

RAJASTHAN HIGH COURT

Om Prakash Choudhary

Vs.

State of Rajasthan

Civil Writ Petn. No. 2183 of 2003

(Anil Dev Singh, C.J. and K.S. Rathore, J.)

04.08.2004

JUDGEMENT

Anil Dev Singh, C. J.

1. The petitioners are aggrieved by the construction of Salim Ali Nature Interpretation Center at Keoladeo National Park, Bharatpur. The petitioners seek a direction for demolition of the construction and for this purpose, have prayed for the following reliefs :

"(1) By issue of appropriate writ, order or direction the respondents may be directed to take immediate action against the illegal construction of huge building in the name of Salim Ali Nature Interpretation Center at Keoladev National Park, *Bharatpur* and the aforesaid illegal construction which has already been done may kindly be directed to be demolished and the debris of the aforesaid illegal construction may also kindly be directed to be removed at the cost of the respondents.

(2) By issue of appropriate writ, order or direction it may be directed that a detailed enquiry will be held in the matter so as to point out the responsibility of the concerned person who was instrumental in starting and restarting of huge illegal construction and strong action may be directed to be taken against such officials.

(3) By issue of appropriate writ, order or direction the respondents may be directed to provide the water in the canals of aforesaid National Park to preserve the natural life of the birds and other animals and plants."

2. History of the park and facts as gleaned from the pleadings and the material placed

on record are as follows :

Keoladeo National Park is a world famous bird sanctuary. It is a heronry where the migratory birds assemble from the various parts of the world. Siberian cranes covering thousands of miles fly to the Keoladeo National Park for spending the winter. In fact, Keoladeo National Park is the only wintering site in the country for the Siberian crane. Assemblage of different species of birds in the park during the monsoon and winter months presents a spectacular sight. The park has the distinction of attracting Ashy Crowned Sparrow Lark, Ashy Prinia, Baya Weaver, Barheaded Goose, Blackbellied tern, Blackheaded Ibis, Bluethroat, Blackcapped Kingfisher, Black tailed Godwit, Black-crowned Night Heron, Black Rumped flame back, Brainfever Bird, Bronzewinged Jacana, Collard Scops Owl, Common Pachard, Common Teal, Cotton Pygmy Goose, Common Tailor bird, Common Wood Shrike, Common Redshank, Common moorhen, Common Kingfisher, Dabchick, Moiselle Crane, Dusky Eagle Owl, Eurasian Marsh Harrier, Eurasian Eagle Owl, Eurasian Wigeon, Eurasian Curlew, Garganey, Grey Francolin, Great Tit, Greater Coucal, Greater Painted Snipe, Grey Heron, Greylag goose, Indian Courser, Indian Grey Hornbill, Indian Pitta, Knob billed Goose, Lesser Whistling Duck, Little Cormorant, Little Egret, Mallard, Northern Shoveller, Oriental White-eye, Pacific Golden Plover, Painted Stork, Pied Kingfisher, Pheasant-tailed Jacana, Pintail, Purple heron, Purple sunbird, Purple Swamphen, Rederested Pochard, Ruddy Shelduck, Scarlet Minivet, Storkbilled Kingfisher, Small Pratincole, Spotbilled Duck, Sarun Crane, Siberian Crane, Whitebreasted Waterhen Whitebellied Drongo etc. Out of the 28 main groups of the bird about 18 groups are visible in the park.

3. The park is rich in vegetation. It is a home for about 379 species of flowering plants. It is a habitat for the worms, insects and mosses. It is also aquatic habitat for the organisms. The water in the park comes from Ajan Bandh which was constructed by Maharaja Surajmal, the ruler of the erstwhile princely State of *Bharatpur*, at the confluence of rivers Gambhir and Banganga. The construction of the dam was commenced in the year 1726 and was completed sometime in the year 1763. The water from the dam and that released from the clouds in the form of rain-drops spreads over the natural depression inside the park. The availability of the water in the natural depression is also conducive for fish. There are about 43 species of fish. The park also has amphibians; reptiles and mammals, such as turtle; gharial; viper; cobra, rustle

snake; python, lizard' Porcupine; leaf-nose bat; blue bull; feral cattle, spotted deer; sambhar, wild boar, mongoose, cat; jackal and hyena. Thus the park presents a rich blend of bio-diversity.

