the last 5 years. Vehicle emissions contribute significant increase in the PM concentrations and air pollution is increasing day by day causing much harm to the environment and the proposed SRDP will be life threatening not just for human beings but also for the flora and fauna housed in the KBR National Park. Traffic congestion in Hyderabad city is as a result of decades of neglect and apathy on the part of planners and executive. Any attempt to facilitate easy movement of private vehicles by implementing the proposed project, will further aggravate the traffic problems and also the pollution as more and more vehicles will be added and vehicular traffic is most significant source of air pollution in urban areas. The construction of multi-level flyovers adjacent to the National Park will cause environmental disaster as the vehicles release both gaseous as well as solid pollutants into the atmosphere and the particulate matter released by the moving vehicles may settle inside the National Park particularly in winter season and this will enhance the formation of smog causing visibility impairment and increased respiratory diseases which is already seen in big metropolitan cities such as New Delhi, Beijing etc. Therefore, instead of taking up such large scale multi-level flyovers, the best practices that can be implemented are by way of improving public transport system and encouraging and providing bicycle tracks and walking facilities. Further, already there is a rapid increase in summer temperatures in Hyderabad. Any reduction and fragmentation of vegetation will further increase the ambient temperature. The vegetation controls the Urban Heat Island (UHI) phenomenon. Due to progressive replacement of

natural surfaces with built up surfaces, through urbanization it leads to absorption of significant proportion of the radiation which is then released into the atmosphere as heat. The radiation is ultimately absorbed by the concrete structures/building surfaces/walls thus enhancing the urban heat release. The proposed SRDP especially at the highest elevated point in the city where KBR Park is located, will magnify this effect many times in the coming years causing widespread man made climate disaster and it can be prevented with some thoughtful urban planning.

17. One more aspect which the 5<sup>th</sup> respondent highlighted is increase in the noise pollution levels due to construction activities and increased movement of vehicles around the National Park. Already the noise level is above the standard limits and in the event of SRDP coming up, there will be further increase in the vehicular movement and consequently the noise level will go much higher affecting the flora and fauna in the Park. Finally, the 5<sup>th</sup> respondent prayed the Tribunal to direct the official respondents to undertake a comprehensive EIA study on the whole SRDP project in Hyderabad city in order to know as to how many trees will be cut and what will be the cumulative impact on the ecological aspects on flora and fauna housed in the Park and also on the people.

18. The 6<sup>th</sup> respondent who himself got impleaded in M.A.No.75 of 2016, has not chosen to file any reply affidavit.

19. The respondent No.7 filed counter affidavit stating that the construction of SRDP which is proposed to solve the traffic problem in the city of Hyderabad, will lead to further destruction of valuable natural resources including KBR Park and conceiving such project is a flawed approach and in fact it will further aggravate the traffic problem. It is further stated that the CTS which is the genesis for taking up such project, is not scientifically correct. Such survey cannot be the basis to

undertake such large scale construction of flyovers in the city. The CTS as planned, is not cohesive in its objectives, surveys, case studies and recommendations. It does not answer the fundamental questions particularly the long range transportation plan and it is not in line with the current urban planning standards and guidelines issued by the Ministry of Urban Development, Government of India. Building flyovers to solve the traffic problems is not the solution. The 7<sup>th</sup> respondent suggested certain immediate, short term and long term measures to address traffic problems in the city of Hyderabad.

20. In his subsequent counter affidavit dated 26.10.2016, the 7<sup>th</sup> respondent has countered and pointed out certain shortcomings in the SRDP report submitted by the official respondents No.1 to 4 which mainly deal with the traffic study and proposed activities by the State Government to streamline and allow smooth flow of traffic and avoid congestion. The issues raised by the 7<sup>th</sup> respondent are more relevant to the Urban Planners and civic authorities dealing with Urban Development and Management. Finally, the 7<sup>th</sup> respondent prayed to stay the operation of G.O. Rt. No.208 dated 30.05.2015 issued by the MA&UD Department, Government of Telangana and also the approval accorded for the implementation of SRDP.

21. Considering the fact that the ESZ around the National Park is to be notified by the Government of India, in the order dated 30.11.2016 the MoEF&CC was impleaded as 8<sup>th</sup> respondent with a direction to file reply and make submissions to enable the Tribunal to properly adjudicate the matter. The learned counsel for MoEF&CC made his submissions and produced copies of letters dated 9-2-2017, 21-2-2017 and 10-3-2017 written by the MoEF&CC calling for information from the State Government on construction of flyovers around the KBR Park. The Addl. Advocate General of State of Telangana filed a copy of the letter dated

25-2-2017 written by the PCCF & Head of the Forest Force and letters dated 9-3-2017 and 14-3-2017 written by the Special Chief Secretary, EFS&T Department to the MoEF&CC on the subject matter of construction of flyovers and declaration of ESZ around the KBR National Park.

#### **DISCUSSION AND FINDING:**

22. Having gone through the record placed before us and having heard the counsel for the parties at length, we feel it prudent to consider the following points to comprehensively understand the issue and come to a conclusion as to whether any substantial question related to environment is involved in this case:

- 1. Whether the trees proposed to be cut/translocated fall inside or outside the KBR Park and whether due process of law is being followed in removing the trees?**
- 2. Whether the construction of multi-level flyovers at 4 road junctions around the KBR Park come under the ambit of EIA notification, 2006 requiring EC?**
- 3. Whether there is any violation of the provisions of Environment (Protection) Act, 1986 and Rules made thereunder particularly with reference to ESZ?**

Now, we may examine the above points one after the other.

