

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Civil Writ Petition No. 546/2016

Chandra Bhal Singh

-----Petitioner

Versus

State Of Raj And Ors

-----Respondent

Connected With

D.B. Civil Writ Petition No. 17036/2015

Abhiyan Peoples Voice

-----Petitioner

Versus

State Of Rajasthan Through Chief Secretary

-----Respondent

D.B. Civil Writ Petition No. 9061/2018

Suo Motu

-----Petitioner

Versus

State Of Raj And Ors

-----Respondent

D.B. Civil Writ Petition No. 12279/2018

Babu Lal Jajoo Son Of Shri Balu Ram Jajoo

-----Petitioner

Versus

Member Secretary National Tiger Conservation Authority

-----Respondent

D.B. Civil Writ Petition No. 22656/2018

Tejmal Meena Son Of Late Shri Bhanwar Lal Meena,

-----Petitioner

Versus

State Of Rajasthan

-----Respondent

D.B. Civil Writ Petition No. 2627/2019

Chandrabhal Singh S/o Shri Chandra Mauleshwar Singh

-----Petitioner

Versus

Union Of India

-----Respondent

D.B. Civil Writ Petition No. 13703/2020

Badri Lal Meena S/o Harphool Meena

-----Petitioner

Versus

State Of Rajasthan

-----Respondent

D.B. Civil Writ Petition No. 3992/2021

Suo Motu

-----Petitioner

Versus

State Of Rajasthan

-----Respondent

D.B. Civil Writ Petition No. 7567/2021

Chandra Bhal Singh S/o Chandramauleshwar Singh

-----Petitioner

Versus

State Of Rajasthan

-----Respondent

For Petitioner(s)	:	Mr. Yash Sharma, Adv. Mr. Pradeep Choudhary, Adv. Mr. Pradeep Mathur, Adv. Mr. Ajay Kumar Jain, Adv.
For Respondent(s)	:	Mr. R.D. Rastogi, ASG with Mr. C.S. Sinha, Adv. Mr. R.P. Singh, AAG with Mr. Hemant Kothari, Adv. Mr. Abhishek Sharma, Amicus Curiae Mr. Anand Kumar, Principal Secretary Revenue, present in person Mr. Shikhar Agrawal, Principal Secretary Forest, present in person Mr. Arindam Tomar, Chief Wildlife Warden, present in person Mr. Suresh Ola, Collector, Sawaimadhopur, present in person Mr. Sunil Bishnoi, SP, Sawaimadhopur, present in person Dr. Deep Narayan Pandey, HOFF, present in person

HON'BLE MR. JUSTICE PRAKASH GUPTA**HON'BLE MR. JUSTICE SAMEER JAIN****Order****20/05/2022**

1. Heard at length. In the background of order dated 19/05/2022, the present matters pertaining to Forests, Wild Life Sanctuaries, Forest Reserves, Tiger Reserves, etc. situated at Ranthambore, Sariska, Nahargarh, Jhalana and other forest reserves qua the illegal mining in the said area and encroachments etc. were directed to be listed.

2. Different matters which were listed before this Court were considered. On perusal of the same, it was reflected that the Forests, Wild Life Sanctuaries, Forest Reserves, Tiger Reserves, etc., in the territorial jurisdiction of this Court, even after issuance of notifications under the respective statutes like Indian Forest Act, 1927, The Wildlife Protection Act, 1972 as a forest reserve or a sanctuary, are not duly entered in the revenue records because of which colonies, hotels, encroachments, industrial areas are mushrooming up in the said areas. There is lack of coordination or a deliberate ignorance on the part of the State Instrumentalities.