4. Initially, this unique place was developed for duck shooting by the Royalty and was placed under the Hunting Department. In 1925, the Forest Act of *Bharatpur* was enacted and the said department was brought under the jurisdiction of the Forest Department. On November 12, 1938, Lord Linlithgo, Viceroy of India as head of shooting party, mercilessly shot 4273 birds in the park. At that point of time it might have looked like a great feat; but, that was an unpardonable offence against the ecology. Though in the year 1956, the park was notified as a protected area and a bird sanctuary, the hunting rights of the Maharaja of *Bharatpur* were kept intact. Rather, they were protected. This continued for number of years. It needs to be noted that for the first time in the year 1967, the park came within the purview of the Rajasthan Forest Act, 1963 and was declared as a Reserved Forest. But, strangely the hunting rights of the Royalty were withdrawn only in the year 1972, i.e. after about five years of it being declared as a Reserve Forest. During the period from 1977 to 1981 a wall was constructed all around the park. In the year 1981 under the National Convention on Wetlands, the park was declared Ramsar site. In the same year it was declared as a National Park and four years later it was given the status of world heritage site under the World Heritage Site Convention.

5. Earlier in the year 1979-80, the Bombay History Society, at the instance of the Ministry of Environment and Forest, Government of India, conducted a study on the ecology of the park. The Society after conducting the study expressed the view that an interpretation center should be set up at the entrance of the park for visitors and details in this regard could be worked out in consultation with the specialists. In the year 1982, the Department of Environment, Government of India came out with the National Wild Life Action Plan. The Action Plan at the outset, highlighted the Prime Minister's statement to the 15th Meeting On Wild Life, held on October 1, 1982. The Prime Minister, in his statement, spelt out the strategy and action plan programme for the wild life conservation in the country. The statement *inter alia* underlined the support for wild life education and interpretation aimed at creating wider public interest in the importance of wild life for human betterment.

6. The action plan suggested setting up of the Wild Life Institute of India, a separate division of wild life education/interpretation. In view of the importance of the wild life education/interpretation, the National Wild Life Action Plan vide clause 6.3.2. thereof

recommended establishment of model interpretation programme and posting of fully trained Education Officers at wild life units having a good volume of visitors, such as Keoladeo National Park, Bharatpur, Kanha National Park, Gir National Park, Dudhwa National Park, Kaziranga National Park, Nehru Zoological Park, Hyderabad, Nandankanan Biological Park, Orissa and the National Zoological Park, Delhi. The clause also alluded to the fact that some progress in providing interpretation facilities had already been made at most of the units. The clause highlighted the necessity to ensure the availability of first-class facilities and personnel in the National Parks at an early date in order to set the interpretation action plan on a firmer footing in the country. In order to achieve the goal, the assistance of Wild Life Institute of India and appropriate overseas agency could be taken.

7. The clause also emphasized that modern interpretation programmes were required to be established expeditiously in order to place interpretation on a sound track. It appears that in consonance with the National Wild Life Action Plan, the WWF India developed plan to establish a full-fledged interpretation center at the *Keoladeo National Park, Bharatpur*.

8. The WWF India undertook a feasibility-study for establishing a visitors' interpretation programme for Keoladeo National Park in collaboration with the center of Environment Education Ahmedabad. On completion of the study, the WWF India prepared a concept of interpretative action plan for the Keoladeo National Park which included a message media matrix, layout plans of orientation and visitor centers, signage, nature trail, publications, models and prototypes of orientation and visitor centers, entrance and wayside exhibits. The concept interpretative plan was presented to the State Governments including park officials and experts. It appears that the plan was approved in principle by the State Government. It needs to be recalled that the need for visitor interpretation programme at the Keoladeo National Park was envisioned as already pointed out in the National Wild Life Action Plan. Thereafter, the idea was taken up by the WWF India in view of the importance of the rich biodiversity which the park offered. It may also be pointed out that at the entrance of the park there is a visitor center which houses exhibits of different types of birds, their food and nests. That apart, skulls and horns of animals, including chital have been displayed. It was proposed by the WWF that the existing visitor center should be converted into an orientation center. It was further proposed that new visitors' center with reception area, auditorium, office and other facilities like drinking water, toilets, etc. should also be set up. On September 3, 1996 the Secretary, Forests, State of

Rajasthan, addressed a letter to the WWF, stating therein that the State Government was happy to invite WWF India to develop interpretation programme at the Keoladeo National Park. The letter authorized the WWF to install signage, exhibits, visitor facilities and modify structures as well as erect new structures as per the interpretation plan/document. It appears that with a view to discharge its obligations of setting up of an interpretation center at the Keoladeo National Park, the WWF entered into a project contract with the Daniel Swarovski Corporation, Austria, on May 24, 2000. According to the contract, the Swarovski Company agreed to provide, as exclusive sponsor, funding support of up to US \$ 450,000 and it also agreed to provide additional in-kind support, if needs and opportunities arose. The agreement also provided that for the duration of the project all movable equipment purchased for the project will remain the property of the WWF and after completion of the project, all equipment will become property of the Forest Department, Government of Rajasthan.

