ITEM NO.12 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
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD Petitioner(s)

VERSUS

UNION OF INDIA AND ORS. & ORS. Respondent(s)

Date : 13-03-2024 This petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SANDEEP MEHTA

Counsel for the parties:

Mr. Harish N. Salve, Sr. Adv. [A.C.] (NP)
Mr. A.D.N. Rao, Sr. Advocate [A.C.] (NP)
Ms. Aparajita Singh, Sr. Advocate[A.C.] (NP)
Mr. Siddhartha Chowdhury, Advocate [A.C.] (NP)

Mr. K. Parameshwar, Advocate [A.C.]
Mr. M.V. Mukunda, Adv.
Ms. Kanti, Adv.
Ms. Arti Gupta, Adv.
Mr. Chinmay Kalgaonkar, Adv.

Ms. Aishwarya Bhati, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Ms. Archana Pathak Dave, Adv.
Ms. Suhashini Sen, Adv.
Mr. S. S. Rebello, Adv.
Mr. Shyam Gopal, Adv.
Mr. Raghav Sharma, Adv.
Mr. Sughosh Subramanyam, Adv.
Ms. Ruchi Kohli, Adv.

Signature Not Verified
Digitally signed by Deepak Singh
Date: 2024.04.16 17:48:19 IST
Reason:

UPON hearing the counsel the Court made the following

O R D E R

Issue regarding Aravalli Ranges

1. Vide order dated 10th January, 2024, this Court had directed that all the matters pertaining to the Aravalli Ranges falling in the States of Haryana and Rajasthan to be clubbed together and directed to be placed before one Bench on 13.03.2024 i.e. today.

2. Today we are informed that the matters are not listed.

3. We have passed the aforesaid direction taking into consideration that some matters with regard to Aravalli Range in the Delhi and National Capital Region (for short, 'Delhi NCR') as well as the State of Rajasthan were listed before the Bench presided over by one of us (B.R. Gavai, J.). It was also noticed that some of the matters were listed before the Bench presided over by Hon. Mr. Justice Sanjay Kishan Kaul (As His Lordship then was). We are informed that the said matters pertain to the State of Haryana.

4. Since Aravalli Range stretches through the States of Rajasthan, Haryana and Delhi NCR, it was found that it will be in the interest of justice that all the matters are listed before one and the same Bench.

5. It will not be out of place to mention that the 'Green

Bench assignment’ has been assigned to the Bench presided over by one of us (B.R. Gavai, J.). For a long period, this Bench has been monitoring the issues with regard to Aravalli Range in Delhi ridge area so also the State of Rajasthan. We have also appointed certain committees to address various issues.

6. With the valuable assistance of Mr. K. Parameshwar, learned Amicus Curiae and Ms. Aishwarya Bhati, learned Additional Solicitor General of India, various directions have been issued from time to time.

7. Various issues pending before the Green Bench are interlinked with the issues pertaining to Aravalli Range.

8. We, therefore, find that it would be appropriate that all the matters with regard to Aravalli Range are heard together with the connected matters pending before the Green Bench.

9. However, the allotment of the matters is exclusively within the domain of the Hon’ble the Chief Justice of India, being the Master of Roster. Therefore, we find that it is necessary that this fact should be brought to the notice of the Hon’ble the Chief Justice of India. We, therefore, direct the Registrar (Judicial) concerned to place this order before the Hon’ble the Chief Justice of India, to obtain appropriate orders.

10. Taking into consideration that the rampant illegal mining is going on in the Aravalli Range falls in the State of

Haryana, the Registry is directed to place this matter forthwith before Hon'ble the Chief Justice of India.

11. In the event the Hon'ble the Chief Justice of India finds it appropriate to assign the said matters also to the Green Bench, the Registry is directed to place all these matters before this Bench on 03rd April, 2024.

(DEEPAK SINGH)
COURT MASTER

(POOJA SHARMA)
COURT MASTER (NSH)

P.S.

Orders in rest of the applications will be uploaded later as Item No. 12/1.