3. In one of the writ petitions titled as Abhiyan Peoples Voice Vs. State of Rajasthan (DBCWP-17036/2015), which has been filed as a Public Interest Litigation, it is contended by Mr. AK Jain, learned counsel for the petitioner that the land was declared as forest land under Section 5 of the Jaipur Forest Act, 1939 on 15/10/1947 quantifying 34560 acres of land. On 19/11/1961, 30000 acres of land was declared as forest land under Section 20 of the Rajasthan Forest Act, 1953. On 06/03/2006, directions were issued to the District Collector, Jaipur and the Chief Conservator of Forest, Jaipur to restore back the land in possession of the Forest Department, by 31/03/2006. However,

nothing has been done by the respondents rather illegal colonies have cropped up and 600 bighas of land has been given up to the Vishwakarma Industrial Area, Jaipur which is contrary to the Apex Court Judgment rendered in ***T.N. Godavarman Thirumulkpad Vs. Union of India & Ors.: (1997) 2 SCC 267.***

4. Similarly in another writ petition titled as Babu Lal Jajoo Vs. Member Secretary, National Tiger Conservation Authority (DB Civil Writ Petition No.12279/2018), it is agitated that hotels are established within the periphery of Ranthambore National Park which is contrary to the judgment rendered in ***T.N. Godavarman Thirumulkpad (supra)*** and against the order dated 04/12/2006 of the Apex Court passed in ***Goa Foundation Vs. Union of India (Writ Petition No.460/2004)***. One hotel 'Sher Bagh' has opened its gate within the National Park, Ranthambore encroaching the said area and the entry gate is also opened in the name of 'Bhomiyaji'. It is further alleged that Walkie Talkies are used by the Gypsy drivers as a result there is overcrowding, violation of the guidelines of the Apex Court and even night safaris are carried out. The said reflections are illustrated in the writ petition.

5. In another set of writ petition bearing DB Civil Writ Petition No.13703/2020 (Badri Lal Meena Vs. State of Raj.), it is claimed that there is an illegal transfer of forest land in Sawaimadhopur for non-forest industries to RIICO by the District Collector. In spite of the land being declared as reserved forest land in 1963, the land has not been mutated. The Industrial Department/RIICO have initiated work and allocated budget in the reserved forest. On

16/11/2015, the District Collector, Sawaimadhipur has set apart the said land for industrial use which is not permissible under the Act. The Deputy Conservator of Forest vide his letter dated 25/09/2020 objected to the said action but no heed has been paid. This Court has also granted an interim protection.

6. In another set of writ petition *Suo Motu Vs. State of Raj.& Ors.* (DB Civil Writ Petition No.9061/2018) pertaining to Sariska Sanctuary, it was submitted that there is death of tiger cubs and 103 posts of Forest Guards are required to be created and there has to be reallocation of villagers from the forest land.

7. A very important issue was also raised by Shri Pradeep Chaudhary, Advocate and Shri Prateek Mathur, Advocate in DB Civil Writ Petition No.546/2016 (*Chandra Bhal Singh Vs. State of Raj. & Ors.*) that as required under Section 38V of the Wild Life (Protection) Act, 1972 and in light of judgment of the Hon'ble Apex Court in **Ajay Dubey Vs. National Tiger Conservation Auth. & Ors.** in **(SLP No.21339/2011)**, the guidelines specified vide notification dated 15.10.2012 'Guidelines Tourism in and around Tiger Reserves' are not followed in letter and spirit nor Tiger Conservation Plan (TCP) for the period 2023-34 is forwarded to the Ministry of Environment and Forest ('National Tiger Conservation Authority' in short NTCA) till date.

8. We have considered the aforesaid writ petitions and arguments advanced therein. The present matter has seized us with a grave issue today. It is very sorry state of affairs that the respondents, in spite of notification issued under the respective statutes i.e. the Indian Forest Act, 1927, Wild Life Protection Act,

1972 and other relevant Legislations, the State Authorities have not carried out their duties for the reasons best known to them.

9. The forest land, which is notified for a given purpose and is lung of the State and green belt is exploited, encroached and eaten away due to negligence and malafides of the State Instrumentalities/respondents. Irreparable loss is caused to the State, the direct effect is reflected on the environment.