#### **Point No.1:**

23. KBR National Park is located in the densely populated mixed residential and commercial zone in the metropolitan city of Hyderabad. This was originally a private property belonging to erstwhile Rulers of Princely State of Hyderabad known as 'Chiran Palace' which was taken possession by the State government and declared as Protected Forest vide G.O.Ms. No.22, E&F (For.III) dated 3<sup>rd</sup> February, 1994 under Section 24 of the undivided Andhra Pradesh Forest Act,

1967 and named as 'Jubilee Hills Forest Block'. 17 locations inside the Park amounting to an extent of about 2.44 ha are retained duly conferring right of way to have access to the servants and security personnel of the erstwhile rulers of Princely State of Hyderabad. The Park stands as one of the last vestiges of the flora and fauna and unique rock formations representing the biodiversity and landscape typical of Deccan Plateau mainly consisting of dry deciduous species. Later on, considering the ecological and biological significance of the Forest Block, the State Government took up the matter with the Government of India for declaring it as a National Park under the Wildlife (Protection) Act, 1972 and to that effect the Government had issued G.O. Ms. No.187 EFS&T (For. III) Department dated 03.12.1998 notifying the Jubilee Hills Forest Block as KBR National Park with an extent of 142.50 ha. duly excluding an area of 13.80 ha. for widening of the road system around the Park as the Forest Block is located in the heart of the city in posh Jubilee Hills and Banjara Hills locality. Thus at the time of issuing notification itself, a provision has been made to leave sufficient space to meet the future requirement for the road network around the Park as the Park is in the midst of already developed densely populated locality surrounded by large-scale urban constructions and high-rise buildings. The Park is located at the highest elevated point in the city at a height of approximately 600 m above msl. Considering that this is one of the last vestiges of typical landscape of Deccan Plateau and since it acts as a valuable green/lung space in the middle of the concrete jungle, the entire Park was provided with foolproof fencing/wall which eventually allowed good protection to the flora and fauna besides providing ecological and recreational services to the people living in its surroundings. As per the note prepared by the Forest Department the KBR Park was declared as 'Well managed Forest area' by the SCS Global International Authority in November 2014 and it is the first National Park in India to get such privilege. Considering the requirement of the

citizens to breathe unpolluted air and for morning and evening walk, the HMDA has developed walkway around the Park and also planted some ornamental and shade bearing trees not only to give an aesthetic look but also to provide shade to the people walking and relaxing around the Park. Thus the trees proposed to be cut are mostly artificially planted and are about 15 years old.

24. The satellite imageries and other records produced before us clearly show that the Park is completely surrounded by a Circular Road having major road junctions at six places connecting arterial roads. All these road systems around the Park constitute major traffic hubs in the area which is densely populated with large scale commercial and residential complexes having come up in the past and are ever expanding. To mitigate the traffic congestion problem and consequently reduce the emissions due to the ever increasing vehicular movement at various localities in the twin cities of Hyderabad and Secunderabad including at the six major road junctions around the KBR Park, the State Government has approved SRDP to be executed by respondent No.3, GHMC. After examining the pros and cons and after considering various alternatives, it was decided to develop multi-level flyovers at the existing 6 traffic junctions around the Park and in the first phase the respondent No.3 decided to undertake the construction at 4 junctions and subsequently at the remaining 2 junctions. The basis for taking up such project was to reduce the traffic congestion and consequent reduction in emission levels based on the CTS conducted by the 3<sup>rd</sup> respondent and recommendation made by the Experts in the field.

25. The CTS study revealed that because of heavy vehicular movement and severe traffic congestion at the road junctions the existing emission load around the KBR Park is 107.92 tons of Carbon Dioxide equivalent per day and if the traffic congestion is eased, the emission levels will come down to 47.65 tons of Carbon

Dioxide equivalent per day which amounts to a reduction of about 56 %. Keeping in view the ever increasing traffic, it is predicted that the emission levels may go upto 456.19 tons of Carbon Dioxide equivalent per day by 2035 and if the project comes up, there will be a reduction of 72.38 % in emission levels thereby bringing it down from 456.19 tons of Carbon Dioxide equivalent per day to 126.01 tons of Carbon Dioxide equivalent per day. Further, the CTS also calculated that there will be a saving of 40.59 crore litres of fuel over a period of 20 years from 2015 to 2035 because of reduction in time to cross the junctions with increased speed of vehicles allowing smooth flow of traffic which will be equivalent to a cumulative reduction of emission of 13.66 lakh tons of Carbon Dioxide.

26. After the project was sanctioned by the State Government for construction of multi-level flyovers at the following 4 important road junctions around the KBR Park, the respondent No. 3 found the following number of trees planted about 15 years ago by the HMDA, are required to be removed:

S. No.	Junction	No. of Trees
1.	KBR Entrance Junction 1 <sup>st</sup> level flyover	225
2.	KBR Entrance Junction 2 <sup>nd</sup> level flyover	181
3.	Road No.45 Junction 1 <sup>st</sup> level flyover	164
4.	Road No.45 Junction 2 <sup>nd</sup> level flyover	98
5.	Film Nagar Junction 1 <sup>st</sup> level flyover	167
6.	Film Nagar Junction 2 <sup>nd</sup> level flyover	139
7.	Maharaja Agrasen Junction 1 <sup>st</sup> level flyover	248
8.	Maharaja Agrasen Junction 2 <sup>nd</sup> level flyover	172
	<b>Total</b>	<b>1394</b>

