

# SUPREME COURT OF INDIA

Department of Archaeology and Museums

Vs.

Ashish Gautam

C.A.No.4070 of 2016

(Arun Mishra and S.Ravindra Bhatt,JJ.,)

11.05.2020

## JUDGMENT

1. The appeal has been preferred by the Department of Archaeology and Museums aggrieved by the judgment and order dated 5.11.2014 passed by the National Green Tribunal, Central Zonal, Bhopal (for short, 'the Tribunal') in Original Application No.132 of 2013 (CZ). The matter pertains to "Sisodia Rani ka Bagh" (for short, 'the Monument'), situated at Jhalana, Jaipur, State of Rajasthan.

2. The Department of Art, Literature, Culture, and Archaeology declared the Monument as protected one vide notification dated 8.2.2012. Thereupon, Rajasthan General Development Department transferred the Monument for supervision to the Department of Archaeological and Museums. The ceremonies like marriage and other events used to be held in the Monument. For that, a notification dated 7.6.2012 specifying the conditions for holding such ceremonies was issued.

3. Respondent No.1 - Ashish Gautam preferred a writ petition before the High Court of Rajasthan by way of Public Interest Litigation, in which a prayer was made to issue appropriate directions about the safety and security of the wildlife in the Reserve Forest Area and further directions for restraining the use of laser lights, loud music and fireworks in the Monument. The High Court of Rajasthan transferred the matter to the NGT. By way of impugned judgment and order, the Tribunal held that the Monument is part of the forest area and directed that no permission should be granted to organise social functions like marriages, etc. and for the use of fireworks, loud music in the Monument. Hence, the appeal.

4. Learned senior counsel on behalf of the appellants argued that the Tribunal was not justified in putting a blanket ban upon holding of ceremonies in the Monument, situated adjacent to the city. The prohibition imposed shall adversely affect State tourism and would render the entire Monument of no use, and its upkeep would be difficult. It is situated on the Jaipur-Agra highway, and it is 3 km. away from Jaipur city. The location of the Monument is ideal and very significant for tourism purposes and for holding such functions. The Monument is a historical place and has been used since long for holding ceremonies, in the process revenue earned is the impetus to the State exchequer. The

prayer was confined in the original application only to impose conditions for holding functions that used to be organised so that the wildlife was not disturbed in any manner. Specific guidelines existed and if any further restriction was required it could have been ordered instead of a blanket ban. Thus, the order of the Tribunal is against the public interest and interest of tourism in the State of Rajasthan. No massive lighting, which could have disturbed the wildlife, was permitted. The traffic in the vicinity of the Monument is restricted, and only two-wheelers are allowed to pass through the place. There is restriction on the use of loudspeakers in high volume. No person is permitted to violate the restrictions imposed by the District Administration, Jaipur. The Monument in question is not part of Tiger project.

5. This Court by order dated 22.10.2019 directed the State Government to come up with a plan for beautification of the area and for developing gardens to embellish the Monument. In compliance, an affidavit has been filed on behalf of the State of Rajasthan. It has been submitted that on 30.10.2019, a meeting was called by the Principal Secretary, Art, and Culture Department, State Secretariat, which was attended by the Chief Conservator of Forest and HOFF, Additional Chief Conservator of Forest and Chief Wildlife Warden, Director, Archaeology and Museums Department, Executive Director (Works), Amer Development and Management Authority and the Circle Superintendent, Archaeology and Museums Department, Circle Jaipur. It was decided to hire a Consultant to prepare a detailed plan for the development and beautification of the Monument. The Chief Secretary has approved the same. On receipt of the opinion of the Consultant, a detailed plan shall be prepared, and action would be taken accordingly to beautify the Monument so that it may attract more and more tourists.

6. Respondent - Ashish Gautam supported the impugned order passed by the Tribunal. He argued that activities not permissible in the forest were restrained. Since the area falls in the forest area and Sisodia Rani garden is recorded in the name of the Forest Department, no interference is required in the order passed by the Tribunal.

