

Deepak Kumar Etc

v.

State of Haryana & Others

(Supreme Court Of India)

HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN HON'BLE MR. JUSTICE  
CHANDRAMAULI KR. PRASAD

Interlocutory Application No. 12-13, 14-15, 16-17 & 18-19 In Slp(C) No.  
19628-19629 Of 2009 & Slp(C) 729-731 Of 2011 With Slp(C).Cc 16157 Of  
2011, (Cc No. 16157) With Slp(C) Cc 18235 Of 2011 (Cc No. 18235) Etc. | 30-  
01-2012

Chandramauli KR. Prasad, J.

1. All the impleading applications stand disposed of permitting the applicants to approach the District Magistrate, Saharanpur, U.P. who were examine whether they are functioning legally, after perusing documents produced in support of their claim. The District Magistrate will take a decision after hearing the applicants within a period of one month from the date of receipt of copy of this order.

2. Learned counsel appearing for the State of U.P. prays for eight weeks time to comply with para 4 of the interim order dated 16.1.2012 due to the ensuing elections. Considering the request of the learned counsel, time sought for is granted.

3. Learned counsel appearing for the State of Rajasthan submits that he is filing the compliance report today, submission is noted.

4. We are also inclined to direct the applicants from Alwar to approach the District Magistrate, Alwar to show that they are not carrying on any illegal mining or extended mining in village Gwalada, District Alwar. The applicants may also produce relevant documents before the District Magistrate. The

District Magistrate will hear the applicants and take a decision within a period of one month from the date of receipt of copy of this order.

5. Heard Gopal Subramonium, learned senior counsel and P.S. Patwalia, learned senior counsel. The matter remained as part heard.

6. For further hearing, list the matter on 6th February, 2012.

Item No. 302

7. We notice that the matter is pending before the National Board of Wildlife (NBWL). Reference is also made to the report dated 27.9.2011 submitted by the CEC.

8. Application is disposed of with a direction that the NBWL shall pass appropriate orders on the request made by the applicant taking into consideration the conditions stipulated by the CEC.

Item No. 303

9. In view of the letter circulated, post this matter after four weeks.

Item No. 304

10. Post this matter on 6th February, 2012.

Item No. 305

11. Learned Amicus Curiae has stated that the Order dated 16.12.2011 has to be recalled which relates to some other matter.

12. The Order dated 16.12.2011 passed in I.A. Nos. 3283-3284 of 2011 (in Writ Petition ) No. 202 of 1995), after noting the statement of learned Amicus Curiae, is substituted as follows :-

"Applications are allowed, since the National Board of Wildlife (NBWL), in its meeting held on 25.4.2011, has already accorded approval, for the request of the applicant, for installation of passenger ropeway from Ralamandal Hill to Dev Guradia Hill and from Dev Guradia Hill to Ralamandal Hill.

The decision of the NBWL reads as follows :-

"Member Secretary informed the Committee that this proposal was pertaining to installation of ropeway in Ralamandal Sanctuary. The State Wildlife Board and the Chief Wildlife Warden have recommended the proposal. The Committee also recommended the proposal with the standard conditions."

13. Applications are, accordingly, allowed, subject to the compliance of the standard conditions referred to by NBWL in its order granting approval on 25.4.2011.

Item No. 306

14. Learned counsel appearing for the MoEF requires four weeks time to get instructions from MoEF. Time, as prayed for, is granted.

15. The interim order to continue for a period of two months.

Item No. 307

16. Post after two weeks.

Item No. 308

17. C.E.C. is directed to file report within four weeks.

18. Post after four weeks.

Item No. 309

19. In view of the letter circulated, liberty is granted to file Rejoinder Affidavit within one week.

Item No. 310

20. Post on 9th April, 2012 subject to part heard.

Item No. 311 I.A. No. 3354

21. The application for exemption from filing official translation is allowed.

I.A. No. 3353

22. This application is allowed since the NBWL in its 23rd meeting held on 14th November, 2011 has already accorded sanction with certain conditions which are reiterated below :

(i) No blasting or execution or taking away of material from the work site shall be permitted.

(ii) No construction activities shall be carried out during night time.