27. Thus a total of 1394 trees are proposed to be removed either by cutting or wherever possible, by translocating, to enable to take up the construction work. Accordingly, the project proponent respondent No.3, GHMC submitted proposals to the DFO, Hyderabad who is the Designated Officer, to grant permission for cutting and removal of the trees under Section 28 of WALTA 2002. Upon receiving the said application from the respondent No.3, the Designated Officer referred the application to the District Level TPC for Hyderabad and Ranga Reddy

Districts which was constituted vide G.O.Ms.No.539 dated 11.12.2008. The TPC consists among others, 3 prominent NGOs. The Committee Members inspected the site on 19<sup>th</sup>, 27<sup>th</sup> and 30<sup>th</sup> April, 2016 and have drawn minutes of the meeting dated 2<sup>nd</sup> May, 2016 duly recommending to fell/ translocate a total of 1394 trees at 4 junctions viz., Maharaja Agrasen Junction, KBR entrance Junction, Filmnagar Junction and Road No.45 Junction with following conditions :

- i. *“The GHMC shall restrict felling of trees to the extent of trees required to be felled for laying foundation for pillars on Road No.2 of Banjara Hills from Panjagutta towards Jubilee check post under Phase I.*
- ii. *In addition to species listed under G.O. Rt. No.539, efforts shall be made to translocate other species like Peltophorum, Bignonia and Palms in consultation with N.G.Os. and depending upon the success ratio, it shall be extended to other trees also.*
- iii. *In the Phase I also, the pillars involving no felling of trees or tree species which are not proposed for translocation shall be taken up for excavation. The excavation work for the pillars involving trees selected for translocation shall start only after 2<sup>nd</sup> week of June after receipt of monsoon rains and fall in temperature.*
- iv. *The remaining trees coming under ramp shall be taken up for felling in the 2<sup>nd</sup> phase based on the progress of works.*
- v. *All the trees should not be felled in one go. Tree felling shall be staggered depending upon the progress of works. The GHMC shall submit requirement of tree felling every month to the Divisional Forest Officer, Hyderabad and Divisional Forest Officer, Hyderabad shall give permission to fell the trees within (3) days of receipt of proposal from GHMC.*
- vi. *The trees marked for felling should be given red colour band, trees to be retained with green colour band and trees to be translocated with white colour band.*
- vii. *Wherever possible, tree felling shall be avoided during the construction and the trees falling below the slab of the flyover shall be pollarded and protected.*
- viii. *The translocation of trees shall be done under the supervision of experts and care shall be taken to ensure its survival. The GHMC shall take the advice of the NGO members in this regard.*
- ix. *After completion of works, preferably indigenous tree species shall be planted along the footpath.*
- x. *The GHMC shall plant three (3) times the number of trees felled during the construction of the flyover. The species should be preferably of indigenous origin.*

- xi. The compensatory tree planting shall be taken up within (3) months from the day of grounding of work during current monsoon season.*
- xii. The trees to be translocated and compensatory afforestation shall be taken up in the immediate vicinity of the project site to the extent feasible and within maximum distance upto 3 km Radius of the project site.*
- xiii. The seedlings to be planted should be tall, of minimum height of 1.8 m. and (3) years old. The seedlings should be well protected and maintained for (3) years.*
- xiv. The GHMC shall submit monthly progress report on felling of trees/ translocation and compensatory afforestation taken up along with survival percentage, height etc. to the Divisional Forest Officer, Hyderabad who in turn shall place the same before the Committee as and when the Committee meets”.*

28. The DFO accorded permission to the GHMC for felling/translocation of 1394 number of trees vide his order dated 3<sup>rd</sup> May, 2016 incorporating all the aforesaid 14 conditions suggested by the TPC. Perusal of the species which were permitted to be felled indicates that most of them are either ornamental or shade bearing trees. Thus, it is clear that the trees permitted are located outside the boundary of the Park and most of them are planted about 15 years ago by the HMDA and Minutes of the TPC meeting reveals that TPC has inspected the site and gone into the issue in detail before recommending the case. The estimation of volume of the wood of all the 1394 trees comes to around 195 CMT. The records placed before us show that the TPC while recommending the case to the Designated Officer, has been very cautious and examined the issue in detail in tune with the guidelines prescribed in G.O.Ms. No. 539 dated 11.12.2008. In the G.O. it is clearly stated that the TPC will exercise its powers in strict compliance of the provisions of WALTA 2002 and rules made thereunder. The Committee made field inspection and clearly recorded in the minutes of the meeting that the felling has to be strictly confined to the requirement and efforts shall be made to translocate as many trees as possible including even exotic species like Peltophorum, Bignonia etc. apart from indigenous species like Neem and Ficus.

29. Thus the averments made by the impleaded non-official respondents that the cutting of trees will affect the National Park are not sustainable. No tree growth existing in the National Park is either required or permitted to be cut. WALTA 2002 has been specifically enacted to prevent indiscriminate cutting of trees and take care of such cases of cutting trees in public places outside the Notified/Deemed Forests and PAs irrespective of the ownership of the trees in the larger interest of environment particularly in urban areas. To compensate the loss of trees for construction of flyovers around KBR Park, it was proposed to plant 3 times more the no. of trees to be removed in the property owned by the GHMC within 3 km. radius of KBR Park in Circle 10 (B) of Central Zone of GHMC at the following places.