ITEM NOS.12/1 & 11 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
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD Petitioner(s)

VERSUS

UNION OF INDIA AND ORS. & ORS. Respondent(s)

[[1] CEC STAFFING ISSUE

[2] SUO-MOTU W. P.(C)NO. 1 OF 2023 IN RE : SARISKA TIGER RESERVE

[3] I.A No. 191635/2022 IN RE : DELHI RIDGE MATTER

[4] INTERLOCUTORY APPLICATION NOS. 85332 AND 85124/2023 [APPLICATIONS FOR INTERVENTION AND DIRECTIONS] WITH INTERLOCUTORY APPLICATION NOS. 60136 AND 60352/2024 (APPLICATIONS FOR INTERVENTION FILED BY MR. ANURAG TANDON, ADVOCATE IN I.A. NO. 85332/2023) WITH INTERLOCUTORY APPLICATION NOS. 64180 AND 64434 OF 2024 [(APPLICATIONS FOR INTERVENTIONS FILED BY MR. ANURAG TANDON, ADVOCATE ON BEHALF OF "BILIBAR PATAR" AND "HARICHANDRA BORO", APPLICANTS RESPECTIVELY IN I.A. NO. 85332/2023) IN RE : ROHIT CHOUDHARY

[5] INTERLOCUTORY APPLICATION NO. 42944/2019 [APPLICATION FOR DIRECTIONS] IN RE : ILLEGAL/UNAUTHORIZED MINING IN KAZIRANGA NATIONAL PARK, ASSAM WITH INTERLOCUTORY APPLICATION NOS. 146755 AND 146756/2021 [APPLICATIONS FOR INTERVENTION AND STAY] AND INTERLOCUTORY APPLICATION NOS. 158973, 158975 AND 159054/2021 [APPLICATIONS FOR INTERVENTION, EXEMPTION FROM FILING O.T. AND STAY] AND INTERLOCUTORY APPLICATION NOS. 28731, 28732 AND 28905/2022 [APPLICATIONS FOR INTERVENTION, EXEMPTION FROM FILING O.T. AND MODIFICATION OF COURT'S ORDER DATED 12.04.2019] AND INTERLOCUTORY APPLICATION NOS. 41069 AND 41070/2022 [APPLICATIONS FOR INTERVENTION AND EXEMPTION FROM FILING O.T.] AND INTERLOCUTORY APPLICATION NO. 51917/2022 [APPLICATIONS FOR INTERIM STAY OF DEMOLITION IN THE ANIMAL CORRIDORS IN KAZIRANGA NATIONAL PARK DURING THE PENDENCY OF THE APPLICATION DIRECTIONS – I.A. NO. 42944/2022] IN RE : BHAB BARGOHAI & ORS.

[6] INTERLOCUTORY APPLICATION DIARY NO. 58031/2024 [APPLICATION FOR INTERVENTION IN W.P.(C)No. 202/1995 FILED BY MS. PARUL GUPTA, ADVOCATE] AND INTERLOCUTORY APPLICATION NO. 58032/2024 [APPLICATION FOR DIRECTIONS IN W.P.(C)No. 202/1995 FILED BY MS. PARUL GUPTA, ADVOCATE] IN RE : PAVAN SINGH

[7] [i] I.A. NO. 19010/2019 [APPLICATION FOR DIRECTIONS] WITH [ii] I.A. NO. 75982/2019 [APPLICATION FOR EXEMPTION FROM FILING O.T] WITH [iii] I.A. NO. 86706/2019 [APPLICATION FOR DIRECTIONS] WITH [iv] I.A. NO. 90640/2019 [APPLICATION FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS] WITH [v] I.A. NO. 122128 AND 122130/2019 [APPLICATION FOR EXTENSION OF TIME AND EXEMPTION FROM FILING O.T., FILED BY MR. NISHANT R. KATNESHWARKAR, ADVOCATE] WITH [vi] I.A. NO. 129260 AND 129264/2019 [APPLICATION FOR IMPLEADMENT AND DIRECTIONS] FILED BY MR. RAVINDRA KESHAVRAO ADSURE, ADVOCATE] AND [vii] I.A. NO. 129279/2019 [APPLICATION FOR DIRECTION] FILED BY MR. GOPAL BALWANT SATHE, ADVOCATE AND [viii] I.A. NOS. 150901 AND 150915/2019 [APPLICATIONS FOR INTERVENTION AND DIRECTION FILED BY MS. MAYURI RAGHUVANSHI, ADVOCATE IN RE : CONSERVATION ACTION TRUST, MAHARASHTRA AND [8] INTERLOCUTORY APPLICATION NO. 1412/2005 [APPLICATION FOR CLARIFICATION OF ORDER DATED 14.07.2003]

[9] INTERLOCUTORY APPLICATION NO. 117831/2019 [APPLICATION FOR DIRECTIONS IN I.A. NO. 1412 OF 2005] IN INTERLOCUTORY APPLICATION NO. 1000 OF 2003 (Disposed of)

[10] I. A. NOS. 37666, 37670 AND 37679/2020 [APPLICATIONS FOR IMPLEADMENT, DIRECTIONS AND EXEMPTION FROM FILING O.T.] IN RE : UTTAM KUMAR JAIN AND ORS.