7. A Tourism Development Plan of the Monument has been filed as Annexure A-1 by the appellant. It is pointed that it was built in the year 1728 by Maharaja Sawai Jai Singh. The queen was very adorable to the king and was gifted with this beautiful garden, and hence it is known as "Sisodia Rani ka Bagh." The structure of the Garden is a perfect example of the Mughal and Indian style of architecture. The Garden has the most elegant and graceful fountains, water channels, and many painted pavilions. It holds many murals and paintings that depict the theme based on the legends of Lord Krishna and Radha. The Garden appeals more to the beholder as it stands as a symbol of love and served as a summer retreat to the crowned heads and royal ladies. The visitor timings are from 8.00 A.M. to 8.00 P.M. The fountain inside the Garden and the dynamic coloured lights highlighting the elements of the Mahal are operated from 6.00 P.M. to 8.00 P.M. There are other attractions around the Monument, such as the temples of Lord Vishnu, Lord Shiva, and Lord Hanuman. It was declared as a protected Monument on 1.5.2012 by Department of Archaeology and Museums of Rajasthan and work for restoration, as per principles of conservation, was started. The Garden portion and outer courtyard of the Mahal were thrown open to the tourists. Several maintenance works have been taken up in the Monument. During the last five years, the expenditure of approximately Rs.170 lacs has been incurred on conservation, restoration, and development of Mahal and

Garden. Around 100 tourists visit the Monument every day. It is proposed to beautify the place further, open a heritage museum, upgrade the fountain and lighting system, and improve tourist facilities and signages to make this destination more attractive for tourists. The outline of the works proposed are as follows:

- (i) Development of Heritage Museum in the Palace;
- (ii) Horticulture Improvement of Site;
- (iii) Replacement of Existing Electrical and Lighting System;
- (iv) Replacement of the Existing Musical Fountain and Water Body;
- (v) Installation of Access Control and Security System;
- (vi) Improvement of Tourist Amenities; and
- (vii) Improvement of Street Furniture, Information Signage System.

The estimated total expenditure of the above-proposed works is Rs.368 lacs. The Tourism Development Plan also includes details of projects and objectives, introduction, various photographs, the scope of work, process and assumptions, project conservation scope, architectural features, spatial description, pavilion plan, internal and external features, details of wall paintings and construction materials and techniques used. The significance of the site mentioned is as follows:

### “3 SIGNIFICANCE OF THE SITE

#### 3.1 CULTURAL SIGNIFICANCE

Sisodia Rani ka Bagh is mostly famous for its architectural heritage and its intricate paintings depicting the life of Lord Krishna and Radha. This palace holds a very important position as it belongs to the Rajput Rani of the Sisodias and also this was used as a recreational palace by the rani, gives the glimpse of the personal life of a queen of the 18th century, which is mostly overlooked as we always talk about the lives of the kings and not the queens. According to the locals, weddings use to take place there, and the whole garden area use to be the gathering ground. The baoli and space next to the baoli acted as the kitchen area for the same. Another very important aspect of the palace is that the excellent use of rain water for the recreational purpose can be seen and learnt from. The mechanism for the flow of water was natural slope and water channels were located all through the length and width of the garden to even be used for the watering purpose of the plantation on the site. This practice holds a very important place for the people of Jaipur, due to its climate and scanty rainfalls, saving and reusing rain water was an ardent practice of the people there.