9. On February 14, 2002, construction of the Interpretation Center was commenced by the WWF. It seems that Ghana Keoladeo National History Society resented the construction work being undertaken by the WWF at the site selected near Hiranakui on the ground that it will adversely affect the park. In this regard it sent a representation dated March 21, 2002 to the Government of Rajasthan, Forest Department. On receipt of the representation the Special Secretary, Forest vide his letter dated March 22/26, 2002 (Anex. 3 to the writ petition), addressed to the Principal Chief Conservator of Forest and wildlife, Rajasthan expressed the view that the construction activity should be undertaken at the proposed site after full justification therefor. Thereupon, the Principal Chief Conservator of Forests Working Plan and Forest Settlement by communication Annexure-4 to the writ petition, asked the Director, Fresh Water and Wetland Conservation Programme WWF, Camp *Bharatpur*, to stop further construction work of the Interpretation Center with immediate effect. Accordingly, the work was stopped. Subsequently, after about three months, on June 14/15, 2002, the Government of Rajasthan gave permission to the WWF to restart the construction of the Interpretation Center.

10. The first petitioner, who was an employee of the Forest Department and second petitioner, who is the President of Keoladeo Research Foundation, have challenged the aforesaid actions of the respondents.

The learned counsel appearing for the petitioners submitted that the construction of the Interpretation Center has been made 2 Kms. inside the Keoladeo National Park and it was done without obtaining the requisite permission from the Central Government. It

was also submitted that the Interpretation Center has no nexus with conservation, preservation and protection of the Keoladeo National Park. According to the learned counsel, the utilization of the land for the purpose of erecting the building as a non-forest use and under Section 2 of the Forest (Conservation) Act, 1980, neither the State Government nor any other authority can give permission for use of forest land for any non-forest purpose. The learned counsel also submitted that the construction of the new Interpretation Center when one center already exists at the entrance of the park, is not necessary and is meant to benefit D. Swarovski Company, Austria, so that the Company and its products could be advertised in the Park. According to the learned counsel, the Austrian Company was to give a sum of \$ 4,50,000 for its advertisements on all electric buses, which will be used for taking the visitors to various parts of the Park , and the material which will be published by the Interpretation Center.

11. On the other hand, the learned counsel appearing for the State and the WWF submitted that the Interpretation Center has been built for education and for purposes of conservation of wild life. According to them, the construction has been raised in the administrative area where other buildings are already existing. It was canvassed that neither any provision of the Wild Life Protection Act, 1972 nor Forest (Conservation) Act, 1980 have been violated by the construction of the Interpretation Center. It was also contended that the construction of the new Interpretation Center was necessary to place the interpretation plan on sound lines and was not meant to advance the commercial interests of D. Swarovski and Co.

12. We have considered the submissions of the learned counsel for the parties. It is true that according to Section 2 of the Forest (Conservation) Act, 1980 neither the State Government nor any other functionary or authority of the State is competent to issue, except with the prior approval of the Central Government, the following directions to the effect :

- (i) that any reserved forest or any portion thereof, shall cease to be reserved;
- (ii) that any forest land or any portion thereof may be used for any non- forest purpose;
- (iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organization not owned, managed or controlled by Government;

(iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion thereof, for the purpose of using it for re-afforestation.

Explanation to Section 2 clarifies the meaning of "non forest" purpose. According to the explanation, it means breaking up or clearing of any forest land or portion thereof for -

(a) the cultivation of tea, coffee, spices, rubber, palms, oil bearing plants, horticultural crops or medicinal plants;

(b) any purpose other than re-afforestation.

The Explanation further goes on to clarify that 'non forest' purpose does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.

13. As is apparent from the aforesaid explanation, work relating or ancillary to conservation, development and management of forest and wildlife does not attract the provisions of Section 2 of the Forest (Conservation) Act, 1980. The setting up of the interpretation center is for educating the visitors and creating awareness in them about the importance of wildlife. Conservation of wildlife and preservation of forest is possible only when the people are alive to the fact that conservation, protection and development of wildlife and forests are essential for the sustenance of human life and they are part of the nature's grand plan in which they have a role to play. Unless the people are educated and interest is created in them in the beauty and usefulness of the forests and wildlife, the forests and wildlife will not be safe. Forests, birds, animals, human beings etc. are all strands of one composite web of life and the same is liable to disintegrate in case any of the strands is not preserved and protected and is allowed to be destroyed. The words "other like purposes" occurring in the Explanation are wide enough to cover all the activities, which are meant to educate the people regarding the importance of conservation and preservation of wildlife and forests. Therefore, it cannot be said that land for setting up of the Interpretation Center has been used for a "non-forest" purpose. Since the land has not been used for "non-forest" purpose, Section 2 of the Forest (Conservation) Act, 1980 does not apply and, therefore, the permission of the Central Government to construct the Interpretation Center is not required.

