

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Original Application No. 179 of 2023 (SZ)

In the matter of:

Tribunal on its own SUO MOTU based
On the news item in “The Times of India”,
Chennai Edition dt: 12.11.2023, under the
Caption “Activists, local residents’ question
Legality of tourism development work at Ooty
Lake” and in “The Hindu” Newspaper dt: 12.11.2023,
Under the caption “Residents stage protest at Ooty lake,
Demand halting of illegal constructions by government
Departments”.

With

The District Collector,
The Nilgiris Collectorate,
Udhagamandalam and Ors.

...Respondent(s)

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Through

Dr. D. Shanmuganathan
Standing Counsel for Tamil Nadu
National Green Tribunal
Southern Zone, Chennai

Date: 24.05.2024

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**SOUTHERN ZONE, CHENNAI****Original Application No. 179 of 2023 (SZ)****IN THE MATTER OF:**

Tribunal on its own motion SUO MOTU based on the News Item in 'The Times of India', Chennai Edition dt: 12.11.2023, under the caption "Activists, local residents question legality of tourism development work at Ooty lake" and in 'The Hindu' Newspaper dt: 12.11.2023, under the caption "Residents stage protest at Ooty lake, demand halting of illegal constructions by government departments".

and

The District Collector
The Nilgiris Collectorate,
Udhagamandalam and Ors.

...Respondent(s)

STATUS REPORT FILED BY THE 5th RESPONDENT i.e. MEMBER SECRETARY, TAMIL NADU STATE WETLAND AUTHORITY

I, Shri G. Kiran, IFS Son of M. Govindaraju aged about 38 years working as the Deputy Conservator of Forests (Wetland), Office of the Principal Chief Conservator of Forests and Member Secretary, Tamil Nadu State Wetland Authority at Panagal Maligai, Saidapet Chennai-600 015 on behalf of the Principal Chief Conservator of Forests and Member Secretary, Tamil Nadu State Wetland Authority do hereby solemnly affirm and sincerely state as follows:-

- 1) It is humbly submitted that, the Ooty lake is covered under the shape files of the National Wetland Inventory and Assessment Report, 2011 which is >2.25 ha. Based on this, the Ooty lake has to be protected as per Rule 4 of the Wetlands (Conservation and Management) Rules, 2017 (Attached as Annexure - I) as per the directions of the Hon'ble Supreme Court of India in in W.P. (C) No. 230 of 2001, dated 04.10.2017 (Attached as Annexure - II).
- 2) It is humbly submitted that, based on the status report filled by the Tamil Nadu Tourism Development Corporation Limited and the District Collector, Nilgiris it is found that the construction of infrastructures for the adventure activities have been carried out by the Tamil Nadu Tourism Development Corporation Limited without getting the No objection Certificate (NOC) from Hill Area Conservation Authority (HACA).
- 3) It is humbly submitted that, the construction of the infrastructure for the adventure activities have been done with temporary structures above the ground level but the basement of the structures seems to be of permanent nature made out of concrete and cement.

It is further submitted that the response submitted by this answering respondent may kindly be accepted by the Hon'ble NGT, Chennai render justice.

VERIFICATION

I, the aforementioned Deponent do hereby declare on this 22nd day of May 2024 at Chennai that the contents of the affidavit are true to my knowledge and belief and nothing material has been concealed therefrom.


DEPONENT
 Deputy Conservator of Forests (wetland)
 O/o the Principal Chief Conservator of
 Forests and Member Secretary
 Tamil Nadu State Wetland Authority
 Chennai


DEPONENT
 Deputy Conservator of Forests (wetland)
 O/o the Principal Chief Conservator of
 Forests and Member Secretary
 Tamil Nadu State Wetland Authority
 Chennai

ITEM NO.4

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 230/2001

M.K. BALAKRISHNAN & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

Date : 04-10-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) Mr. Gopal Sankaranarayanan, Adv.
Mr. Shrutanjaya Bhardwaj, Adv.
Ms. Veera Mahuli, Adv.
Mr. Naresh Kumar, AOR

For Respondent(s) /
applicant(s)
UIO/Delhi

Mr. A.N.S. Nadkarni, ASG
Mr. A.K. Panda, Sr. Adv.
Mr. Wasim A. Qadri, Adv.
Mr. Ajay Kumar Singh, Adv.
Ms. Binu Tamta, Adv.
Mrs. Sunita Sharma, Adv.
Mr. Sanjai Kumar Pathak, Adv.
Mr. Shalinder Saini, Adv.
Mr. G.S. Makker, Adv.
Mr. B.V. Balram Das, Adv.
Mr. S.A. Siddiqui, Adv.
Mr. Satya Siddiqui, Adv.
Mr. Zaki Kazmi, Adv.