[11] I.A. NO. 41723 OF 2022 [APPLICATION FOR DIRECTIONS]
IN RE : AMAN SINGH, RAJASTHAN

[12] [i] CONTEMPT PETITION (CIVIL) NO. 319 OF 2021 IN I. A. No. 90182 OF 2019 (DISPOSED OF) (APPLICTION FOR DIRECTIONS) WITH I. A. No. 66719/2021 (APPLICATION FOR EXEMPTION FROM FILING NOTORIZED AFFIDAVIT) AND I. A. No. 140286/2023 (APPLICATION FOR CONDONATION OF DELAY IN FILING CONTER AFFIDAVIT) WITH I. A. NOS. 197410 AND 197412/2023 (APPLICTIONS FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS AND EXEMPTION FROM FILING O.T.) IN RE : RAJAJI TIGER RESERVE, UTTARAKHAND WITH [ii] I. A. No. 186910/2022 (CEC REPORT NO. 30/2022 - REPORT OF CEC IN APPLN. NO. 1557/2022 FILED BEFORE IT BY GAURAV KUMAR BANSAL) AND INTERLOCUTORY APPLICATION NO. 52187/2023 (APPLICATION FOR EXEMPTION FROM FILING O.T.) AND INTERLOCUTORY APPLICATION NOS. 197351/2023 AND 2665/2024 (APPLICATIONS FOR PERMISSION TO FILE AFFIDAVIT) IN RE : GAURAV KUMAR BANSAL

[13] I.A. Nos. 2930/2010 AND 3963/2017 [APPLICATIONS FOR DIRECTIONS AND PERMISSION TO FILE ADDITIONAL DOCUMENTS] WITH I.A. No. 160714/2019 [APPLICATION FOR EXEMPTION FROM FILING OFFICIAL TRANSLATION] AND I.A. No. 77320/2023 [APPLICATION FOR OBJECTION ON BEHALF OF APPLICANT] AND I.A. No. 79064/2023 [APPLICATION FOR LEAVE TO AMEND THE I.A. NO. 2930/2010] IN RE : M/S SHEWALKER DEVELOPERS LTD

[14] I. A. NOS. 79569 AND 79576/2019 [APPLICATIONS FOR INTERVENTION AND DIRECTIONS] WITH I. A. NOS. 159670 AND 159677/2019 [APPLICATION FOR EXEMPTION FROM FILING OFFICIAL TRANSLATION] WITH I. A. D. NOS. 14261 AND 14262/2021 [APPLICATIONS FOR URGENT LISTING OF I.A. NOS. 79569 AND 79576/2019 AND EXEMPTION FROM FILING DULY ATTESTED AFFIDAVIT] AND I. A. NOS. 40599 AND 40624/2023 [APPLICATIONS FOR INTERVENTION AND MODIFICATION OF COURT'S ORDER DATED 12.05.2022] AND I. A. NO. 220675/2023 [APPLICATION FOR DIRECTION IN I.A. NO. 79576/2019] IN RE : SHRAMIK RICKSHAW CHALAK-MALAK SEVASANSTHA

WITH

SUO-MOTU W.P.(C) NO. 1 OF 2023

Date : 13-03-2024 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SANDEEP MEHTA

Mr. Harish N. Salve, Sr. Adv. [A.C.] (Not Present)
Mr. A.D.N. Rao, Sr. Advocate [A.C.] (Not Present)
Ms. Aparajita Singh, Sr. Advocate[A.C.] (Not Present)

Mr. Siddhartha Chowdhury, Advocate [A.C.]

Mr. K. Parameshwar, Advocate [A.C.]
Mr. M.V. Mukunda,Adv.
Ms. Kanti,Adv.

<u>Counsel For Parties</u>

Ms. Aishwarya Bhati, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Ms. Archana Pathak Dave, Sr.Adv.
Ms. Suhashini Sen, Adv.
Mr. S.S. Rebello, Adv.
Mr. Shyam Gopal, Adv.
Mr. Raghav Sharma, Adv.
Mr. Sughosh Subramanyam, Adv.
Ms. Ruchi Kohli, Adv.
Ms. Shagun Thakur,Adv.
Ms. Manisha Chava,Adv.

Ms. Vibha Datta Makhija, Sr. Adv.
Mr. Ranjan Mohan Das, Adv.
Mr. Aastik Dhingra, Adv.
Mr. Praveen Gaur, Adv.
Mr. Anurag Tandon, AOR

Mr. Nalin Kohli, Sr. A.A.G.
Mr. Shuvodeep Roy, AOR
Mr. Nimisha Menon, Adv.
Mr. Anshul Malik, Adv.
Mr. Sarthak Sharma, Adv.
Mr. Ayuushman Aroraa, Adv.
Mr. Kabir Shankar Bose, Adv.
Mr. Saurabh Tripathi, Adv.