14. The learned counsel on the assumption that Section 2 of the Forest (Conservation) Act, 1980 applies, submitted that for seeking approval of the Central Government for use of the land for "non forest" purposes, the proposal is to be transmitted to the Central Government in the form appended to Forest Conservation Rules, 1981 (for short "the Rules"). According to the learned counsel, proposal ought to have been sent by the State Government to the Central Government as is mandated by Rule 4 of the Rules. He also submitted that the Central Government after it receives proposal is required to seek the advice of the Committee constituted as per Rule 2A of the Rules. The learned counsel further contended that according to Rule 6, the Central Government can grant approval to the proposal or reject the same only on receipt of the advice of the Committee and after holding such further inquiry as it may consider necessary.

15. We find no force in the aforesaid submission since we have already held that Section 2 of the Forest (Conservation) Act, 1980 was not applicable in the instant case. Therefore, there was no requirement compelling the State to forward the proposal for setting up of the Interpretation center to the Central Government. Since Section 2 does not apply, therefore, Rule 4(1), 5 and 6 of the Rules are also inapplicable.

16. The learned counsel for the petitioner reading from Annexure VI (a) to the compilation called Forest (Conservation) Act, 1980 Rules and Guidelines, submitted that proposals involving setting up of habitation, establishment of industrial units, tourist lodges/complex and other buildings are activities detrimental to the protection and conservation of the forests and as a matter of policy should not be entertained. The learned counsel laid emphasis on the word "other building construction" occurring in Annexure VI(a) and submitted that building construction should never be allowed to come up in the "Reserved Forest". It needs to be pointed out that the words "other building construction" occurring in annexure VI(a) is associated with the words "proposals involving setting up of habitation, establishment of industrial units, tourist lodges/complex". The words "proposals involving setting up of habitation, establishment of industrial units, tourist lodges/complex" precede the words "other building construction". The words "other building construction" take color from the words appearing before them. They mean building(s) of the type described by the antecedent words. The nature of the activities mentioned therein certainly are not undertaken for conservation of forests. Habitation, establishment of industrial units, tourist lodges/complex and buildings of like nature for residential or commercial use

are certainly not conducive to the forest and wildlife. But a building for the purpose of interpretation center is not a building of the nature mentioned in annexure VI(a). Since Section 2 is not applicable to the building constructed to serve as the Interpretation Center, Annexure VI(a) will not apply as well.

17. The reply of the State Government dated May 2, 2003 reflects that the construction of interpretation center would not in any manner affect the birds and other animals. It will also not affect the vegetation in the area. The affidavit alludes to the fact that the State Government on being satisfied that the construction was raised in the interest of better management of the Park, issued a letter dated June 15, 2002 permitting the Principal Chief wildlife Warden to restart the construction of the Interpretation Center after it was suspended earlier on March 22, 2002.

18. The Interpretation Center has been constructed in the area which is called Hiranakui. As against the total area of the park measuring 28.732 sq. km., the Hiranakui occupies 3037.7 sq. mtr., out of which an area of only 607 sq. mtr. has been used for construction of interpretation center by demolishing two staff quarters and one Chhappar. Hiranakui site is a part of the Administrative Block, which is surrounded by a wall. Some of the constructions in the Administrative Block were made in the year 1976-77.

19. As per the reply, the site is within the demarcated area and lies in administrative zone. In this regard, the reply refers to para 6.2 of the management plan (Annex. R/2). Para 6.2 of the management plan deals with the zonation and zone plans. Sub para (2) of para 6 deals with administrative-cum-tourist facility zone. The para reads as follows :-

"6.2 Zonation and zone plans.- The park is to have three zones for the purpose of achieving the objectives of management (Map 8)

1. The Core Zone/Bird Watching Zone the zone consists of pure patches of wetlands, grasslands, woodlands and scrublands. The Zone comprises of the whole of the park area minus the area demarcated as administrative-cum-tourist facility zone. The zone is to be managed for optimal ecological conditions for sustainability and for better viewing of the birds and awareness to be generated amongst the tourists.

2. Administrative-cum-tourist facility zone - The administrative and tourist facility Zone consists of (Map 9)

Tourist Range Office, Ticket counter and Visitor Orientation Center at the main gate.

Deputy Chief Wildlife Warden Office-cum-residence, Shanti Kutir Rest House.

The dormitory and toilets, loghut (the present office of the interpretation programme), residence of essential staff.

Ticket Counter and Bookshop at the Barrier,

The resting hut and the two rooms for staff and Hirana kui. A visitor interpretation center is being constructed here.

Range Officer (Wildlife) Office, residential area and the nursery.

The temples of Sitaram Baba. Souten ki Mandir and the cemetery of a saint.