Intervenor

Mr. Jayant Bhushan, Sr. Adv.
Mr. Ketan Paul, Adv.
Ms. Reeja Varghese, Adv.
Mr. Chirayu Jain, Adv.

Signature Not Verified

Digitally signed by
SANJAY KUMAR
Date: 2017.10.06
11:15:56 IST
Reason: []

UPON hearing the counsel the Court made the following
O R D E R

We have heard learned counsel for the petitioner and the learned Additional Solicitor General.

We have been informed that the Wetland Rules have since been notified and they are now called the Wetlands (Conservation and Management) Rules, 2017. These Rules have come into force on the date of publication in the official gazette, that is, 26th September, 2017.

Learned counsel for the parties say that they have very serious objections to some of these Rules. It is submitted that it appears that the Central Government has abdicated its responsibility under the Environment (Protection) Act, 1986 and instead of delegating its powers, it has abdicated its power in favour of the State Governments. We have also been informed that the Central Wetlands Regulatory Authority has since been disbanded and the State Wetlands Authority and the National Wetlands Committee have been constituted under Rules 5 and 6 of the new Rules.

With regard to the expenditure on Ramsar Convention sites, we have been informed by learned Additional Solicitor General that the audited accounts have so far been received from the States of West Bengal, Madhya Pradesh and Odisha. Audited accounts have not been received from any other State with regard to the Ramsar

Convention sites.

We have also been informed that apart from Ramsar Convention sites, further funds have been given to the States and the Union Territories for conservation of wetlands. No audited accounts have been received in regard to these funds disbursed as well as their expenditure by the State Governments and the Union Territories.

With regard to the brief documents required to be furnished under the old Rules, it appears that only ten States and one Union Territory have responded. It appears that there is now no necessity of brief documents under the new Rules. We make it clear that this does not mean that the earlier brief documents already submitted can be discarded completely. The contents of these brief documents will still be followed as far as the implementation of the Wetlands (Conservation and Management) Rules, 2017 is concerned.

Finally, with regard to the satellite images, we are told that the Space Application Centre would require between 12 to 18 months to make an inventory of 1,75,740 wetlands as they exist today. We make no comment on this but request learned Additional Solicitor General to re-check with the Space Application Centre since the wetlands are diminishing in our country at a very fast rate. It is very likely that many more will disappear by the time the task is completed by the Space Application

Centre.

We make it clear and reiterate that in terms of our order dated 8th February, 2017, 2,01,503 wetlands that have been mapped by the Union of India should continue to remain protected on the same principles as were formulated in Rule 4 of the Wetlands (Conservation and Management) Rules, 2010.

Learned counsel for the parties may file their objections to the new Rules within a period of two weeks. We direct that only one set of objections should be filed and both learned counsel should sit together and arrive at some consensus on the objections.

We further direct the State Governments that have not complied with earlier orders or directions given by the Central Government should do so within a period of four weeks from today failing which we will be constrained to require the presence of the Chief Secretaries of the State Governments in addition to imposition of heavy costs keeping in mind the necessity of conserving whatever water bodies are left in the country.

List the matter for further directions and for hearing on the objections to the new Rules on 9th November, 2017.

We would require the presence of a senior officer of the Ministry of Environment, Forests and Climate Change, Government of India to be present in Court on the next date of hearing so that any questions that may be raised

can be answered immediately. Needless to say, the senior officer who should be present in Court should be well-versed with the subject. The files on the basis of which the new Rules have been framed may also be kept ready for perusal when the matter is taken up.

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
COURT MASTER

Wetlands (Conservation and Management) Rules, 2017

- (c) "Committee" means the National Wetlands Committee referred to in rule 6;
 - (d) "ecological character" means the sum of ecosystem components, processes and services that characterise the wetlands;
 - (e) "integrated management plan" means a document which describes strategies and actions for achieving wise use of the wetland and the plan shall include objectives of site management; management actions required to achieve the objectives; factors that affect, or may affect, the various site features; monitoring requirements for detecting changes in ecological character and for measuring the effectiveness of management; and resources for management implementation;
 - (f) "Ramsar Convention" means the Convention on Wetlands signed at Ramsar, Iran in 1971;
 - (g) "wetland" means an area of marsh, fen, peatland or water; whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters, but does not include river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes;
 - (h) "wetlands complexes" means two or more ecologically and hydrologically contiguous wetlands and may include their connecting channels/ducts;
 - (i) "wise use of wetlands" means maintenance of their ecological character, achieved through implementation of ecosystem approach within the context of sustainable development;
 - (j) "zone of influence" means that part of the catchment area of the wetland or wetland complex, developmental activities in which induce adverse changes in ecosystem structure, and ecosystem services.
- (2) The words and expressions used in these rules and not defined, but defined in the Act, shall have the meanings assigned to them in the Act.