Ms. Shibani Ghosh, AOR
Mr. Rishad A Chowdhury, Adv.
Mr. Yogesh Malik, Adv.

Mr. Kaushik Choudhury, AOR
(*appearance not given)

Mr. Sunil Kr. Sharma, AOR

Mr. Rajnish Kumar Jha, AOR

Ms. Parul Shukla, AOR
Ms. Shubhangi Pandey, Adv.
Ms. Tanvi Chuphal, Adv.

Ms. Vanshaja Shukla, AOR
Ms. Ankeeta Appanna, Adv.

Mr. Nishant R. Katneshwarkar, AOR

Mr. Siddharth Bhatnagar, Sr. Adv.
Mr. Sagar N.pahune Patil, Adv.
Mr. Gopal Balwant Sathe, AOR

Mr. Ravindra Keshavrao Adsure, AOR

Ms. Mayuri Raghuvanshi, AOR

Ms. Mridula Ray Bhardwaj, AOR

Mr. E.R. Kumar, Adv.
Mr. Abhishek Thakral, Adv.
Ms. Apurba Pattanayak, Adv.
For M/s. Parekh & Co., AOR

Mr. Lalit Mohan,Adv.
Mr. Videsh Vaish,Adv.
Ms. Aakansha,Adv.
Mr. Abhay Gupta,Adv.
Ms. Misha Rohatgi Mohta, AOR

Mr. Shyam Divan,Sr.Adv.
Ms. Nina Nariman,Adv.
Ms. Tahira Karanjawala,Adv.
Mr. Arjun Sharma,Adv.
Mr. Shreyas Maheshwari,Adv.
Ms. Sukanya Das,Adv.
For M/s. Karanjawala and Co.

Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.
Mr. Aditya Krishna, Adv.
Ms. Preet S. Phanse, Adv.
Ms. Yamini Singh, Adv.
Mr. Adarsh Dubey, Adv.

Mr. Siddharatha Jha, AOR

Mr. Shiv Mangal Sharma, A.A.G.
Mr. Sandeep Kumar Jha, AOR

Petitioner/Applicant-in-person

Ms. Rashmi Nandakumar, AOR
Mr. Abhishek Atrey, AOR

Mr. Atul Sharma, AOR

Mr. Neeraj Shekhar, AOR
Mr. Rajesh Kumar Maurya,Adv.
Kshama Sharma,Adv.

Mr. Harsh Parashar, AOR

Mr. Rao Ranjit, AOR

Mr. Saurabh Rajpal, Adv.
Mr. Milind Kumar, AOR

Mr. Nitin Mishra,Adv.

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

(1) CEC Staffing Issue

1. The matter was kept today for addressing certain issues with

regard to the functioning of the Central Empowered Committee (for short 'CEC'), including accountability and transparency measures.

2. Vide order dated 24th March, 2023 noticing that the CEC was functioning on adhoc basis, we had directed the CEC to be institutionalized.

3. Accordingly, vide Office Memorandum dated 5th September, 2023, the Union of India had notified the Constitution of CEC.

4. Vide another notification dated 8th September, 2023, the CEC came to be constituted consisting of a Chairman, three Expert Members (one each from the fields of environment, forest and wildlife) and one Member Secretary. The present Member Secretary is a serving IFS officer in the Ministry of Environmental, Forest and Climate Change (for short 'MoEF&CC)

5. Certain issues regarding functioning were flagged during the course of the hearing.

6. At present, the functioning of the CEC is funded from the interest received from the Fixed Deposit Receipts (FDRs). However, now since the CEC has been constituted under Office Memorandum, as a statutory body, certain permanent mechanism is required to be evolved with regard to its functioning.

7. The learned Amicus Curiae, in consultation with the CEC, has recommended certain measures to be taken in this regard so as to ensure accountability and transparency in the functioning of the CEC, which reads as under:

> **"i. Member Secretary will prepare annual budget of the CEC and place before CEC for approval before sending it to MoEF&CC.**

ii. All financial approvals will be given by the Chairman, or the member designated as Co-Chair in the absence of the Chairman.

iii. The extant norms of Government of India will be followed for payment of salary, honorarium, T.A., conveyance, telephone expenses, purchases etc.

iv. All purchases will be made through GeM (Government e- Marketplace). However, in case where purchase through GeM is not possible or practical, the purchase(s) may be made with the approval of the Chairman, or the member designated as Co-Chair in the absence of the Chairman by e-tendering process.

v. The accounts of the CEC will continue to be maintained on double entry system.

