

SUPREME COURT OF INDIA

Consumer. Education and Research Society

Vs.

Respondent:
Union of India

(G.T.Nanavati and S.N.Phukan JJ.)

16.02.2000

JUDGMENT:

G.T. NANAVATI

In this special leave petition the judgment and order passed by the High Court in Special Civil Application No.6707 of 1995 is challenged. The petitioner had filed the writ petition challenging the government notification dated 9.8.1995 and the resolution dated 27.7.1995 passed by the State Legislature reducing the area of "Narayan Sarovar Chinkara Sanctuary" from 765.79 Sq. K.M. to 444.23 Sq. K.M. The High Court dismissed that petition.

On 14.4.1981 the Government of Gujarat in exercise of the powers conferred by Section 18(1) of the Wild Life Protection Act, 1972, declared a part of the forest area in Lakhpat Taluka of Kutch District as a "Wild life Sanctuary". The total area of the sanctuary was 765.79 Sq. K.M. On 27.7.1993 it cancelled that notification and issued another whereby only a part of the said reserved forest: was declared as the "Chinkara Wild Life Sanctuary", The area so declared was 94.87 Sq.K.M. The said two notifications were challenged by the petitioner by filing writ petition in the Gujarat High court The High Court quashed both those notifications The result was. that the earlier notification dated 14.4.1981 was revived. Thereafter the State Government made certain inquiries and decided to delimit the area of that sanctuary as it was found to be more than required and the delimitation was likely to be helpful in systematically developing that area economically by making use of its mineral wealth. It then moved the State Legislature for passing an appropriate resolution in that behalf. The State Legislature, thereafter on 27.7.1995, passed a resolution to reduce the sanctuary limit to 444.23 Sq.K.M. and make the area of 321,56 Sq.K.M. rich with minerals like limestone, lignite, bauxite, and bentonite. available for the development of the said backward area of Kutch District. The resolution was passed in exercise of the powers conferred by Section 26A(3) of the Wild Life Protection Act. Pursue to that resolution the Government issued a notification to that effect on 9.8.1995. The petitioner again challenged those notification by filing the writ a petition.

The High Court, after scrutinising the resolution was of the view that "the State Legislature was quite aware about the wild life as without in any way diluting the commitment to protect wild Life and to Improve the -habitat. positive steps are taken so neither wild life is affected nor the improvement is affected." The High Court held that for about 1200 Chinkaras the area of 444.23

Sq.K.M. was quite surprised. It further has that economic development of the area was likely to benefit the people of Kutch District at large and help in protection, preservation and development of flora and fauna of that area. As regards permission to set up the cement plant near that area and to do mining in the de-notified area, it held that proper conditions have been imposed for preventing pollution and to meet other environmental requirements. Taking this into account it dismissed the writ petition.

Initially an attempt was made to see if it was possible to pass an agreed order. But that attempt did not succeed. On 8.5.1997 the following interim order was passed: