

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Wednesday, the Twenty Ninth day of May Two Thousand Nineteen

PRESENT

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

and

THE HON'BLE MS.JUSTICE P.T.ASHA

WP No.15120 of 2019

and WMP Nos.15106 & 15112 of 2019

G.SUBRAMANIA KOUSHIK [PETITIONER IN ALL THE
PETITIONS]

Vs

1 THE PRINCIPAL SECRETARY [RESPONDENTS IN ALL THE
TO GOVERNMENT OF TAMIL NADU, PETITIONS]
ENVIRONMENT AND FOREST DEPARTMENT,
SECRETARIAT, FORT ST.GEORGE, CHENNAI 600 009.

2 THE DISTRICT COLLECTOR,
THE NILGIRIS DISTRICT,
COLLECTORATE, OOTY 643001.

3 THE COMMISSIONER,
UDHAGAMANDALAM MUNICIPALITY,
OOTY, THE NILGIRIS DISTRICT.

4 THE COMMISSIONER,
COONOOR MUNICIPALITY,
COONOOR, THE NILGIRIS DISTRICT.

5 THE COMMISSIONER,
GUDALUR MUNICIPALITY,
GUDALUR, THE NILGIRIS DISTRICT.

6 THE COMMISSIONER,
KOTAGIRI TOWN PANCHAYATH,
KOTAGIRI, THE NILGIRIS DISTRICT.

7 THE FIELD DIRECTOR,
MUDUMALAI TIGER RESERVE,
MOUNT STUART HILL, OOTY, THE NILGIRIS.

8 THE DISTRICT FOREST OFFICER,
THE NILGIRIS DISTRICT,
MOUNT STUART HILL, OOTY -643001.

Writ Petitions under article 226 of the Constitutions of India praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

(1) issue a Writ of Mandamus directing the respondents 1 to 6 to prevent entry of plastic packaging of any kind and Pet (Polyethylene terephthalate) bottles used for packaging water and soft drinks etc., in to the Nilgiris district by restricting the entry of the same at the district boundary check posts and consequently direct the 1st and 2nd respondents to ensure supply of purified water at all the public places in the The Nilgiris District.(in WP.15120/2019);

(2) To grant interim direction directing the respondents 1 to 6 to prevent entry of plastic packaging of any kind and Pet (Polyethylene terephthalate) bottles used for packaging water and soft drinks etc., in to the Nilgiris district by restricting the entry of the same at the district boundary check posts (in WMP.15106/2019) and

(3) To Interim Direction directing the respondents to undertake the collection of plastic wastes in their jurisdiction and to ensure proper disposal of the same within the stipulated time (in WMP.15122/2019) respectively pending WP.No.15120 of 2019.

Order :These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of MR.T.V.SURESHKUMAR for M/S.GENICON AND ASSOCIATES, Advocate for the petitioner in all the petitions and of MR.M.ELUMALAI GOVT.ADVOCATE on behalf of the Respondents in all the petitions the court made the following order:-

(Order of the Court was made by N.SATHISH KUMAR,J.)

This writ petition has been filed seeking a direction to the respondents 1 to 6 to prevent entry of plastic packaging of any kind and PET (Polyethylene terephthalate) bottles used for packaging water and soft drinks etc., into the Nilgiris District by restricting the entry of the same at the district boundary check posts and consequently direct the respondents 1 and 2 to ensure supply of purified water at all the public places in the Nilgiris District.

2.Though the writ petition requires a detailed introspection and a detailed order, considering the fact that the Division Bench of the Madurai Bench of this Court in W.P.(MD)Nos.7606 of 2017, 13763 of 2016 and 3633 of 2014 and W.M.P.(MD) Nos.10267, 10949 of 2016 and M.P.(MD) No.1 of 2014 has entertained the above writ petitions as they involve serious environmental issues and had passed a detailed order constituting a committee consisting of

Experts from all over India to submit a detailed report suggesting remedial measures including the banning of plastics of any form in order to protect the environment and forests at the Nilgiris, we are inclined to tag this writ petition along with W.P.(MD) Nos.7606 of 2017 etc., batch for a detailed order. However, while doing so and considering the fact that emergent directions have to be issued to conserve the flora and fauna of the Nilgiris, we intend passing certain interim directions.

3. It is to be taken note that the foot fall to the Nilgiris has increased manifold as it is a very important tourist place. However the people visiting the place are indifferent and shows total apathy towards maintaining the pristine beauty of the place. The visitors not only use plastic bottles and consume food packed in plastic wrappers but they also discard the used bottled and wrappers everywhere. A report was published in 'The Hindu' dated 28.05.2019 would indicate that during the current season about three tonnes of plastic bottles were removed on the Coonoor Road alone by 80 volunteers. In view of the above state of affairs we are of the view that urgent interim directions be issued to prevent further damage to the environment and forest.

4.The Division Bench of the Madurai Bench of this Court by its order dated 11.01.2019 made in W.P.(MD) Nos.7606 of 2017 etc., batch has observed as follows:

Prelude:-

"Man is the most insane species. He worships an invisible God and destroys a visible Nature, unaware that this Nature he's destroying is this God he's worshipping."

....Hubert Reeves

1.1.Any invasion by an alien species has its own cascading effect on the environment in general and on the local one in particular. This effect is felt with more rigor than invasion orchestrated by human beings. In such cases, invasive species though mostly get introduced through the human beings go beyond their control destroying every object behind it. This phenomena can be attributed to plants, trees, living beings including humans.

1.2.Not all alien species are invasive. IUCN (2000) defines invasive alien species as "an alien species which becomes established in natural or semi-natural ecosystems or habitat, is an agent of change, and threatens native biological diversity", the consequences can be catastrophic.

1.3.These species are the second largest cause for biodiversity loss in the world and impose high costs to agriculture, forestry and aquatic ecosystems. They are a greater threat to native biodiversity than pollution, harvest, and disease combined.

My Mother is this vast earth - Rig Veda

1.4.The earth has lost 60% of wildlife in biodiversity over the last 50 years. The situation has become bad to worse, threatening the very existence.

1.5.The only possible silver lining is the knowledge and awareness of the folly committed by the humanity, escalated by greed and aided by the need and technology. Article 48-A of the constitution of India emphasises a need to improve the environment and to safeguard the forest and wildlife of the country. Article 51-A(g) of the Constitution of India fixes the responsibility on every citizen to do so as a mandate. This mandate is to be applied on all fours. In Sachidanand Pandey V. State of West Bengal (AIR 1987 Supreme Court 1109), the Apex Court had observed that "Whenever a problem of ecology is brought before the Court, the Court is bound to bear in mind Article 48-A of the constitution. Such sentiment was also expressed by the Andhra Pradesh High Court in T.Damodar Rao V. The Special Officer, Municipal Corporation, Hyderabad, (AIR 1987 Andhrapradesh 171).

"Protection of environment is not only the duty of the citizen but it is the obligation of the state and all other states including Courts."

Therefore, it is not only the duty of the State but every human being and Institution through a tireless endeavour to protect the environment to protect the environment, which otherwise is the protection of mother earth itself.

8.Biological Consideration:

8.1.Sir Thomas Munro, the Governor of Madras Presidency, made this remark on the grassland in the Western Ghats in 1826, "The Hills are as smooth as the lawns in an English Part and there is hardly one of them which has not a mass of dark wood terminating suddenly as if it had been planted." The crime continued from 1820s to 1937. The plantation went in full swing catering to the need of the then British Government.

5. The Nilgiris which in English is called the Blue Mountains is part of the larger mountain chain called the Western Ghats. The forests of the Nilgiris is home to the largest herd of Asian Elephants and is one of the most important Tiger habitats of the country. The region is one of the important hotspot of Bio-diversity being rich in fauna and flora and also home to a number of bird species; besides it is a part of Nilgiris Biosphere consisting of Wyanad, Muthanga Sanctuary situated in Kerala and Bandipur and Nagarvelli situated in Karnataka; besides Nilgiris itself has the distinction of housing two major sanctuaries namely Mudumalai Wild Sanctuary and Mukuruthi National Park surrounded by vast grasslands. The Nilgiris also nurtures the plains in several ways by providing perennial water. Two major rivers namely (Moyar) and Bhavani continuously runs through the forest and assuages the water problems of many Districts of Tamil Nadu. Besides this

Nilgiris, also boasts of the highest contribution to power generation at the lowest cost. Therefore, it is the duty of the Courts to protect such a pristine forest and its environment and preserve it for our future generations. One of the fundamental duties enshrined in the Constitution (Article -51 A) reads as follows:

"(g) To protect and improve the natural environment including forests, lakes, rivers, wildlife and to have compassion for living creatures:"

6. Though such a duty is cast upon every citizen to protect the environment, of late, we have seen that people have become totally unmindful of the importance of preserving our forest cover. One can enter the Nilgiris, from any one of the neighbouring states of Karnataka and Kerala apart from the entry through Tamilnadu. Gone are the days when the people visited Nilgiris only during the summer, nowadays it is a perennial flow of tourists right through the year. Around forty lakhs tourists visit Nilgiris every year and these tourists show scant respect to the environment. Tourists who enter into the Nilgiris by road carry water bottles and soft drink bottles and also liquor bottles. It has been reported that some of these visitors would use the forest clearing as picnic spots and throw the liquor bottles in these areas causing irreparable damage to the animals and plants.

7. Similarly, the plastic water bottles are also thrown along the road side. Right from the entry from Kerala till Ooty, the roads are surrounded by forests. Similarly, right from Karnataka, namely Bandipur till Ooty, the roads are surrounded by National Parks and Reserve Parks. Similarly, the entire route from Mettupalayam to Ooty is surrounded by the Reserve Forests which houses many endangered species like Tiger, elephant etc., and in fact the people unmindful of the importance of the Wild life Sanctuary throw away all the eatables along with the plastic bottles. Such indiscriminate disposal of the waste has not only created an ecological imbalance but also a change in the habits of the animals native to this region. The monkeys commonly known as langurs have become addictive to such food items being thrown which has resulted in many accidental death of these langurs who occupy the road side for these tit bits. Apart from that spotted deers also fall a prey to the food items given by the tourists. The throwing of plastic bottles, packets etc has resulted in the death and injury to several animals.

8. Keeping in mind the above situation and the continued damage being caused to the environment and in order to contain further damage to the environment, we are of the view that the following interim directions are required to be issued immediately and the same has to be implemented keeping in mind Article 48(A) and 51 A (g) of the Indian Constitution.

(i) We direct that at all the entry points into the Nilgiris where forest check posts are available the government of Tamilnadu through the District Collector working in tandem with the Forest Department shall provide adequate man power to check all the tourist vehicles and the other vehicles entering into the Nilgiris and prevent them from carrying plastic water bottles and soft drinks bottles. In case of violation the vehicles owners should be imposed with fines.

(ii) The District Collector shall make arrangements to provide purified potable water to the tourists at reasonable distance at the entry points to the Nilgiris, approximately, at the distance of every 15 Kilometers.

(iii) The District Collector shall ensure that at all the public places RO purified drinking water or potable water should be made available to the tourist and similarly all the Hotels and Restaurants shall be directed to install RO purified drinking water in their premises.

(iv) It is also directed that the District Collector of Coimbatore and the District Collector of Nilgiris shall together co-ordinate and post adequate man power from the concerned Departments to check the vehicle at the two entry points at Mettupalayam and Kothagiri, so that the entry of plastics and carrying of plastics can be checked.

(v) Similarly, the Collector of Nilgiris shall ensure that such water bottles and soft drinks bottles are not brought in from the Kerala side and also from the Karnataka in the vehicles coming from there and also the Collector of Nilgiris should ensure that no plastic water bottles should be sold along the road side abutting the forest area. Similarly throughout the route leading to Ooty, the shops shall not be permitted to keep the plastic water bottles.

(vi) All the shops along the entry points in the Nilgiris should be prohibited from selling water in plastic bottles as also juices and food items packed in plastic wrappers. The District Collector and Forest Officials shall ensure that tourist vehicles do not stop along side the route towards the Nilgiris or in the forest clearing to cook/consume food items. If there is any violation of the above the officials shall forthwith take steps to punish such offenders.

(vii) The District Collector and the State Authorities shall widely publish these directions in all the three States namely, Kerala, Karnataka and Tamilnadu, informing the tourists not to carry any plastic water bottles or plastic covers along with them when they enter the Nilgiris and also highlighting the penalty for vehicles. However they can bring water in reusable containers. In the event of any violation, the vehicles shall not be allowed into

the Nilgiris. Such direction is issued keeping in view of the fact that the ban of plastic water bottles and plastic covers has been successfully implemented in the State of Sikkim, particularly North Sikkim.

(viii)The District Collector is also directed to educate the general public about these directions by giving interviews or advertisement through the print and visual media to bring about awareness among the tourist about the environment damage which is likely to be caused by plastics.