<b>Sl. No.</b>	<b>Location</b>	<b>Category</b>	<b>No. of plants</b>
1.	Park at near Plot No.567, Road No.1 & 92, Jubilee Hills	Open Space	300
2.	Park at Road No.78, 74 & 75, Jubilee Hills	Open Space	300
3.	Park at Near police station Road No.36, Jubilee Hills	Open Space	300
4.	Park at near Obul Reddy School, Road No.25, Jubilee Hills	Open Space	300
5.	Sagar society Park, Road No.2, Banjara Hills	Open Space	400
6.	Devara Konda Basti Park, Road No.3, Banjara Hills	Open Space	100
7.	Panchvathi Park Road No.3, Banjara Hills	Open Space	100
8.	Park at MLA colony Road No.12, Banjara Hills	Open Space	300
9.	Road No.86, darga to Tolichowki road	Colony Roads	150
10.	Apollo Hospital Back side road No. ABN Andhra Jyothi office Jubilee Hills	Colony Roads	100
11.	Sahikpet Cheruvu Road, Shaikpet	Colony Roads	100
12.	Hindu grave yard, Road No.12 & 13, Banjara Hills	Grave yard	100
13.	Hindu grave yard, Road No.13, Banjara Hills	Grave yard	100
14.	Muslim grave yard, Road No.12, Banjara Hills	Grave yard	100
15.	Hindu grave yard, Road No.12, Banjara Hills	Grave yard	200

16.	Ambedkar Nagar, Shaikpet	Grave yard	100
17.	Panjagutta grave yard, Road No.2, Banjara Hills	Grave yard	1150

30. The official respondents have also pleaded that under the '*Telanganaku Harita Haram*' programme the State Government has taken up massive tree plantation drive across the State and millions of trees are planted in and around Hyderabad under the jurisdiction of HMDC and this will improve the green cover and bring down the pollution.

31. Thus it is clear that permission was granted to fell/translocate the trees after duly following the process established under the law. When it is inevitable to cut a tree then only the TPC is supposed to recommend the case and accordingly the Designated Officer i.e. DFO, Hyderabad has granted the permission to 3<sup>rd</sup> respondent to fell/translocate the trees. However, we are conscious of the fact that definitely it will be a temporary setback to the existing green cover at road junctions outside the Park and nobody welcomes such decision of sacrificing large no. of trees. But here, one cannot ignore the fact that no commercial activity is involved and the project is not for the benefit of any individual. The Notification declaring the National Park itself provides for widening of the road network around the Park and when public interest is involved one has to look into all the aspects including the concept of 'Sustainable Development' and decide the case on merits which vary from case to case. Particularly in this case the project involved is for allowing smooth flow of traffic and thereby reduce vehicular emissions and prevent further deterioration of ambient air quality in the surroundings of the Park. Basically such projects demand evaluation of trade offs for balancing the development needs with environmental sustainability. The details of CTS survey and record placed before us justify that the project needs to be considered and one has to look into the issue in a holistic manner.

32. The apprehension of the impleaded non-official respondents is that without giving an opportunity to the public and without hearing them, granting permission to remove such large number of trees in the heart of Hyderabad City is against the principles of conservation and protection of environment. Even if it is true that neither the public are consulted nor involved while granting permission to remove the trees based on recommendation of District Level TPC, there is a provision to make an appeal to the District Authority constituted under the WALTA Rules, 2004 with a further provision of making appeal to the State Authority. Such appeal may be filed within a period of 30 days and on receipt of such appeal, the Authority shall after giving a reasonable opportunity to the appellant of being heard, pass such order as it may think fit. The Government of Telangana vide G.O.Ms No.9, PR&RD (RD.II) Dept. dated 29.01.2016 and G.O.Ms No.10, PR&RD (RD.II) Dept. dated 29.01.2016 has constituted the Telangana State Water, Land and Trees Authority and District Authority respectively, in exercise of the powers conferred under the WALTA, 2002. Therefore, it is not as if the recommendation of the TPC and the permission granted by the Designated Officer viz., DFO, Hyderabad has become final. The order is always appealable by the aggrieved person. Further, the project proponent has clearly stated that all the trees will not be removed at a time and it will be done in a staggered manner. Initially only those trees which are falling at the spot where foundation for construction of piers is taken up will be felled /translocated that too as and when the works are under progress. However wherever possible without cutting the entire tree, some trees will be pollarded. As long as no tree is touched inside the National Park and there is no violation of Environment and Forest Acts, if some trees are required to be removed for undertaking certain environmentally friendly developmental/ infrastructure projects in larger public interest particularly in urban areas that too if such permission is granted by the Competent Authority in

accordance with law, we cannot say that it is against the concept of protection and conservation of environment and such project should not be allowed to come up. The creation of WALTA, 2002 and Rules made thereunder itself is to regulate such activities and to safeguard the interest of protection of trees existing in public and private places which otherwise are liable to be indiscriminately removed. No doubt irrespective of the legal status of the land, the trees require full protection but in extreme and inevitable cases, law itself permits for removal of such trees. In this particular case, when the trees planted by the local civic body are permitted to be cut/translocated in the interest of development of an infrastructure project and such removal of trees is going to be compensated by taking up CA, we feel it is justified not to interfere with the decision taken by the authorities which is in accordance with law. The learned Additional Advocate General of State of Telangana argued that the WALTA, 2002 addresses the question of impact of cutting of the trees on the environment and the present Government is very particular about increasing green cover in the State including Hyderabad city by undertaking massive tree plantation under the flagship programme of the government '*Telanganaku Haritha Haram*' .