vi. A practicing Chartered Accountant, from a CAG empaneled firm will be engaged as part-time Financial Adviser for dealing with the accounts including preparation of accounting code, procedure, summary of accounts, preparation of balance sheet and internal audit. Appropriate remuneration will be fixed with the approval of the Chairman.

vii. The funds available with the CEC will be invested with Nationalized/Scheduled Banks. The investments will be made as per the approval of the Chairman and the Member Secretary.

viii. The Central Government has to provide sufficient funds for the efficient functioning of the CEC. However, in case sufficient funds are not made available in time by the Central Government, the Member Secretary can use the funds at the disposal of the CEC as mentioned in above para.

ix. All the payments to the extent possible, would be made through account payee cheques/online payment.

x. A summary of the quarterly statement of account be prpared and placed before the CEC. The CEC will undertake quarterly review of the accounts, investments, expenditure etc. Based on the observation & experiences, the necessary mid-course corrective measures and improvement will be undertaken from time to time.

xi. The accounts of CEC (including auditing, investment etc.) will be looked after by the Member Secretary.

xii. The Hon'ble Supreme Court of India in its order dated 15.10.2004 in IA No. 827 has directed that the CAG should nominate an auditor to audit the annual accounts. The compliance of this is to be ensured."

8. We find that these issues need to be resolved amicably by MoEF&CC in consultation with the CEC.

9. Ms. Aishwarya Bhati, learned Additional Solicitor General, fairly states that this is not an adversarial litigation and the issues would be attempted to be resolved by consultation.

10. Insofar as the finances and staffing of the CEC is concerned, it is informed that the same would be finalized within next eight weeks.

11. Insofar as office space is concerned, it is informed that the MoEF&CC, in consultation with the CEC, is working on the issues regarding office space and till the same is finalized, the CEC would be allowed to continue in the existing premises.

12. Needless to state that the office space to be provided for CEC must be suitable, taking into consideration the nature of duties entrusted to it. The office space would also be furnished in such a manner that it enables the members to interact with the citizens from remote areas by video-conferencing. The latest electronic equipment would be provided for the effective and smooth functioning of the CEC.

13. Learned Amicus Curiae also informs that for a period of last three months, the remuneration of the Chairman and the Members of the CEC has not been disbursed.

14. We are also informed that the Chairman is not a full time Chairman and he also continues to occupy the office of Chairman, RERA, Odisha.

15. Taking into consideration the nature of duties entrusted with the CEC, we are of the view that it will be appropriate that it has a full time Chairman. We request the Union of India to look into

the matter and inform the Court about the same on the next date.

16. Insofar as the remuneration to be paid to the Members of the CEC is concerned, we are of the view that final call is to be taken by the MoEF&CC and CEC. Prima facie, we are of the view that the Chairman and the Members of the CEC should be paid the remuneration on the basis of last drawn pay minus pension at the time of retirement. We are inclined to observe this inasmuch as in case of the retired Judges who hold the post-retirement assignments in Tribunals, generally the same principle is adopted.

17. Needless to state that the Chairman and the Members of the CEC would also be entitled to other prerequisites as they were entitled during the service. The Members of the CEC would also entitled to TA & DA as was applicable to them at the time of their retirement(s).

18. Until further order(s) are passed by this Court after we receive inputs from the MoEF&CC and CEC, we permit the CEC to pay the salary of the staff from the interest received on the FDRs. Till then remuneration to be paid to the Members of the CEC shall also be paid from the said interest and the CEC would also be authorized to make expenditure towards the office expenses from the same source.

19. We further clarify that till a complete mechanism is put in place, the Chairman and the Members of the CEC would be entitled to draw the amount from the interest earned and meet the other expenses, including travel expenses, hiring of vehicles, etc.

20. We also clarify that since the CEC is a statutory body and is

directly answerable to the Union of India and this Court, the interest earned by it on the FDRs will not be liable to income tax. We also direct the Union of India to instruct the concerned Income Tax Authority to refund the TDS deducted from the interest on the said FDRs within a period of three months from today.

21. The next issue flagged by the learned Amicus Curiae is with regard to the accommodation of the Members of the CEC.

22. It is submitted that the Chairman and Members of the CEC are not permitted to retain their accommodation, which was alloted to them while they were in active service.

23. We may note that the Chairman and Members of the CEC are experts in their field. Had they decided to engage in other sectors, they would have received much better remuneration than they would be entitled to now. We, therefore, find that they cannot be disadvantaged only on account of their accepting the offer of becoming Members of the CEC.

24. We, therefore, direct that the Union of India shall provide a suitable accommodation to the Chairman and the Members of the CEC, who are desirous of occupying the Government accommodation. Until further order(s) is passed, the present accommodation in the occupation of the Members of the CEC shall not be disturbed and they shall continue to reside in the said accommodation.