The Forest lodge run by ITDC.

The parking area.

The Keoladeo temple, canteen and all the nakas located in the park.

3. Ecorestoration Zone - The Ecore-storation zone consists of saline upland areas and also other areas invaded by *Propopis juliflora* and *Lantana* and overlaps with the core zone. These areas will be restored to their original state by eradication of *Prosopis juliflora* and other weeds followed by gap planting in saline patches.

Species that will be used for the ecorestoration of this zone will include *Mitragyana parvifolia* (kadam), *Syzygium cumini* (jamun), *Ziziphus mauritiana* (Ber), *Capparis sppiaria* (hess), *Prosopis spicigera* (remjha), *Acacia leucophloea* (chokra), *Balanites aegyptiaca* (hingota), *Ziziphus nummularia* (ber), *Acacia nilotica* (babul), pharas and *Ficus* species like gular, peepal etc."

Thus it is obvious that the management plan provides for interpretation center.

20. In the year 1982, the Department of Environment, Government of India, had also published the National Wildlife Action Plan. Chapter VI commits itself wholly to wildlife education and interpretation. Para 6.1 emphasizes the objective of wildlife education and interpretation. It lays stress on promoting and supporting wildlife education and interpretation aimed at a wider public appreciation of the Importance of

wildlife to human betterment.

21. Para 6.3 of the Natural Wildlife Action Plan *inter alia* enshrines the concept of addressing wildlife education to different target groups and to educate visitors to protect parks and botanical gardens. For this purpose, it emphasizes provision for interpretation facility such as information center, good signage, nature trails and guided tours.

22. Para 6.3.2 is important for our purposes. This para reads :

"6.3.2.- Establish model interpretation programmes (including a fully trained education Officer) at Wildlife units having a good volume of visitors such as Bharatpur, Kanha National Park, Gir National Park, Dudhwa National Park, Kaziranga National Park,

Nehru Zoological Park, Hyderabad, Nandankanan Biological Park, Orissa and the National Zoological Park, Delhi. These will assist in the development and design of facilities/programmes and serve as demonstrations and inspiration to the directors of wildlife units elsewhere. They will also provide a basis for the practical field aspects of training in wildlife education proposed under Project 6.3.1 (some progress in the provision of interpretation facilities has already been made at most of these units, in some cases with limited overseas assistance. However, it is necessary to ensure that first-class facilities and personnel are installed at an early date in order to set interpretation on a firmer footing in the country. Central financial assistance is needed to ensure this."

From the aforesaid para, it is clear that the National Wildlife Action Plan, which was prepared in the year 1982 itself, makes a provision for establishment of model interpretation programmes at wildlife units like *Bharatpur* and other National Parks. It also emphasizes the creation of facilities and posting of personnel in the National Park, *Bharatpur* and other National Parks at an early date in order to set interpretation on a firmer footing in the country. Picking up the thread, the WWF India in order to achieve the purpose and objective of the National Wildlife Action Plan, prepared a proposed interpretation programme plan and the same was submitted to the State Government along with its letter dated April 5, 1995. The plan was approved by the State Government. This was followed by further correspondence and letter dated July 17, 1966. On September 03, 1996, the Secretary to Government, Forest Department communicated the approval of the State Government to the WWF for the Interpretation Programme Plan prepared by the latter. The letter reads thus :

"Dear Shri Singh,

With reference to your letter dated 17th July, 1966, the State Government is happy to invite WWF-India to develop Interpretation Programme at the Keoladeo National Park. The WWF may install signage, exhibits, visitor facilities, modify structures as well as erect new structures as per the interpretive plan document submitted to the State Forest Department. In case any change is proposed to be made in the interpretive plan submitted to the State Government, the approval of the State Government may kindly be sought.

Regards,

Yours sincerely,

Sd/-

(Alka Kala)

Shri Samar Singh,

Secretary General,

World Wide Fund for Nature-India

Pirojsha Godrej National Conservation

Centre, 172-B, Lodi Estate,

New Delhi 110003."

It is clear from the letter that the State Government invited WWF India to develop interpretation programme at Keoladeo National Park. The WWF was permitted to install signage, exhibits, visitor facilities, modify structures as well as erect new structures in accordance with the interpretation/management plan document submitted to the State Forest Department.

23. An affidavit has been filed by the Regional Deputy Director, Wild Life Preservation (Northern Region), Ministry of Environment and Forests, Government of India. According to the affidavit, it is clear that the Central Government is also supporting the construction of the interpretation center. The affidavit refers to the National Wildlife Action Plan, 1982 which was published by the government of India with the objective of promoting wildlife conservation. The affidavit highlights the fact

that one of the objectives of the plan was to promote and support wildlife education and interpretation aimed at a wider public appreciation of the importance of wildlife for human betterment. It is pointed out that the action plan also proposed establishment of interpretation programmes in the National Parks. The affidavit endeavors to establish that the work relating or ancillary to conservation, development and management of forest and wildlife does not fall within the definition of "non-forest" purpose and as such, no prior approval of the Central Govt. is required.