33. In the WALTA, 2002 and Rules made thereunder itself there is a provision to make an appeal before the Competent Authority and an aggrieved person can always approach the Authority against the permission granted by the Designated Officer. No doubt we have taken up the case *suo motu* based on an alarming news item that appeared in the Newspaper on removal of about 3000 trees at the KBR National Park and by invoking the Precautionary principle, we have granted *status quo* not to cut the trees until the case is heard and further orders are passed by the Tribunal. The counter affidavits and replies filed by the official respondents and perusal of all the relevant records produced before us clearly indicate that no

tree is cut inside the National Park. The local law i.e., WALTA,2002 takes care of the issue of cutting trees outside the Park which is located in the heart of the city of Hyderabad and if any person is aggrieved with the recommendation of the TPC and consequent decision of the Designated Officer in granting permission to remove the trees, he/she is free to approach the competent authority challenging such permission granted by the Designated Officer in accordance with law in which event the Appellate Authority may exclude the period during which the matter is pending before this Tribunal.

**Point No.2:**

34. It is not denied that transport sector particularly the vehicular traffic, is a significant and often major source of environmental pollution consisting of noise and air. Urban air pollution from road transport is a growing concern for a large number of mega-cities/major urban centers, particularly in developing countries. Road transport is identified as a major source of pollution, contributing 40% to 80% of the total air pollution in such cities. Air pollution has been shown to have serious short and long-term adverse effects on public health. The cities are expanding their boundaries, both horizontally and vertically, accommodating more and more people and associated activities. As a result, the use of motorized transport is increasing continuously worsening air quality. The increased use of transport activities often results in traffic congestion problems particularly in city limits in commercial activity zones. Commuters as well as people residing in the vicinity of such areas are exposed to high levels of air pollution emitted from the vehicles moving in congested areas and/or while waiting at road junctions for the traffic signals to turn green. The literature shows that the impact of the flyover construction to curb traffic congestion problem has been assessed across the world

in terms of traffic decongestion, time saving, fuel saving and emission reduction and the result was always positive.

35. In this case the whole purpose of removing the trees is to execute a project by respondent No.3 to construct multi-level flyovers around the KBR Park under SRDP in order to facilitate free flow of traffic and ease out the congestion at major road junctions which otherwise are choked with slow moving vehicles belching heavy amount of air pollutants into the atmosphere. The CTS report and data produced before us indicates that the project helps in minimising the adverse environmental impact caused by vehicular emissions and therefore as per the official respondents the project is definitely eco-friendly and benefits far outweigh the loss of few hundred trees. It is a fact that Hyderabad city like any other Metropolitan city in the country, is expanding rapidly with a phenomenal increase in population. Consequently there is a pressure on utility services like transport, water supply, education, health, recreation etc. and as the density of vehicles on the city roads is increasing day by day, after conducting traffic survey, the 3<sup>rd</sup> respondent proposed to take up SRDP with the approval of State Government. SRDP has been proposed based on the CTS report submitted by a reputed Consultant appointed by respondent No.3. After conducting detailed study and survey the Consultant has suggested various solutions to ease the traffic congestion which mainly includes implementing long term Traffic Management Plan for the next 25 years with the main focus on dispersing the future developments to the outer limits of Hyderabad Metropolitan Area and to achieve at least 60% *approval* by public transport modes such as Metro rail, buses and MMTS as against the present 40% and therefore SRDP is only a part of overall plan to meet the demand of the road transport and if this project materialises, there will be a threefold decrease in the vehicular emission levels. The project authorities under the SRDP

propose to take up the project at various road junctions in twin cities in a phased manner. Accordingly the State Government in the G.O. Rt. No. 208 MA & UD (F2) Dept. dated 30.05.2015, has accorded in principle permission for constructing multi-level flyover projects at 20 road junctions in the jurisdiction of GHMC. All these road junctions are part of the existing road network in the city. They do not construction of new road but only flyovers to facilitate free flow of traffic at various road junctions which is a common practice in all urban areas not only in this country but across the world to help reduce the bottlenecks of the road transport system and it is the case of the official respondents that there is no violation of law and no damage to the environment.

36. Subsequently, the State Government also accorded administrative sanction vide G.O. Ms.No.121 MA & UD (F2) Dept. Dated 8.09.2015 for the aforesaid multi-level flyovers at different road junctions which are spread over across the city and separated from each other some even at a distance upto to 20 to 30 km. The contention of the official respondents is that for convenience, comprehensive SRDP was prepared and projects have been grouped into two packages and all these road junctions are independent to each other separated with the existing city road. For inviting tenders, packages are proposed so that package cost becomes substantial which in turn attracts reputed contractors having skill and experience in the field. In case of KBR Park all 6 projects are located differently at a distance of a minimum of 1 km or more from each other around the Park and individual flyover located at each road junction is taken as a distinct project. However, for administrative convenience all the projects are grouped under single package for awarding contract to a suitable bidder. As held in *Vikrant Kumar Thongad Vs. Delhi Tourism and Transportation Corporation and Others* case (order dated 12.12.2015 in Application No.137 of 2014) and in *Sushil Raghav vs. Union of*