25. We hereby reiterate the guidelines stated in the order dated 31st January, 2024, which is reproduced as under:

> **"21. We further direct the CEC to adopt the following measures to promote institutional transparency, efficiency, and accountability in its**

functioning:
(i) The CEC shall formulate guidelines for the conduct of its functions and internal meetings. The CEC shall formulate the operating procedures delineating the roles of its members and the Secretary of the CEC.
(ii) The CEC shall formulate guidelines about the public meetings that it holds, ensure the publication of meeting agenda in advance on its website, maintain minutes of meetings, and set out rules regarding notice to parties. (iii) The CEC shall formulate guidelines for site visits and, if necessary, hearing the public and affected parties therein,
(iv) The CEC shall formulate guidelines fixing time limits for site visits, preparation of reports, and also the manner of preparation of reports,
(v) We further direct that these guidelines/ regulations must be accessible for anyone to seek. They shall be posted on the official official."

26. Vide our order dated 06th March, 2024, in I.A. No.20650 OF 2023 in W.P. (C) No.202 OF 1995, we had directed the State of Uttarakhand to pay an honorarium of Rs.10,00,000/- (Rupees Ten Lakhs Only) to Mr. K. Parameshwar, learned Amicus Curiae. The learned Amicus Curiae has requested us that the said part of the order should be deleted. He submits that he considers it a call of duty to assist this Court and also considers it to be an honour and privilege to appear as an amicus in such an important matter. Therefore, he submits that his conscience does not permit him to accept an honorarium for the services rendered by him.

27. We appreciate the gesture shown by the learned Amicus Curiae. However, assisting this Court in the matter requires spending a lot of valuable time which the learned Amicus Curiae would have otherwise utilized for his private practice. We are not inclined to accept the request of the learned Amicus Curiae. In any case, the honorarium to be paid to the learned Amicus Curiae would be

neither from the interest received by the CEC nor from the CAMPA fund.

28. The next issue is with regard to honorarium/funds payable to the learned Amicus Curiae and his assisting counsel. In this matter, on the last date, we requested the learned Additional Solicitor General, Ms. Aishwarya Bhati to take instructions in this regard.

29. Ms. Aishwarya Bhati has fairly stated that the learned Amicus Curiae should be paid honorarium at the rate of fees payable to 'A' Panel counsel by the Union of India and the fees to be paid to the learned counsel assisting the learned Amicus Curiae should be fixed at the rate applicable to 'B' Panel counsel of the Union of India.

30. We, therefore, accept the suggestion of the learned Additional Solicitor General and direct the Union of India to pay honorarium to the learned Amicus Curiae at a rate equal to that being offered to 'A' Panel counsel by the Union of India.

31. Similarly, the Union of India would also pay honorarium to Ms. Kanti and Mr. M.V. Mukunda, learned counsel assisting the learned Amicus Curiae at the rates applicable to 'B' Panel counsel by the Union of India.

32. We further clarify that whenever the learned Amicus Curiae needs to travel to discharge the duties as Amicus Curiae in the present case, he shall be paid TA and DA as is applicable to the 'A' Panel counsel of Union of India.

[2] SUO-MOTU W.P.(C) NO. 1 OF 2023 IN RE : SARISKA TIGER RESERVE

1. In pursuance of our order dated 12.07.2023 a copy of the Report has been submitted in the Court today by Ms. Aishwarya Bhati, learned Additional Solicitor General of India, which is taken on record. Ms. Bhati submits that a Committee has been constituted by the State of Rajasthan for finding a solution to unrestricted entry of pilgrims in Sariska Tiger Reserve (for short, 'STR').

2. We find that the Report does not address the issue of disturbances that would be caused in the STR on account of unlimited plying of vehicles in the STR.

3. We, therefore, direct the Members of the Committee and the CEC to sit together and submit a comprehensive report. The same shall be done within a period of three months from today.

4. We expect the Committee and the CEC also to submit an action plan and frame time lines for implementation thereof.

5. List after three months.

[3] I.A No. 191635/2022 IN RE: DELHI RIDGE MATTER

List on 03.04.2024.

