

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A. NO. _____ OF 2015

IN

WRIT PETITION (CIVIL) NO.202 OF 1995

IN THE MATTER OF:

T.N. GODAVARMAN THIRUMULPAD

...PETITIONER

Versus

UNION OF INDIA & ORS.

...RESPONDENTS

AND IN THE MATTER OF:

INDIAN INSTITUTE OF ASTROPHYSICS

...APPLICANT

AN APPLICATION FOR IMPLEADMENT UNDER ORDER 1 RULE 10(2)

READ WITH SECTION 151 OF THE CODE OF CIVIL PROCEDURE

TO

HON'BLE THE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUDGES OF THE
HON'BLE SUPREME COURT OF INDIA

The humble petition of the Applicant abovenamed –

MOST RESPECTFULLY SHOWETH:

1. That the aforesaid petition under Article 32 of the Constitution of India is pending consideration before this Hon'ble Court. One of the issues involved in the petition is with respect to the levy of Net Present Value (NPV) for use / diversion of forest land for non-forest uses. Vide order dated 30.10.2002, cited as *T.N. Godavarma Thirumulpad v. Union of India*, (2002) 10 SCC 606, a separate compensation fund (i.e. NPV) was directed to be set up in view of the principles of sustainable development.

234 cm optical telescope, which was the largest of its kind in Asia, the Applicant Institute acquired additional 60 acres of land in the year 1976.

9. That the facilities at the campus utilize only a small part of the land (7%) while the rest of the area (93%) is maintained as forest in order to provide conducive environment for astronomical research and to avoid any kind of disturbance to the observatory. The applicant also keeps planting additional trees from time to time to compensate for the area used for infrastructure. The observatory attracts animals and birds of various species which move freely within the campus for its food and water requirements. In any event the observatory does not cause any hindrance to the animals / birds and does not pollute the environment in any way.
10. That astronomical observatories are usually set up in forest lands since light and other pollution in cities render them unsuitable for research activities. The forest area of 100 acres allotted to the Applicant is being well maintained for its scientific research with good vegetation. This in turn has helped in retaining the forest area in a better way. Further, to facilitate good observing, the area is being maintained to its original darkness in the night and there is no light and no noise pollution in the campus. The environment is, thus, friendly to the wildlife living there.
11. That the scientific usage of the telescope facilities is during the darkness hours. Often, there are instrument configuration changes and/or emergency maintenance in the telescope facility building during the darkness hours, requiring use of lights. The larger telescope buildings are therefore placed 200 to 300 metres away from each other so that emergency usage of lights in one do not affect the usage of the others. It

is due to considerations like this that an area of 100 acres has been allotted to the Applicant, while the actual use is limited to only about 7% of the same. As stated earlier, the rest 93% of the area is being maintained as forest and original darkness is being maintained in the area.

12. That the activities carried out at the campus are purely of scientific nature and have no commercial value. No income at all is earned by the Applicant from these observatories and thus there is no commercial gain to the Applicant out of these activities.
13. That vide letters dated 15.02.2008 and 24.03.2011, the Tamil Nadu Forest Department demanded a sum of Rs.327.60 lakhs from the Applicant towards NPV for the forest land at Javadhu Hills, Kavalur, Vellore District, Tamil Nadu, leased to the Applicant. The Applicant paid a sum of Rs.50 lakhs towards the said demand of NPV on 19.04.2011.
14. That thereafter the Applicant Institute wrote to the Department of Science and Technology, Government of India requesting it to intervene in the matter and seek exemption from the Ministry of Environment & Forests.
15. That vide letter dated 19.08.2013, the Tamil Nadu Forest Department issued a reminder to the Applicant asking it to pay the balance NPV of Rs.277.60 lakhs.
16. That vide letter dated 05.09.2013, the Director of the Applicant Institute wrote to the Secretary, Department of Science & Technology, Government of India requesting him to write to the Secretary, MoEF to not press for payment of the balance NPV.