*India and Others* (Order dated 20.09.2016 in Application No.180 of 2015) by the Principal Bench of the National Green Tribunal and also subsequently in the combined judgement of the Southern Zone Bench in the case of *Neelaiah vs. Union of India and Others* (Application No.243 of 2016) and *Citizen Action Forum and another vs. Union of India and Others* (O.A.No.245 of 2016) the construction of bridges/elevated corridors/ flyovers attract EIA Notification 2006 and as per activity 8 (b) townships and area development projects covering an area of 50 hectares and above or 1,50,000 m<sup>2</sup> of built up area or above require EC. In this case the built up area of each flyover at 6 junctions is quite less and even if all the 6 flyovers around the Park are grouped together the total built up area comes to only 68,214 m<sup>2</sup>. In fact, if flyovers are considered in isolation the built up area for each project is even less than 20,000 m<sup>2</sup> for which the 5<sup>th</sup> respondent insists that it requires EC. Thus it is clear that the project around the Park does not attract the activity 8(b) of the Schedule to the EIA Notification 2006 and hence does not require EC. Details of the built up area of 6 flyovers around the Park are as follows:

(Built up area in m<sup>2</sup>)

S. No.	Description of Location	Structure No.	R.E. wall	Via duct	Obligatory	Via duct	R.E wall	Total
1.	<b>KBR Park Entrance Junction</b>							
	First Level Flyover from Jubilee check post side to Cancer Hospital side	1	448	765	255	1020	268	2756
	Second Level Flyover From Banjara Hills Road No.2 side to Jubilee Check post side	2	345	3105	1466	5520	386	10823
2.	<b>Maharaja Agrasen Chowk</b>							
	First Level Flyover From Cancer Hospital side to Film Nagar side	3	632	2040	1020	0	486	4178
	Second Level Flyover: From Film Nagar side to Banjara Hills Road No.12	4	108	1785	1020	1785	336	5034

3	<b>Cancer Hospital Junction: (Trumpet)</b>							
	First Level Flyover from L.V.Prasad Hospital said to Maharaja Agrasen Marg side	5	601	2438	1219	1120	152	5530
	Loop from Road No.10 to LV Prasad Hospital side	6	0	0	0	800	296	1096
4	<b>Film Nagar Junction:</b>							
	First Level Flyover from Road No.82, Jubilee Hills Side to Maharaja Agrasen Junction side	7	537	420	210	420	295	1883
	Second Level Flyover from Road No.45 Junction side to road No.82	8	156	1680	858	1890	501	5084
5	<b>Road No. 45 Junction</b>							
	First level Flyover film nagar junction to jubilee hills check post side	9	269	0	1020	1020	391	2700
	Second Level Flyover from Jubilee check post to road No.45 side	10	260	1530	765	3060	587	6202
6	<b>JHCP Junction</b>							
	First Level Main Flyover from KBR entrance junction side to jubilee hills road no.36	11	516	4728	1200	920	692	8057
	Ramp-1 Right turn loop from Panjagutta side to yousufguda side	12	0	490	0	2353	104	2947
	Ramp-2 Right turn loop from Yousufguda side to Jubilee hills Road No.36	13	0	0	240	1700	112	2052
	Ramp-3 From road No.36 to Road No.45	14	0	325	0	1400	224	1949
	Ramp-4 From road No.45 to Panjagutta side	15	0	320	776	690	416	2202
	Ramp-5 slip ramp from Yousufguda to Panjagutta/ Road No.36/Road No.45	16	257	0	0	1080	81	1418
	Ramp-6 slip ramp from Yousufguda side to Road No.45	17	0	0	0	480	0	480
	Ramp-7 (a) From panjagutta side to Road No.45 (upto joining of yousufguda -road	18	513	570	0	380	0	1463

	No.45 ramp)							
	Ramp 7(b) From Panjagutta side / yousufguda side to Road No.45		0	540	0	1620	203	2353
	GRAND TOTAL							68214

37. Area left out for road network while notifying the National Park under Wildlife (Protection) Act vide G.O. Ms. No. 187, EFS&T (For.III) Department dated 5<sup>th</sup> Dec. 1998 is 13.80 ha. The area proposed to be utilised by GHMC for construction of flyovers is about 0.8215 ha and requirement for peripheral road is about 2.99 ha making a total of about 3.81 ha which is as follows:

Flyover at Road No.45 2 <sup>nd</sup> Level	=	2770.6m <sup>2</sup>
Flyover at Film Nagar Jn. 2 <sup>nd</sup> Level	=	459.71m <sup>2</sup>
Flyover at Maharaja Agrasen 2 <sup>nd</sup> Level	=	470.19m <sup>2</sup>
Flyover at KBR Park entrance 2 <sup>nd</sup> Level	=	4513.635m <sup>2</sup>
		-----
Total Structure area	=	8214.135 m <sup>2</sup>
		-----
Peripheral road area	=	29881.622 m <sup>2</sup>
Grand Total of Construction area	=	38095.757 m <sup>2</sup> or 3.81 ha

38. We do not agree with the contention of the respondents No. 5 and 7 that the whole SRDP has to be considered as a single project and it has to be implemented only after getting prior EC under the EIA Notification, 2006. The proposed flyovers at 20 junctions are spread over across the twin cities of Hyderabad and Secunderabad and are located far away from each other some even separated with a distance of 20-30 km. Construction involved is only at the existing road junctions within the city limits and hence it cannot be considered as a single project exceeding 1.50 lakh m<sup>2</sup> of built up area requiring EC under EIA Notification, 2006.