[4] INTERLOCUTORY APPLICATION NOS. 85332 AND 85124/2023, 60136 AND 60352/2024 and 64180 AND 64434 OF 2024

1. The present applications pertain to the issue pertaining to Pobitora Wild life Sanctuary (for short, 'Pobitora WLS').

2. I.A. No.85124/2023 has been filed by a resident of Village

Gormur seeking following prayers:-

> **"i. Directing the Respondents to precisely demarcate the boundary of the Pobitora Wild Life Sanctuary as per Notification dated 17.03.1998 without any further delay;**
> **ii. Directing the Respondents to remove all encroachments and ensure that all illegal activities within the Pobitora Wild Life Sanctuary are stopped forthwith;**
> **iii. Directing that the control of the Khas land which forms part of the notified Sanctuary area be handed over to the Forest department;**
> **iv. Directing the Respondents to declare the Eco-sensitive zone area around the Pobitora Wild Life Sanctuary;"**

3. When the I.A. No. 85124/2023 was listed before the Court on 14.02.2024, the Court passed the following order:-

> **"1. Shri Nalin Kohli learned counsel appearing for the State seeks two weeks' time to make a statement as to in how much time the actual demarcation of the boundary of the Pobitora WLS, as per Notification dated 17th March 1998, would be completed.**
> **2. It is really surprising that though the Wildlife Sanctuary was notified in the year 1998, for a period of 25 years even the boundaries are not demarcated.**
> **3. We hope that the State will consider the issue with urgency that it requires. We may put the State on notice that the failure to do so would entail serious consequences.**
> **4. List on 11.03.2024."**

4. Today when the matter is listed, Shri Nalin Kohli, learned counsel appearing on behalf of the State of Assam, has placed before us a decision of the Cabinet of the State of Assam taken on 10.03.2024.

5. A perusal of the said decision would reveal that the Cabinet

has decided to withdraw the notification dated 17.03.1998 declaring Pobitora WLS as a Wildlife Sanctuary. Shri Kohli further submits that this has been done since the Notification dated 17.03.1998 was issued by the Forest Department without consulting other departments like Revenue, etc. It is therefore submitted that since the said Notification was issued without following the procedure, as prescribed in law, the Cabinet has taken the decision to withdraw the same.

6. He further categorically submitted that the State stands by its commitment to continue with Pobitora as a wildlife Sanctuary. However, since the demarcations made earlier, were not done in accordance with the law like determining the rights of the forest dwellers etc., now a Committee has been constituted to consider the issues in detail.

7. Ms. Vibha Dutta Makhija, learned senior counsel appearing on behalf of some of the forest dwellers, submits that unless the rights of the forest dwellers, who have been residing there for a period of more than 100 years, are settled, the declaration of the Sanctuary was not in accordance with law. She submits that the forest dwellers can coexist with the wildlife, and an exercise in that regard was required to be done as per the statutory provisions. She further submits that forest dwellers, who are intervenors in the present matter, are not opposing the Pobitora WLS being continued as a wildlife sanctuary, however, they are interested in protection of their rights.

8. Shri Parameshwar, learned Amicus Curiae and Ms. Shivani Ghosh,

learned counsel appearing on behalf of some of the applicant(s), submit that as a matter of fact in view of Section 20 of the Wild Life (Protection) Act, 1972 (for short, 'the said Act'), after the issue of a notification under Section 18 of the said Act, which, in the present case, was issued in 1998, if any right has been acquired in the areas covered under the notification, such rights will not be legal. Learned Amicus is also not opposing the stand of the State Government in considering the rights of the forest dwellers.

9. We clarify that we are not opposed to the State Government's concern to address the rights of the forest dwellers. Not only that, the Statute itself provides for recognition of such rights, inasmuch as an inquiry under Section 19 of the Act is required to be conducted by the Collector with regard to such rights.

10. Under sub-Section (2)(b) of Section 24 of the said Act, if after settlement of such rights the land is required for the purposes of a Sanctuary, the State would be required to acquire the same. However, under sub-Section (2)(c) of Section 24 of the Act, if the State in consultation with the Chief Wildlife Warden finds that any of the rights of any person in or over any land within the limits of the Sanctuary can be continued, it is empowered to do so.

11. We, therefore, prima facie do not find any conflict between the declaration of area as a Sanctuary and recognition of the rights of the forest dwellers. We appreciate the stand of the State Government that fringe villages of the Pobitora WLS proposed to be notified should be treated as active partners in the wild

life conservation process rather than treating them as adversaries in an insensitive manner.

12. However, at the same time, it appears that the State Government has not noticed the provisions of sub-Section (3) of Section 26A of the Act, which reads thus:-

> **"26A (3) No alteration of the boundaries of a sanctuary shall be made by the State Government except on a recommendation of the National Board."**

13. It is thus clear that even an alteration of the boundaries of the Sanctuaries is not permitted except on the recommendation of the National Board. It is further to be noted that this Court has passed an order on 13.11.2000 (passed in I.A. No.2 in W.P.(C) NO.337/1995) directing that pending further orders no dereservation of forests/sanctuaries/national parks shall be effected.

