

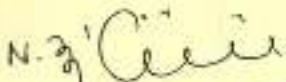



Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
8.	26.11.2004	<p>Upon hearing Mr. K. N. Choudhury, learned Senior Counsel assisted by Mr. A. K. Upadhyaya and Mr. I. Choudhury, learned Counsel for the petitioner and, Mr. S. P. Wangdi, learned Advocate General assisted by Mr. J. B. Pradhan, learned Government Advocate for the respondents and also on perusal of the available materials on record, we are of the view that this matter can be disposed of finally on its own merit today itself, and accordingly, this writ petition is disposed of with the following short order :-</p> <p><b>2.</b> In this writ petition, the writ petitioner questioned the validity of the action of the respondents authority, namely, the impugned orders dated <b>11.3.2004</b> and <b>19.3.2004</b> passed by the Conservator of Forests (T) Forest, Env. &amp; W/L Department, Govt. of Sikkim - the respondent No.3, as in Annexures P-13 and P-18 to the writ petition, by contending inter alia, that no procedural standard has been followed by the authority concerned while passing the related impugned orders mentioned above. Supporting the case of the writ petitioner, Mr. K. N. Choudhury, learned Senior Counsel argued that the writ petitioner was not given any opportunity of being heard while passing the related impugned orders and that being the position, the action of the respondents concerned is violative of the principles of natural justice.</p> <p><b>3.</b> We have perused the impugned order dated 11.3.2004 passed by the Conservator of Forests (T), the respondent No.3 herein as in Annexure P-13 to the writ petition, wherein the Conservator of Forests (T) opined that for illicit felling of trees in ICAR Complex, Tadong, the organization i.e. the ICAR, Sikkim Unit,</p>	



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		<p>Tadong is responsible, and that being the position, lawful action should be taken against the organization and not the individuals concerned, namely, Shri S. Verma and Shri Maheshwar Singh of ICAR Research Complex, Tadong.</p> <p>4. Mr. S. P. Wangdi, Learned Advocate General in his usual frankness submitted that while passing the impugned order dated 11.3.2004, the present writ petitioner of the organization was not heard by the appellate authority.</p> <p>On perusal of the available materials on record, it is revealed that, the organization, namely, ICAR represented by the Joint Director, preferred a separate appeal on 18.3.2003 before the appellate authority. A copy of the memo of appeal finds its place at Annexure P-16 to the writ petition which was also disposed of by the Conservator of Forests (T) the respondent No.3 herein on 19.3.2004. It appears to us that while disposing of the said appeal preferred by the writ petitioner, the writ petitioner was not heard at all by the respondent No.3 before passing the impugned order dated 19.3.2004.</p> <p>5. In view of the above position, we need not go more into depth into the merit of the case, as suffice is made with a direction to the appellate authority, namely, the Conservator of Forests (Territorial Circle), respondent No.3 herein, to hear the appeal preferred by the writ petitioner afresh, and to dispose of the same within a period of one month from the date of receipt of this order keeping in view of the related provisions of law laid down under <b>The Sikkim Forests, Water Courses and Road Reserve Preservation and Protection Act,</b></p>	<p>A Copy of order sent to appellate Authority i.e. C.F.C.T on 27/11/04 27/11/04</p>



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		<p>1988; The Sikkim Private and Other Non-Forest Lands Tree Felling Rules, 2001 and also Rule 10 of The Sikkim Forests (Compounding of Offences) Rules, 1998. We do accordingly.</p> <p>6. It is made clear that the writ petitioner is at liberty to file a recast memo of appeal before the appellate authority, if so advised, within a period of two weeks' from today. The earlier interim orders which was passed on <b>14.5.2004</b> and <b>15.7.2004</b> passed in the main writ petition and <b>CMA No.28/2004</b> are hereby merged with this order.</p> <p>7. For the reasons, observations and directions made above, the writ petition is disposed of thus setting aside the impugned orders, but no order as to costs.</p> <p style="text-align: center;"> ( <b>N. Surjamani Singh</b> ) <b>Chief Justice ( Actg. )</b></p> <p style="text-align: center;"> ( <b>A. P. Subba</b> ) <b>Judge</b></p>	