39. Mr. M.C. Mehta, learned Senior Counsel for the 5<sup>th</sup> respondent has argued that the construction of multi-level flyovers is not a panacea for the traffic problems and such ill-conceived project under SRDP is not going to solve the traffic

problems, rather it may aggravate the problem particularly the project around KBR Park which may cause further degradation of environment, loss of flora and fauna etc. His contention is that no clearance is obtained from National Board for Wildlife (NBWL) for undertaking such project around the Park. He quoted the urban planning in some of the developed countries and argued that more emphasis should be laid on public transport system. In our opinion his comparison to Parks and facilities existing in Metro Cities like Amsterdam, New York, London etc. is of little relevance here in this case considering the location of the Park, density of population, socio economic conditions and local laws. His concern and suggestion to go for large scale public transportation and discourage private vehicles is laudable but that cannot be a ground to stall the project for improvement of the existing road network to ease the traffic congestion at road junctions and this Tribunal having mandate to deal with disputes arising in implementing the Acts listed in Schedule to the NGT Act 2010, cannot interfere in the policy matter/decision of the State unless it is a case where there is violation of any of the seven Acts listed in the Schedule to the NGT Act 2010. It is for the State Government, Urban Planners and Civic authorities to devise the urban planning compatible with environmental norms.

40. It is not the case of the impleaded parties that no vehicular traffic should be allowed to ply around the Park. But they are opposing the construction of flyovers which in fact help in regulating and allowing smooth flow of traffic and reduce air and noise pollution. It is also not denied by them that the Park is surrounded by the major road network which connects important arterial roads leading to newly developing IT, Financial and Industrial corridors and it is densely populated and highly congested. The 5<sup>th</sup> respondent has not substantiated his claim that the flyovers hasten the process of particulate matter settling down inside the Park and

damaging the flora and fauna. In fact as contested by the official respondents presently due to severe traffic congestion at the road junctions, the emissions are quite high and causing much more harm to the environment and construction of flyovers allows smooth flow of traffic thereby reducing the emission of particulate matter and other pollutants. This fact cannot be denied. Further, there is no dispute about the policy of the Government of India making it compulsory to produce vehicles which meet stringent emission standards. Bharat stage emission standards (BSEs) are instituted by the Government of India to regulate the output of air pollutants from the motor vehicles. The standards and the timeline for implementation are set by the government. Bharat Stage (BS) - IV emission norms have been enforced for whole country from April 2017 and it is planned that the country would skip the BS-V norms altogether and adopt BS-VI norms by 2020. Further, as more and more environment friendly Electric and Hybrid vehicles are introduced into the market, consumption of fossil fuels will come down. This will definitely help in reducing the air pollution caused by the motor vehicles, particularly in urban areas. As per the availability of space, establishment of a green belt with trees having dense canopy all along the inner and outer boundary of the Park, will also reduce the impact of air and noise pollution.

41. It is for the authorities to consider the suggestion of the 5<sup>th</sup> and 7<sup>th</sup> respondents that instead of constructing flyovers and encouraging more and more private vehicles to compete the limited road space it is advisable to provide convenient public transport system, create bicycle tracks and encourage people to switch over to bicycles for commuting between different work places in the city and implementing odd/even formula of allowing private vehicles to ply on to the roads like in Delhi. This Tribunal has to look into only the aspect whether such projects are causing any damage to the environment or violating any environmental

laws and whether environment impact studies are required and whether EC has to be obtained. However, in the present case dealing with the construction of flyovers adjacent to the KBR Park, as mentioned supra, the project/activity does not come under the EIA Notification, 2006. This answers Point No.2.

### **Point No. 3**

42. Before declaring it as a National Park the land with scrub jungle was taken possession by the State Government from the erstwhile rulers of Princely State of Hyderabad. It harbours biodiversity typical to Deccan Plateau. It also acts as a lung space for the citizens, particularly those residing in the posh Jubilee Hills and Banjara Hills locality. The KBR Park having an area of 142.50 ha is declared as National Park under sub section (4) of Section 35 of the Wildlife (Protection) Act, 1972 vide G.O. Ms. No.187 dated 3<sup>rd</sup> December, 1998 and the Notification declaring it as National Park clearly states that an area of 13.80 ha is excluded from the Park and earmarked for widening of the road system around the Park. This makes it abundantly clear that while declaring the National Park about two decades back, the authorities having found that this park is located in the heart of the city and subjected to severe anthropogenic pressure mainly with the heavy movement of traffic round the clock, excluded an extent of 13.80 ha. with a clear foresight and made this exclusion as a part of the Notification itself. Therefore, when such provision for widening of the road system connecting various arterial roads all round the Park exists at the time of Notification of the Park itself, the decision of the authorities to improve the existing road network by constructing flyovers to allow smooth flow of traffic is natural and expected. This is not a National Park or Wildlife Sanctuary located in the wild but it lies in a thickly populated human habitation in a burgeoning Metropolitan city. Incidentally, since it consists flora and fauna and unique rock formations it acts as one of the heritage sites typical to Deccan Plateau and serves conservation purpose also.

43. As per the National Wildlife Action Plan (NWAP) 2002-16, the areas outside the Protected Area network are of a vital ecological corridor links and require protection to prevent isolation and fragmenting of Biodiversity which will not survive in the long run. The Action Plan also indicates that all identified areas around the Protected Areas and Wildlife corridors to be declared ecologically fragile by the Central Government under the Environment (Protection) Act, 1986. Under Point No.9 of the Wildlife Conservation Strategy - 2002 which was adopted by the Indian Board for Wildlife, it is envisaged that lands falling within 10 km of the boundaries of the National Parks and Sanctuaries should be notified as ecologically fragile zones under Section 3 (v) of the Environment (Protection) Act, 1986 and Rule 5 sub rule (viii) and (x) of the Environment (Protection) Rules, 1986. The purpose of declaring ESZ around the National Parks and Sanctuaries is to provide some kind of shock absorber and they would also act as a transition zone from areas of high protection to areas of lesser protection. Depending upon the location of National Park or Sanctuary, the width of the Eco Sensitive Zone (ESZ) will differ from Protected Area to Protected Area. Accordingly, the State Governments were requested by the MoEF&CC to submit proposals for listing out such areas within 10 km. of the boundaries of the National Parks and Sanctuaries for notifying as ESZ. The delineation of ESZ would have to be site specific and the purpose is to regulate the activities rather than total prohibition. Therefore, keeping in view of the location and ecological significance of the Protected Areas, the State Governments have to submit proposals to the Government of India, MoEF&CC to declare ESZ. In the public interest litigation petition in W.P.No.460 of 2004 in *Goa Foundation* case, the Hon'ble Supreme Court in its order dated 4<sup>th</sup> December, 2006 had directed that in all such cases wherever ESZ is not notified, 10 km distance is to be maintained as ESZ and for granting