(ix)The District Collector shall also direct all the Municipalities and Panchayats to establish Kiosks at important and crowded places to collect the used plastic bottles and plastic wrappers.

9.In order to protect the environment and eco sensitive places and to prevent further damage, this Court is of the view that such directions are necessary. Though inconvenience may be caused to the seller and manufacturer however their inconvenience cannot be redressed at the cost of the environment. This Court also has a moral obligation to protect the environment for the benefit of the future generation. This Court is therefore of the view that such directions are necessary since the people are totally unmindful of their duty to preserve the environment and the nature.

10.Similarly, the State Government should take adequate steps to implement the above directions with regard to the District of Kodaikanal, since it is also one of the important places which has rich grasslands and shola forests.

11.This Court appeals to the people, for the sake of our future generations, to adhere to the direction of this Court. This Court also believes that the State Government shall extend its fullest cooperation in ensuring that the order of this Court is fully implemented and implemented immediately in letter and spirit.

12.The petitioner is directed to implead all the companies engaged in the manufacture of mineral water and soft drinks in order to fix responsibility on them to recycle or to destroy these used plastic bottles,etc.,

13.This writ petition is directed to be posted along with W.P. (MD)Nos.7606 of 2017 etc., batch and be posted before the same Bench.

A copy of this order shall also be communicated to the Collector of Coimbatore and Nilgiris immediately.

-sd/-
29/05/2019

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

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TO GOVERNMENT OF TAMIL NADU,
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THE NILGIRIS DISTRICT,
MOUNT STUART HILL,
OOTY -643001.

9 THE DISTRICT COLLECTOR,
THE COIMBATORE DISTRICT,
COIMBATORE.

C.C. to M/S.GENICON AND ASSOCIATES Advocate SR.NO. 6830

Order

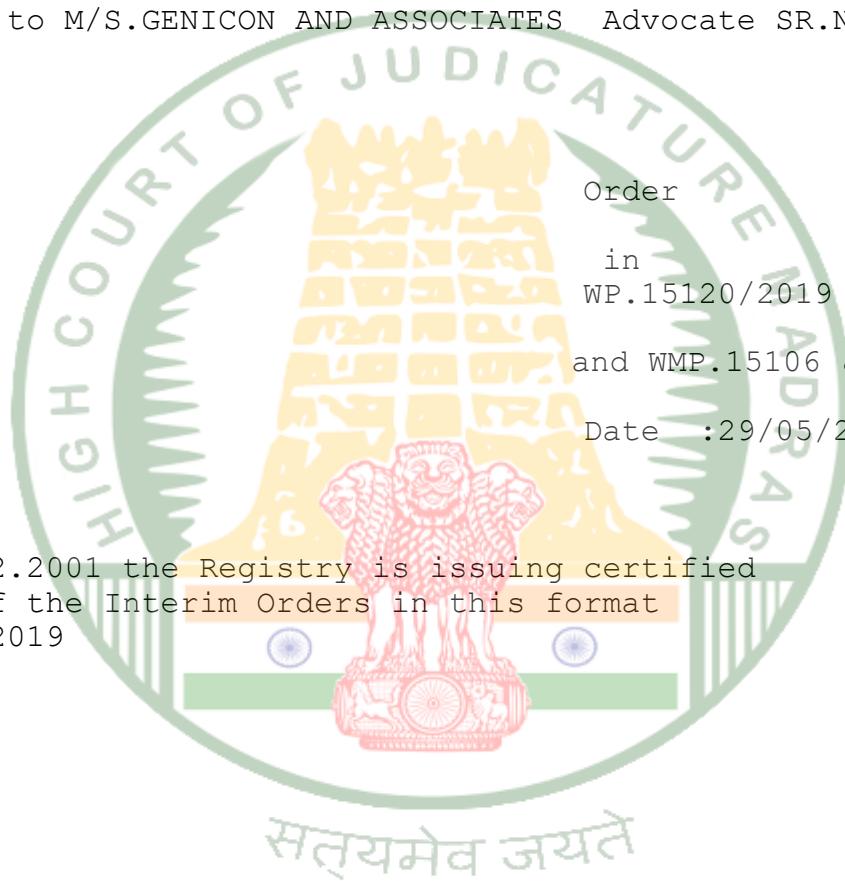
in

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Date :29/05/2019

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