24. Whether or not permission of the Central Govt. is required for constructing Interpretation Center, the position can also be examined with reference to Section 33 of the Wildlife (Protection) Act, 1972. Section 33 reads as follows :

"The Chief Wild Life Warden shall be the authority who shall control, manage and maintain all sanctuaries and for that purpose, within the limits of any sanctuary :

(a) may construct such roads, bridges, buildings, fences or barrier gates, and carry out such other works as he may consider necessary for the purpose of such sanctuary;

(b) shall take such steps as will ensure the security of wild animals in the sanctuary and wild animals therein;

(c) may take such measures, in the interest of wild life, as he may consider necessary for the improvement of any habitat;

(d) may regulate, control or prohibit, in keeping with the interest of wild life, the grazing or movement of (live-stock)"

As is clear from the aforesaid provisions, the Chief Wild Life Warden is the authority, which is empowered to control, manage and maintain the sanctuaries and for that purpose within the precincts of the sanctuaries, carry out such works as he may consider necessary. He can also adopt such measures in the interest of wildlife as he may consider necessary for improvement of any habitat. The creation of an interpretation center surely is a step in the interest of wildlife and for the improvement of the habitat. The Chief Wild Life Warden is the only competent authority under Section 33 of the Wild Life (Protection) Act, 1972 and the permission of the Central Government is not required. In spite of the fact that the Chief Wild Life Warden is the competent authority approval for construction of the Interpretation Center was also given by the State Government.

25. Though the State Government had approved the plan, funds were required to be arranged for its execution. M/s. D. Swarovoski Company, which has its headquarters in Austria, agreed to fund the programme. For this purpose, an agreement dated May 24, 2000, was entered into by WWF-India and D. Swarovoski Company. The learned counsel for the petitioner in his submissions has questioned the legality of the agreement between the WWF-India and D. Swarovoski Company on the ground that WWF has created a lease of the Government property in favor of D. Swarovoski Company.

26. According to the agreement, the two parties in partnership and collaboration with the Forest Department of the Government of Rajasthan will co-operate over three years period to establish the proposed interpretation facilities at Keoladeo National Park and will built the capacity of local people to provide ongoing information services to the main stakeholders of the Park. The agreement records that the interpretation facilities in the Park are rudimentary and outdated. While WWF-India has been recognized in the agreement as implementing agency for the project, D. Swarovoski Company has been described therein as exclusive sponsor for funding support to the extent of \$ 4,50,000 for the construction of Interpretation Center. D. Swarovoski Company has also committed itself in the agreement to provide additional in-kind support if need and opportunity arises. The agreement also refers to the goal, purpose and objective of the project :

"Infrastructure

1. Construction of a Visitor Center (near the Park barrier) with exhibition hall, auditorium, sales area and offices.
2. Re-modelling of Park Entrance and re-design of Visitor Reception Area in existing building.

Information and awareness programme

3. Development of a major exhibit in the Visitor Center
4. Design and construction of nature trails (with signage and some shelters)
5. New directional, instructional and interpretative signage throughout Park
6. Production of information and other resource material for different target audiences

7. Production of audio-visual material for use in Visitor Centre and on outreach work.

8. Creation and maintenance of a web page

9. Design and implementation of an outreach information programme directed at key external target audiences (as identified in the workshop report of March 1999)

Capacity building

10. Provision of staff resources for the implementation of the project and the initial running of the information programme

11. Provision of physical resources for the Visitor Center and the outreach information programme (vehicles, audio-visual equipment, temporary project office, computer and office equipment)

12. Design and implementation of training courses for programme staff, local community guides and tour operators."

From clause 12 of the agreement it is apparent that after the completion of the project, the Forest Department of the Government of Rajasthan is to carry out all project-activities including the maintenance of the facilities, development of the project and the continuing deployment of the information/education of staff. For this purpose WWF has been authorized in the agreement to negotiate with the Forest Department of the Government of Rajasthan for a firm agreement to undertake the aforesaid responsibilities.

27. The apprehension of the petitioner that the land has been leased to D. Swarovski and Co. for the construction of Interpretation Center is misconceived. The agreement does not speak of any such thing. Para 22 declares that the physical structures erected as part of this project will from the very inception be the property of the Forest Department of the Government of Rajasthan. Para 21 of the agreement categorically states that for the duration of the project all movable equipments purchased for the project will remain the property of WWF India but after completion of the project all equipment will become property of the Forest Department of the Government of Rajasthan for exclusive use in Keoladeo National Park. Thus, there is nothing in the agreement, which supports the contention of the learned counsel for the petitioners that the WWF has created a lease of the Government property in favor of D.