permission for various activities/projects located in 10 km distance, such proposals are to be referred to Standing Committee of NBWL.

44. The record placed before us reveals that in respect of KBR National Park the PCCF (Wildlife) and Chief Wildlife Warden of the undivided State of Andhra Pradesh, vide his letter dated 06.01.2014 proposed to declare ESZ to a width of 25 to 35 meters all along the periphery of the KBR National Park. The MoEF&CC, Government of India vide draft Notification dated 18.12.2015 issued under sub section (1) read with clause (v) and clause (xiv) of sub section (2) and Sub section 3 of Section (3) of the Environment (Protection) Act, 1986 and as required under sub-rule (3) of Environment (Protection) Rules, 1986, notified ESZ ranging from 25 to 35 m width covering HMDA walkway along the boundary of the KBR Park and if any person has any objection or suggestion on the proposals contained in the draft Notification, may forward the same in writing for consideration of the Central Government within a period of 60 days. The draft Notification clearly specifies various measures to be taken by the State government and the activities that are prohibited, regulated and promoted as per the provisions of Environment (Protection) Act, 1986. Construction works and Felling of trees are regulated activities and has to be in consonance with the applicable laws. However, records produced before us show that Final Notification is yet to be issued. As per the guidelines, felling of trees is not allowed without permission of the Competent Authority in the State Government under the relevant Central or State Act and the Rules made thereunder. Therefore, tree felling in ESZ, does not fall under the prohibited activity but it falls under regulated category.

45. Subsequently, after publication of draft Notification on 18.12.2015, based on the request of the respondent No.3, the respondent No.2, vide his proposals dated 20<sup>th</sup> May, 2016 addressed to MoEF&CC, requested to consider revising ESZ

around the KBR National Park to a width of 3 to 7 m in public interest to accommodate the SRDP project to ease traffic congestion around the KBR Park. However, the issue was not finalised and it appears that a meeting was called by the MoEF&CC. The respondent No.2 vide his letter dated 9<sup>th</sup> March, 2017 addressed the MoEF&CC quoting the discussions held in the meeting on 30.05.2016 on finalisation of the draft Notification to declare ESZ around KBR National Park and as decided by the Expert Committee on ESZ in the meeting on the views of the Government of Telangana that the width of the ESZ be reduced to 'zero' m from the earlier proposal of 25 to 35 m as it was done in a similar case of Guindy National Park, Chennai since at the time of declaration of KBR National Park itself in the year 1998 an extent of 13.80 ha area all along the boundary of the National Park, was excluded for the purpose of road system out of the total area of 156.30 ha of Jubilee Hills Forest Block. It was further stated in the letter that KBR National Park is similar to Guindy National Park as both the National Parks are located in the middle of Metro Cities and both are protected by permanent masonry wall all around. Both the National Parks have natural flora and fauna being protected by the compound wall. Like Guindy National Park which is also located in the middle of the City, there is no forest available adjacent to the KBR National Park and the protective wall around the Park provides total protection to flora and fauna existing inside the Park from any kind of biotic pressure. The State Government justified that there is a strong case for declaring 'zero' m width ESZ around KBR National Park in Hyderabad as was done in the case of Guindy National Park in Chennai.

46. It is true that in respect of KBR National Park just like Guindy National Park in Chennai there is tremendous urban development just across the boundary of the Park and they are all located amidst densely populated areas in the heart of

metropolitan cities. Therefore, they cannot be compared with the National Parks and Sanctuaries declared in the Wildlife areas.

47. Though the MoEF&CC has notified draft ESZ Notification as long back as on 18<sup>th</sup> December, 2015, the final Notification is yet to be issued. Now in the context of revised ESZ proposals submitted by State of Telangana, it is for the MoEF&CC to take an appropriate decision including publishing of a revised draft Notification. Undoubtedly it is the MoEF & CC which has to decide on issuing final notification based on the already published draft Notification or consider the subsequent proposal of the State Government. The 3<sup>rd</sup> respondent, project proponent, in our considered view and in all fairness shall wait till a final decision is taken in this regard by the MoEF&CC and then proceed. This is relevant because if ultimately the MoEF&CC decides and declares 25 to 35 m width ESZ, obviously the project proponent may have to obtain clearance from the Standing Committee of the NBWL for construction of flyovers. Even in respect of cutting/translocation of trees the same can be proceeded with only if the MoEF&CC agrees with the proposal of the State Government to make 'zero' m width ESZ.

With the above observations the Application stands disposed. No order as to cost. M.A.No.299 of 2016 and M.A.No.10 of 2017 stands closed.

Justice Dr.P.Jyothimani  
(Judicial Member)

Shri P.S.Rao  
(Expert Member)

Chennai  
24<sup>th</sup> May 2017