#### 3.2 ARCHITECTURAL SIGNIFICANCE

The Sisodia Rani ka Bagh is an example of Rajput style of architecture with elements from Mughal style of architecture for ex. Char Bagh arrangement of the garden is from Mughal style, Chatteris, jaalis are from Rajput styles and stone brackets from Rajput architecture. The characteristics like pan patti cornices, intricate jaalis and the articulated frescos add to the charm of the otherwise simple structure of Rajput style. This palace also have features like cusp arched passages,

true vault construction supporting the bangaldhar ceilings, domical roofs supported by intricate marble columns standing on the stone finished floors overlooking the rooms and the mezzanine areas giving the visual pleasure to the on looker. The stone jaalis, marble floorings, stone chhatris, tibaris, burj, stone railings, frescos and the intricate details of the wooden doors are a pleasure for the people.

### 3.3ECONOMIC SIGNIFICANCE

Heritage tourism is one of the major economic lifelines of the town of Jaipur. Hence conserving the built heritage of Jaipur is necessary to safeguard the architectural heritage of the region and to foster tourism which is a major economic activity of the town. The tourism can grow with proper planning through a more sustainable and environmentally conscious development of basic tourist facilities. These structures form a part of the fabric of the town. The tourists generally come from the neighbouring countries and states by buses, trains and by air as it is a part of the golden triangle of tourism with Agra and Delhi. As discussed earlier there are many heritage sites in Jaipur and Sisodia Rani ka Bagh is also a part of that culture and the historical background that Jaipur has grown up from Jaipur sees many tourists all over the year and mostly from October to March, as it's the winter season and it is very favourable for the tourists from other countries. Jaipur alone witness an inflow of international tourists ranging from 25%-35% according to the Ministry of Tourism Rajasthan.”

The details of the works done in the last five years have been mentioned. Plan objectives are specified in Part 5 of the Tourism Development Plan. The conditions of the site, factors affecting the property, project proposals, scope of works, and drawings are also mentioned in detail.

8. At present, the Monument is an archaeological monument and was being used for earning the revenue by organising various functions. In the process, it was also maintained. The Monument is adjacent to Jaipur-Agra highway, it has historical importance and is entirely enclosed by a pakka structure. It does not disturb the forest area though the Monument may be recorded as forest. It would not be appropriate to permit the use of the Monument to hold various functions during the night after 8.00 P.M. The tourist timings are 8.00 A.M. to 8.00 P.M. During that time, considering the importance of the historical Monument and it is in encircled structure by wall and its potentiality there cannot be any objection for its being used for multi-purpose appropriate activities. At the same time, there is in place a noise restriction, the same has to be strictly observed. Besides, the Government has imposed several other restrictions in the area. In addition to that, it is also to be ensured that no fireworks take place in and around the Monument to prevent noise and air pollution. Restriction on the use of laser light is also required. Beautification of Garden with ornamental plants of rare breed and flowering plants is also required. It is necessary to maintain and keep in order the musical and other fountains. However, the blanket ban imposed by the Tribunal was not called for as area can be used for appropriate functions and for holding events to attract tourists. No inconvenience is going to be caused in the area considering the situation of Monument. In the writ petition itself, a prayer was made pertaining to the safety and security of wildlife

and not to allow laser lights, loud music and fireworks. However, it is necessary to dedicate requisite number of staff and gardeners and supervisors to look after the Garden, for that requisite steps be taken.

9. We issue following directions:

- (i) The Monument may be used for appropriate multi-purpose activities between 8.00 A.M. to 8.00 P.M. only. No activity to be permitted after 8.00 P.M.
- (ii) The use of laser lights, loud music, and fireworks is ordered to be completely restrained.
- (iii) Musical and other fountains to be maintained and to be kept in working order.
- (iv) Other conditions imposed by the Department be observed strictly.
- (v) Let requisite supervisory and other staff/gardeners, etc. be dedicated to maintain and look after the area.
- (vi) We direct that a Consultant be appointed for further beautification of the area and requisite horticultural development and an additional project plan be prepared and placed on record.

We accordingly modify the order of the Tribunal. The appeal is allowed in part.

We propose to monitor beautification and further developmental work ourselves. Let the report of the Consultant and additional plan and development undertaken so far be placed on record within one month from today.

List the case after one month.