

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.131 OF 2014
ALONG WITH
CIVIL APPLICATION NO.118 OF 2015

Vanashakti Public Trust & Anr. .. Petitioners

Vs

State of Maharashtra & Anr. .. Respondents

...

Mr. Zaman Ali i/b Abdi & Co. for the Petitioners.

Mr. P.P. Kakade, Government Pleader with Mr. M. M. Pabale,
A.G.P. for Respondent No.1.

Mr. Parag Vyas with Ms. Karuna Yadav for Respondent No.2-
Union of India.

Ms. Purnima Upadhyay, Member of KHOJ – NGO present.

Mr. A.P. Mhase, Dy. Conservator of Forest, present.

**CORAM: PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.**

DATED : 09TH SEPTEMBER, 2019.

P.C:-

1. To give effect to the Forest Rights Act, 2006, the MoEF as the nodal Agency has on 04th January, 2018, promulgated the Guidelines to determine Critical Wildlife Habitats within National

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Parks and Sanctuaries.

2. As per Clause 5 of the Guidelines, an Expert Committee has to be notified to identify Critical Wildlife Habitats in National Park or Sanctuary and as per Clause 6 of the Guidelines, the Expert Committee has to identify the Critical Wildlife Habitats based on scientific and objective criteria. As per Clause 6.2 of the Guidelines, the Expert Committee has to adopt an open process of consultation with the forest rights holders in their local precincts and solicit their views on the proposed notification, meaning thereby, the Expert Committee cannot simply notify areas to be declared as Critical Wildlife Habitats and invite public participation. The scientific and objective criteria proposed to be adopted has to be made known. The reason is obvious. Unless the process by which a decision is proposed to be taken is made known, the persons whose views are solicited would be clueless.

3. Ms. Purnima Upadhyay, a Member of KHOJ, a Non Governmental Organization which works for upliftment of tribals in Melghat region of Amravati is present in the Court and has drawn our attention to the public notices issued concerning Melghat Wildlife Sanctuary. The same simply proposes to notify Critical Wildlife Habitat. The public notices do not even remotely refer to the scientific material and the criteria proposed to be adopted to declare the areas as Critical Wildlife Habitats. Thus, there is merit in her submission that what objections could

be filed. There is merit in the contention that the public participation conceived of becomes meaningless unless it is made known to the public the basis whereon the Committee proposes to act.

4. The learned counsel for the Petitioner has produced for our perusal the consultative paper circulated when the Critical Tiger Habitats and Critical Wildlife Habitats were notified in the State of Karnataka.

5. The consultative papers notified to the inhabitants of the area, crystallized the scientific material gathered and the criteria proposed to be adopted to notify the Critical Wildlife Sanctuary in the State of Karnataka.

6. Thus, while deferring hearing, we direct that the Committee constituted in the State of Maharashtra as per Clause 5 of the Guidelines issued by MoEF to notify the scientific data and the objective criteria which it proposes to adopt before Critical Wildlife Habitats are notified in the State of Maharashtra. The names of the members of the Expert Committee constituted in the State of Maharashtra would also be notified. Thereafter the Expert Committee shall adopt the open process of consultation with the forest rights holders as contemplated by Clause 6.2 of the Guidelines. The decision taken along with the scientific and objective criteria notified with proof of the open process of

consultation with the forest rights holders would be placed before the Court on the next date of hearing.

7. List the matter on 09th December, 2019.

8. The Civil Application No.118 of 2015 is disposed of as infructuous.

(SMT. BHARATI DANGRE, J.)

(CHIEF JUSTICE)