(iii) Clearing and proper maintenance of fireline below transmission line shall be undertaken regularly by the user agency.

(iv) All construction material to be used shall be brought from outside, and no material from within the national park/sanctuary shall be used.

(v) Any excavated area for laying foundation, etc. shall be properly fenced so as to avoid injury to, or death of wild animals.

23. Subject to the above conditions, this application is allowed.

Item No. 312

24. Application is allowed since the NBWL in its 20th Meeting held on 13th October, 2010 has considered the request of the applicant and allowed the same subject to certain conditions which are as follows:-

(i) 5% of the project cost for the area falling within the National Park would be paid by the user agency for the development of the Orcha Wildlife Sanctuary.

(ii) No new road would be constructed. Only the existing road would be repaired.

(iii) There shall be no widening of the existing road. The overall width of the road should not be more than existing width including shoulders on either side of the road.

(iv) The tree felling would be to the barest minimum.

(v) No material including earth should be used from the Sanctuary area. It will affect flora as well as fauna particularly the micro fauna.

(vi) There should be provision of speed breakers at every 400 meters of the road inside the sanctuary so that the speed is regulated within the sanctuary so as to avoid accidental death of wild animals.

(vii) Speed limit with the stretch of road passing through the Sanctuary should be restricted to 20 Kms/ hr.

(viii) Apart from mandatory sign boards along the road, boards depicting wildlife safety instructions and cautions relating to it should also be placed at every 500 m. Using good material and having proper font size and pictures.

(ix) The agency should ensure that no damage to any flora or fauna is caused during the course of the execution of the work.

(x) All construction materials should be brought from outside the National park area, including earth.

(xi) There should not be any labour camps permanent or temporary in the national park area during the construction of the road. Collection of firewood shall be prohibited.

(xii) All the trees along the road shall be protected by the user agency.

(xiii) All quarry for metal/sand/morrum shall be informed by user agency and previous sanction of Revenue Department (mining) Collector is mandatory. If any private party found to violate rules or involved in illegal mining during construction, then user agency will be made responsible for it.

(xiv) Heavy vehicular traffic should be avoided as it may cause permanent disturbance inside the sanctuary.

(xv) All vehicles shall pay prescribed entry fees.

(xvi) All vehicles will enter sanctuary area after sunrise and shall exit the sanctuary before sunset.

(xvii) No camping of vehicles shall be allowed inside the sanctuary.

(xviii) NPV and Compensatory afforestation funds will be paid by the user agency to the Chief Wildlife Warden as per nor

(xix) The user agency should also abide by any other conditions that may be prescribed by the Chief Wildlife Warden.

(xx) The Chief Wildlife Warden would submit a compliance report on the implementation of the conditions specified before the Standing Committee of NBWL, after completion of the project.

25. Application is, therefore, allowed subject to the above conditions

Item No. 313

26. Delay condoned.

27. The Special Leave Petition is dismissed.

Item Nos. 314 to 329

28. Not taken up.

Item No. 330, 339 and 340 CC No. 1663 of 2012 & SLP(C) No.2666 of 2012 in  
Item No. 340

29. Delay condoned.

30. Issue notice.

31. Dasti service, in addition, is permitted.

32. Petitioner shall give a copy of the Special Leave Petition to the counsel appearing for the State of Tamil Nadu, who has to file counter affidavit within two weeks.

33. In the meanwhile, there shall be stay of dispossession and demolition of the buildings of the petitioner.

34. Post all the matters relating to Elephant Corridor on 12th March, 2012 subject to part heard for final hearing.

35. Reply affidavit, if any, may be filed in the meantime.

36. The stay granted by this Court in Elephant Corridors matters is extended until further orders.

CC No. 1728 of 2012 in Item No. 340

37. Permission to file the Special Leave Petition is granted.

38. No ground is made out. The Special Leave Petition filed against the Order dated 5.1.2012 of the High Court in W.P.(C) No. 27734 of 2011 is dismissed.

Item No. 331

39. The proposal made by the applicant has already been considered by the NBWL in its 22nd meeting held on 25th April, 2011 subject to various conditions which are incorporated below :-

(i) The user agency shall deposit 5% of the project cost for the better management of the sanctuary area.

(ii) No labour camps will be established in the sanctuary for the project work.