Swarovski and Co. Rather the agreement clearly stipulates that the physical structures, from the very inception, after their erection and the equipments purchased for the project, after its completion, will become the property of the Forest Department. Therefore, we find no substance in the argument of the learned counsel for the petitioners, which is hereby rejected.

28. Having dealt with the theory of lease of the Government property, propounded by Mr. Rastogi, the learned counsel for the petitioners, we would like to focus on the benefits spelt out in the agreement for D. Swarovski and Co. According to the agreement, D. Swarovski and Co. will be prominently acknowledged as the sponsor of this project, both in the park itself and on all the produced information and publicity material. How this will be achieved is yet to be agreed at a later stage. D. Swarovski and Co. however, expressed its wish in the agreement to be recognized in the following way :

"Prominent sign with Swarovski logo at Park Entrance (Visitor Reception Area) indicating Swarovski sponsorship

Acknowledgment of support for Dr. Salim Ali Visitor Center by D. Swarovski and Co. at prominent location in the Visitor Center

Naming of Visitor Center Auditorium after Swarovski

Swarovski logo on all interpretative signage in Park

Swarovski logo and acknowledgment on all publications, AV-material and web site

Swarovski logo on electric bus purchased through the project Acknowledgment of Swarovski support in all publicity and press materials."

Clauses 25, 26 and 27 of the agreement also refer to the other benefits which will be available to D. Swarovski and Co. Clauses 25 to 27 read as under :-

"25. D. Swarovski and Co. will be given space for an exhibition panel in the entrance hall of the Visitor Center to explain the company's commitment to ecological principles and its particular interest in the sustainable use of global water resources.

26. If it wishes to do so, Swarovski will be allowed to display and sell selected products in the shop of the Visitor center, but it will be responsible for making

its own arrangement with Park Management as to the logistics of such an undertaking.

27. In view of its interest in and experience in innovative architectural design, D. Swarovski and Co. will be given the opportunity, if it wishes to do so, to participate and contribute to the final design of the Visitor Center and the Park Entrance."

On reading clause 26 of the agreement, the learned counsel for the petitioners submitted that D. Swarovski and Co. is trying to advance its commercial interests. D. Swarovski and Co. in a declaration, "Swarovski Environmental Programme", which is Annexure-VI to the reply of WWF, denies having commercial interests in any of the national parks. The declaration reads as under :-

"As a large international company the Daniel Swarovski Corporation has a long tradition of supporting social, cultural and environmental programmes that it considers worthwhile and important. Since its founding 108 years ago the Swarovski Company has recognized the complex interactions between Business, Society and Environment they are the three pillars on which all our activities are based.

In 1997, the Swarovski Company developed an integrated strategy for the support of some selected conservation programmes throughout the world. The main theme of this programme is the protection of biological diversity and the sustainable use of water, the world's most important natural resource.

As part of this corporate strategy Swarovski decided to look for three national park projects - one in each of Europe, Asia and the Americas and each in a different ecosystem dominated by water. After careful evaluation of several possibilities a mountain project was chosen in Austria (National Park Hohe Tauern), a wetland project in Asia (Keoladeo National Park) and a marine park in the Caribbean (Galapagos).

In each of these projects, information and educational activities are being supported. It is an additional aim of Swarovski to enable contacts between these three parks in order to exchange experiences and learn from each other.

On behalf of Swarovski, the programme was developed and is led by Dr. Christoph Imboden, the Environmental Advisor to the Board of Swarovski. As former Director-General of Bird Life International he has 25 years of experience

in the field of international conservation and has been familiar with Keoladeo National Park since 1981. It was chosen by Swarovski as one of the projects to be supported because it fulfilled the biggest number of scientific selection criteria.

Swarovski has no commercial interests whatsoever in any of these national parks and merely wishes to support the aims of local governments and NGOs to increase the potential of these parks to convey important messages about conservation and sustainable resource use to visitors and local people alike."

The learned counsel appearing for the WWF, relied on the aforesaid declaration and also submitted that an activity which is in the nature of commercial enterprise will not be permitted notwithstanding the contents of the agreement.

29. We have considered the submissions of the learned counsel. We are of the view that the National Park is not meant to advance the commercial interests of D. Swarovski and Co. They cannot be allowed to display or sell their product in the park. It must be clearly understood that the project will be executed for the conservation of the wildlife and its development and not for any other purpose. The Interpretation Center cannot be allowed to deflect from its objective and purpose of educating the people in wildlife. Therefore, commercial activity shall not be permitted in the park in any manner whatsoever. This direction shall take care of the fear of the petitioners that the Interpretation Center has been constructed in advance the business interests of D. Swarovski and Co.