14. In our considered view, therefore, the State Government was not right in resolving to withdraw the Notification dated 17.03.1998 notifying Pobitora as a Wildlife Sanctuary.

15. We, therefore, direct that no further steps be taken with regard to withdrawal of the Notification dated 17.03.1998 by the State Government. However, we further clarify that if the State proposes to take legal measures for protecting the rights of the forest dwellers, orders passed by this Court would not come in the way of the same.

16. Needless to state that the Statute itself provides for determination of the rights of forest dwellers and the consequential measures thereto. We further find that it will be

appropriate that the State Government files an appropriate counter affidavit in detail. The same shall be done within a period of three weeks.

17. List on 24.04.2024.

[5] INTERLOCUTORY APPLICATION NO. 42944/2019, 146755 AND 146756/2021, 158973, 158975 and 159054 of 2021, 28731, 28732 AND 28905/2022, 41069 AND 41070/2022 and 51917/2022

1. We find that it will be appropriate that the State of Assam and the Karbi Anglong Autonomous Council file their respective affidavits with respect to the issue involved in the present matter.

2. We further request the State of Assam to address the issue with regard to the death of thousands of animals during the monsoon season on account of floods in the Brahmputra river.

3. Four weeks' time is granted for the same.

4. List after four weeks.

[6] INTERLOCUTORY APPLICATION. DIARY NO. 58031/2024 AND INTERLOCUTORY APPLICATION NO. 58032/2024

1. Issue notice, returnable on 03.04.2024.

2. Mr. Saurabh Rajpal, learned counsel, appears and accepts notice on behalf of the State of Rajasthan.

[7] I.A. NO. 19010/2019, I.A. NO. 75982/2019, I.A. NO. 86706/2019, I.A. NO. 90640/2019, I.A. No. 122128 AND 122130/2019, I.A. NO. 129260 AND 129264 of 2019, I.A. NO. 129279/2019, I.A. NOS. 150901 AND 150915/2019

List in the month of April, 2024

[8] IA Nos. 1412 of 2005 in W.P. (C) No. 202 of 1995

1. Learned counsel for the applicant(s) seeks permission to withdraw this application.

2. Permission is granted.

3. Hence, the application is disposed of as withdrawn.

[9] IA No. 117831 of 2019 in IA Nos. 1412 of 2005 in IA No. 1000 of 2023

1. Learned counsel for the applicant(s) seeks liberty to withdraw this application with liberty to approach before the State Level Committee established by the Government of Maharashtra.

2. Permission is granted.

3. Hence, the application is disposed of as withdrawn with liberty as prayed for.

[10] IA Nos. 37666, 37670 and 37679 of 2020 in W.P. (C) No. 202 of 1995

1. Learned counsel for the applicant(s) seeks permission to withdraw these applications with liberty to approach the appropriate Government.

2. Permission is granted.

3. Hence, the applications are disposed of as withdrawn with liberty as prayed for.

[11] IA No. 41723 of 2022

As requested by learned counsel for the State, list on 03.04.2024.

[12] Contempt Petition (C) No. 319 of 2021 in I.A. No. 90182 of 2019 with 66719 of 2021, 140286 of 2023, 197410 of 2023, 197412 of 2023, 186910 of 2022, 52187 of 2023, 197351 of 2023 **and 2665 of 2024.**

1. We request Ms. Aishwarya Bhati, learned Additional Solicitor General and the State of Uttarakhand to take instructions with regard to the elevated road, as approved by the National Board for Wild Life.

2. We clarify that even if such a road is permitted, the under-passes be made in such a way that the movement of Wild Life from one part to the other part of the forest divided by the road should be seamless and maintains the connectivity of the forest.

3. List this application on 03.04.2024.

[13] I.A. Nos. 2930/2010 AND 3963/2017, I.A. No. 160714/2019, I.A. No. 77320/2023 AND I.A. No. 79064/2023

List these applications on 03.04.2024.

[14] IA Nos. 79569 & 79576 of 2019 with IA No. 159670 & 159677/2019, Diary No. 14261 & 14262/2021, IA No. 40599/2023 and 40624/2023 and IA No. 220675 of 2023

1. We direct the Monitoring Committee to file a report as directed by our earlier orders within a period of two weeks from today. If such report is filed, the intervenor(s) to file their objection(s), if any, within two weeks thereafter.

2. We clarify that if the report is not filed within two weeks, as directed, the Collector concerned shall remain personally present before this Court on the next date and show cause as to why

an action should not be taken against him for not complying with the orders passed by this Court.

3. List these applications on 15.04.2024.

(DEEPAK SINGH)
ASST. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)