(iii) The project work, particularly the lopping and felling of the trees will be undertaken under the supervision of the officials of the forest Department.

(iv) At least two water points will be constructed, in forest block Peermagra in consultation with DCF (Wildlife) Kota by user agency, to provide drinking water to wild animals. The regular water supply for the purpose will be made by user agency free of cost 24 hours.

(v) No blasting will be carried out in the sanctuary area.

(vi) No disturbance/obstacle will be created to obstruct movement of wildlife during laying of pipeline, and maintenance.

(vii) The State Government will ensure that water would be used for the bonafide domestic use of the people, and will not be put to any commercial use.

40. Further C.E.C. in its Report dated 2nd November, 2011 has imposed the following conditions :-

(i) For the use of the forest area approval under the FC Act will be obtained.

(ii) 5% of the project cost will be deposited in the Compensatory Afforestation Fund for undertaking the conservation and the protection measures in the Sanctuary Area and

(iii) The conditions on which the project has been cleared by the Standing Committee of the National Board for Wildlife will be strictly complied with.

41. Subject to above conditions this application is allowed.

Item No. 332

42. C.E.C. to submit its report within four weeks.

43. Post after four weeks.

Item No. 333

44. List on 6th February, 2012.

Item No. 334

45. The application for direction is dismissed.

Item No. 335

46. Perused the Report of the C.E.C. dated 4th November, 2011.

47. We are informed that the NBWL has already accorded sanction. In the circumstances, the application is allowed subject to the following conditions :-

(i) For use of the forest land approval under the Jammu and Kashmir Forest Conservation Act, 1989 will be obtained;

(ii) 5% of the project cost will be deposited in the Compensatory Afforestation Fund for undertaking the conservation and the protection measures in the conservation reserves;

(iii) The conditions stipulated by the Chief Wildlife Conservator will be complied with; and

(iv) no felling of trees for implementing the project will be undertaken.

Item No. 336

48. We have perused the report dated 25th April, 2011.

49. This application is allowed subject to the following conditions :-

(i) For use of the forest area approval under the Jammu and Kashmir Forest (Conservation) Act, 1989 will be obtained.

(ii) 14.01 hectares of the forest land adjacent to the Nandini wildlife Sanctuary will be notified as a part of the said Wildlife Sanctuary.

(iii) 5% of the project cost, in addition to the NPV payable for the non-forestry use of the forest land falling in the Wildlife Sanctuary, will be deposited in the Compensatory Afforestation Fund for undertaking the conservation and the protection measures in the Wildlife Sanctuary/Conservation Reserve and

(iv) the conditions on which the proposal has been recommended by the Standing Committee of the National Board for Wildlife will be strictly complied with.

50. The State Government is directed to notify the Condition No.2 mentioned hereinbefore within a period of six months.

Item No. 337

51. Perused the C.E.C. Report dated 22nd February, 2010.

52. This application is allowed subject to the following conditions :-

(a) the money received by the State of Jammu and Kashmir towards the compensatory afforestation charges may continue to be retained by it and utilised as per the Notification dated 11.11.2009 issued by the Jammu and Kashmir Forest Department;

(b) the amounts received towards the NPV and for the use of the forest/non/forest land falling in the National Parks/Sanctuaries should be transferred to the Ad-hoc CAMPA, if not already done;

(c) the amount received towards the compensatory afforestation may be used for the implementation of the Annual Plan of Operations (APOs) for the Financial Years 2009-10 and 2010-11; and

(d) subject to the overall ceiling imposed by this Hon'ble Court, the Ad-hoc CAMAPA will release the required amounts for the implementation of the APOs for the subsequent years.

Item No. 338

53. We have perused the report of the CEC dated 4th November, 2011. NBWL has already accorded sanction. This application is allowed subject to the following conditions:-

(i) For the use of the forest land, approval under the Forest (Conservation) Act will be obtained and the NPV for the forest land will be deposited as per the rates applicable for the use of the forest land falling in a Wildlife Sanctuary;

(ii) The conditions on which the project has been cleared by the Matheran Monitoring Committee will be strictly complied; and

(iii) the conditions imposed by the Chief Wildlife Warden will be strictly complied with.