

Tarun Bharat Sangh Alwar

Vs

Union of India and Others

Writ Petition (Civil) No. 509 of 1991

(M. N. Venkatachaliah, K. Jayachandra Reddy JJ)

26.11.1991

ORDER

1. By the order dated October 11, 1991 [Tarun Bharat Singh v. Union of India, 1992 Supp (2) SCC 448], we issued certain directions in the matter of the constitution of a Committee to oversee the implementations of the directions contained in the order for the environmental protection and other related matters pertaining to "Sariska Tiger Park" in Alwar District in the State of Rajasthan. An application has now been filed by the petitioner alleging certain violations of the order by the mine owners and praying for issue of certain consequential and incidental further directions. The averments and allegations of fact contained in the said application are contested. The respondents seek to traverse these allegations on affidavit. They may do so by the next date of hearing.
2. However, apart altogether from the allegations contained in the said application, we think that certain clarifications and directions are necessary in regard to the order dated October 11, 1991.
3. The first point which we should emphasise is that the order dated October 11, 1991 is not susceptible of the construction that irrespective of the statutory ban on the carrying on of any mining activity in the "Sariska Tiger Park" under the relevant laws, the order suspends the operation of these provisions and permits such mining operators to go on till December 31, 1991. That is clearly a wrong reading of the intendment and spirit of the order. Wherever admittedly or indisputably mines are situate within the protected area, the order is not intended to permit continuance of any mining activities therein. The directions issued in paragraph 11 of the order dated October 11, 1991 were only to mitigate the possible hardship in certain problem cases in which the locations of the mining area - whether they are outside or partly outside the protected area or not - are not determined or demarcated by the Committee constituted for that purpose. The Committee is required to do so before December 15, 1991. The significance of this demarcation is only in respect of such problem or borderline cases.
4. We are told that even in cases where certain court injunctions were operating against the working of the mines, our order dated October 11, 1991 is sought to be construed as an overriding permission to carry on mining operations up to December 31, 1991. This construction, we must say, is totally fallacious.
5. If there are any mines in respect of which there are subsisting and operative orders of other courts, our order dated October 11, 1991 shall not be construed as overriding those orders. As a corollary, it goes without saying that if upon a demarcation of the boundary line, any mining area is shown to fall clearly outside the protected area, then, the ban under the order dated October 11, 1991 will not operate in respect of those mines, subject, of course, to any other order of other courts

that may pertain to them.

6. It was complained to us by the petitioner that their environmental activists in the area are being threatened with physical violence by some of the interested parties. Shri Arun Jaitley, learned senior counsel appearing for the "Zila Khaniz Udyog Sangh" hastened to assure us that his clients have not taken this litigation in the spirit of an adversarial litigation but have adopted a constructive attitude in the larger interests of promotion of the ecological and environmental values. Shri Jaitley assures us that his clients will not indulge in such unlawful acts. We must here observe that from the very inception of this matter, the attitude of the Zila Khaniz Udyog Sangh has been constructive. We place on record that the Sangh has evinced a constructive and helpful attitude and has come forward to cooperate with the work of the Committee.

7. But business and commercial interests and the relentless means of achieving them, being what they are, it is not safe to rule out any possible intimidatory tactics against environmentalists. They are perhaps the most thankless and unprotected lot. We should, therefore, direct the District Administration of Alwar to afford protection to the petitioner's members and workers. We look upon the authorities of the State Government, in particular to the Police Administration of the district, to ensure that none of the activists and workers of the petitioner are subjected to any intimidation and hindrance in their activity. Petitioner shall furnish a list of the names of its workers and activists engaged in the district to the Collector of Alwar District who, in turn, will ensure that the appropriate and suitable protection is afforded to them in such manner he may deem appropriate.

8. So far as the work and deliberations of the Committee are concerned, we have one or two things to clarify. The first is that the Chairman of the Committee shall be entitled, and at liberty, either to call upon the State Government to afford to the Committee Secretarial Assistance in the form of a Secretary and a Stenographer at the meetings or may in his discretion engage private assistance from time to time in this behalf. The expenses incurred shall be met by the State Government. In the first instance, we direct the State Government to place a sum of Rs 10,000 at the disposal of the Chairman within one week from today. This shall be deposited in cash with the Committee.

9. The quorum for the Committee shall be the chairman and a minimum of two other members.

10. The Secretary of the Committee or such other person authorised in this behalf by the Chairman shall notify to the petitioner and the Zila Khaniz Udyog Sangh of the dates of the meetings. The secretary may confine the notice of the meetings to the resident (sic) of the representative of the petitioner viz. Dr Anupam Misra, President of the petitioner's Association, Gandhi Peace Foundation, 221, Deen Dayal Upadhyay Marg, New Delhi. So far as the mine owners are concerned, similar notice may be given to Sri Om Prakash Gupta, Gulab Kunj, Delhi Road, Alwar. The notices are only intended to enable them, if they have any special representation to make before the Committee, to make such a representation and not to entitle them, as of right to participate in the proceedings.

11. List the matter after two weeks.

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