3. Applicability of rules.—These rules shall apply to the following wetlands or wetlands complexes, namely:—

- (a) wetlands categorised as 'wetlands of international importance' under the Ramsar Convention;
- (b) wetlands as notified by the Central Government, State Government and Union Territory Administration:

Provided that these rules shall not apply to the wetlands falling in areas covered under the Indian Forest Act, 1927, the Wild Life (Protection) Act, 1972, the Forest (Conservation) Act, 1980, the State Forest Acts, and the Coastal Regulation Zone Notification, 2011 as amended from time to time.

4. Restrictions of activities in wetlands.—(1) The wetlands shall be conserved and managed in accordance with the principle of 'wise use' as determined by the Wetlands Authority.

- (2) The following activities shall be prohibited within the wetlands, namely,-
 - (i) conversion for non-wetland uses including encroachment of any kind;
 - (ii) setting up of any industry and expansion of existing industries;
 - (iii) manufacture or handling or storage or disposal of construction and demolition waste covered under the Construction and Demolition Waste Management Rules, 2016; hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms Genetically engineered organisms or cells, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008; electronic waste covered under the E-Waste (Management) Rules, 2016;
 - (iv) solid waste dumping;
 - (v) discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements;
 - (vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules; and,
 - (vii) poaching.

Provided that the Central Government may consider proposals from the State Government or Union Territory Administration for omitting any of the activities on the recommendation of the Authority.

5. Wetlands Authorities.—(1) The Central Government hereby constitutes the State Wetlands Authority in each State with the following members, namely:—

- (i) Minister In-charge of the Department of Environment/Forests of the State Government or Minister In-charge of the Department handling wetlands - Chairperson;
- (ii) Chief Secretary of the State or Additional Chief Secretary equivalent - Vice Chairperson;
- (iii) Secretary in-charge of the Department of Environment - Member *ex-officio*;
- (iv) Secretary in-charge of the Department of Forests - Member *ex-officio*;
- (v) Secretary in-charge of the Department of Urban Development - Member *ex-officio*;
- (vi) Secretary in-charge of the Department of Rural Development - Member *ex-officio*;
- (vii) Secretary in-charge of the Department of Water Resources - Member *ex-officio*;
- (viii) Secretary in-charge of the Department of Fisheries - Member *ex-officio*;
- (ix) Secretary in-charge of the Department of Irrigation and Flood Control - Member *ex-officio*;
- (x) Secretary in-charge of the Department of Tourism - Member *ex-officio*;
- (xi) Secretary in-charge of the Department of Revenue - Member *ex-officio*;
- (xii) Director, State Remote Sensing Centre - Member *ex-officio*;
- (xiii) Chief Wildlife Warden - Member *ex-officio*;
- (xiv) Member Secretary, State Biodiversity Board - Member *ex-officio*;
- (xv) Member Secretary, State Pollution Control Board - Member *ex-officio*;
- (xvi) Additional Principal Chief Conservator of Forests of the Regional Office of Ministry of Environment, Forest and Climate Change - Member *ex-officio*;
- (xvii) One expert each in the fields of wetland ecology, hydrology, fisheries, landscape planning and socio-economics to be nominated by the State Government; and
- (xviii) Additional Secretary/Joint Secretary/Director in the Department of Environment/Forests or Department handling wetlands - Member Secretary.

(2) The Central Government hereby constitutes the Union Territory Wetlands Authority for each Union Territory with the following members, namely:—

- (i) Administrator or Chief Secretary of the Union Territory - Chairperson;
- (ii) Secretary in-charge of the Department of Environment - Vice Chairperson;
- (iii) Secretary in-charge of the Department of Forests - Member *ex-officio*;
- (iv) Secretary in-charge of the Department of Urban Development - Member *ex-officio*;
- (v) Secretary in-charge of the Department of Rural Development - Member *ex-officio*;
- (vi) Secretary in-charge of the Department of Water Resources - Member *ex-officio*;
- (vii) Secretary in-charge of the Department of Fisheries - Member *ex-officio*;
- (viii) Secretary in-charge of the Department of Irrigation and Flood Control - Member *ex-officio*;
- (ix) Secretary in-charge of the Department of Tourism - Member *ex-officio*;
- (x) Secretary in-charge of the Departments of Revenue - Member *ex-officio*;
- (xi) Director, Remote Sensing Centre - Member *ex-officio*;
- (xii) Member Secretary, Union Territory Pollution Control Committee - Member *ex-officio*;