30. The learned counsel also contended that there was no necessity to construct the Visitor Center in question, as an interpretation center at the entry of the park, is already in existence. The question whether the interpretation center, which was built at the gate of the park was sufficient for promoting and supporting wildlife education and interpretation, is not for us to decide. That question relates to the authorities, who are concerned with control, management and maintenance of the sanctuary, conservation of forests and wildlife. It, however, needs to be pointed out that the National Wildlife Action Plan emphasizes the necessity of creating first class facilities in order to set up interpretation on a firmer footing in the country. The new Interpretation Center has come up to fulfill the objectives of the Wildlife Action Plan.

31. The learned counsel submitted that the Chief Wildlife Warden Shri R. G. Soni and Smt. Shruti Sharma, the then Deputy Conservator of Forest, Wild Life, Ghana National Park, *Bharatpur* visited Austria at the invitation of D. S. Swarovski and Co.

The learned counsel was of the view that these officers have favored D. Swarovski and Co. and action should be taken against them. The question whether action should be taken against them or not, is a question which concerns the State Government. However, the circumstances in which these two officers visited Austria, need to be narrated. It appears that D. Swarovski and Co. invited both Shri Soni and Smt. Shruti to visit Austria. The main purpose of the invitation was spelt out in the letters of National Hohe Tauern dated May 15, 2000 and June 6, 2000. In the first letter, invitation was extended on behalf of Hohe Tauern National Park to both the aforesaid officers. It appears that they were invited to give them an opportunity to study three Austrian National Parks i.e. Hohe Tauern National Park, Donau Auen National Park and Neusiedler See National Park. According to the letter dated May 15, 2000, Hohe Tauern National Park is well-known for its excellent interpretation programme. Donau Auen National Park and Neusiedler See National Park are the two most famous wetland areas in central Europe. In these two parks special stress is put on interpretation work which is being done in close co-operation with WWF-Austria. The invitation was given with the hope that the visit to Austria of these two officers will help them and WWF-India to give a final shape to the Salim Ali Interpretation Programme at Keoladeo National Park. The letter reflects that the Tickets from Delhi to Vienna for two officers were deposited at Indira Gandhi Airport in New Delhi. All costs including travel arrangements were to be covered by Hohe Tauern National Park. The second letter dated June 7, 2000 of the Director, National Park, Hohe Tauern, is also revealing. It is apposite to extract the letter for proper understanding of the same:

"Dear Mr. Soni,

Following our invitation of early April, our subsequent correspondence and your telephone conversation yesterday with Dr. Imboden I am writing to you again expressing our strong hope that you and Ms. Shruti Sharma, Deputy Chief Wildlife Warden, Keoladeo National Park, will be able to visit Austria on the proposed dates in June.

The main purpose of this visit is for you to attend the opening ceremony of the educational project in the National Park Hohe Tauern which is being sponsored by the Swarovski and Co. as parallel project to the Dr. Salim Ali Interpretation Center and Programme in Keoladeo National Park. The opening ceremony will be attended by the President of Austria, Dr. T. Klestil. At the same time we have arranged for you to tour, as three National Parks in Austria (as guest of WWF Austria and the respective National Parks authorities) so that you can

familiarize yourself with various types of interpretation programmes offered in these parks.

Unfortunately, because all later flights are fully booked, a delay of your travel to Austria to 19th June will not be possible. I would be most grateful if the Government of Rajasthan could undertake everything possible to ensure the necessary permits to be issued in time for your departure on 13 June, Regretfully, if this cannot be achieved during the next 48 hours, we would have to cancel this trip.

With kind regards.

Yours sincerely,

Sd/-

Peter Rupitsch

Director"

The Government of Rajasthan, Department of Personnel, by its order dated June 12, 2000 approved the visit of Shri R. G. Soni to Austria. Similarly, the State Government approved the tour of Smt. Shruti Sharma, IFS, Deputy Conservator of Forests. Wild Life, *Bharatpur* Sanctuary to Austria. Beyond placing the letters and the facts revealed from them, we refrain from saying more on this aspect of the matter, raised by the learned counsel, except that the project of setting up the Interpretation Center is being executed by the WWF and a first class interpretation center was required to be created by the Wildlife Action Plan.

32. The learned counsel for the respondents submitted that the writ petition filed by way of Public Interest Litigation, is motivated by private interests. Since we have considered the merits of the writ petition, it is not necessary to go into that question.

In view of the aforesaid discussion, we find no fault with the construction of the new Interpretation Center by the WWF at the site in question. There is no merit in the writ petition, accordingly, the same is dismissed.

Petition dismissed.