10. Forests, home to 80% of remaining terrestrial biodiversity, regulate water cycles, maintain soil quality, reduce risks of natural disasters and maintain the temperature of earth. The world loses about 14.5 million hectares of land each year. More changes have happened in the past century than in the previous 2,50,000 years of human history. The earth is constantly in flux. With all the interventions that we have made with the ecosystem, we have entered the age of Anthropocene, a geological epoch, in which the collective activities of human beings have started substantially altering Earth's surface, atmosphere, oceans, etc. having long-lasting and potentially irreversible impact on its systems, environment, processes and biodiversity, and we have managed to do that in the sliver of time that we have been on this earth.

State of Rajasthan, the desert of India, is a region of rolling sand dunes, lofty hills, freezing cold and scorching heat. In the past few decades, due to deforestation, land degradation, urbanization, industrial activities, commercialization of forests, rainfalls have only become scantier, the temperature has risen to 50 degrees centigrade, water tables have depleted, and the wild lives have been endangered. Many areas in Rajasthan have been declared as

dark zones qua the decreasing ground water and in areas where the ground water is available, its deeper than 500 meters, containing arsenic, causing serious health problems and affecting biodiversity.

11. We often forget that "अशक्यं प्रकृतेः ऋते जीवनम्।" - There is no life without nature. There is no Planet B and in the words of Mahatma Gandhi, we have borrowed this planet and natural resources from our future generations lest inherited it. The nature despite of our interventions will still find a way to live and survive but it will be us who will have to face the catastrophic effects of it.

12. In the light of the Apex Court judgments rendered in **M.C. Mehta Vs. Kamal Nath & Ors.: (1997) 1 SCC 388; T.N. Godavarman Thirumulkpad Vs. Union of India & Ors.: (1997) 2 SCC 267** as well as **T.N. Godavarman Thirumulkpad Vs. Union of India & Ors. :(2014) 6 SCC 150**, the Doctrine of Public Trust was enunciated in terms of Articles 21 and 32 of the Constitution of India qua the ecology, natural resources. The Doctrine of Public Trust was founded upon the idea that certain common properties such as reserves, forest areas, wildlife held in the Government Trusteeship, for the free and unimpeded use of general public, should be taken care of. The State is the trustee of all natural resources which are by nature meant for public use and enjoyment. The State should be conscious enough to maintain its forests, preserve their resources and protect the Wild Life which are declared juristic persons and living entity and entitled to Article 21 of the Constitution of India as per various pronouncements of Hon'ble Apex Court.

13. Once there is a breach of a public trust and the notifications of the Government of India qua environment and forest are not adhered to and necessary compliances are not made, it becomes duty of this Court to act as a custodian and to take appropriate measures and also the duty of Government of the State and the Executives concerned that the said job be carried out to preserve the natural resources in their pristine purity so as to enforce the Doctrine of Public Trust.

14. On consideration of the aforesaid facts, it appears that there is slackness and mala-fide approach in carrying out the duties in good faith on the part of the respondents. Industrial areas and activities are actuated on the forest land and permission is granted by the State and its Instrumentalities, activities contrary to the guidelines framed by the Apex Court are carried out in the sanctuaries, reserve forest and areas in and around them and the Collector, Chief Conservator of Forest and related officers are silent. It is only on activation of the Court that they issue directions. This Court is of the opinion that on the next date, appropriate consideration of the facts need to be analyzed and appropriate orders qua the same need to be passed.

15. Under the Public Trust Doctrine, this Court deems it appropriate to direct Shri Shikhar Agarwal, the Principal Secretary, Forest & Environment as well as Shri Anand Kumar, Principal Secretary, Revenue for the State of Rajasthan, who are present in Court in person, to explain the delay in carrying out the duties of recording of forest land in the revenue records, to define the boundaries, to mark physical boundary line.

16. Without prejudice to the action to be taken against the said instrumentalities for the said negligence, malafides and slackness, on assurance of Shri Shikhar Agarwal, the Principal Secretary, Forest & Environment as well as Shri Anand Kumar, Principal Secretary, Revenue for the State of Rajasthan, we are inclined to not pass any orders as on date, and in the light of the assurance given by both of them, that the necessary entries/corrections will be made in the revenue records qua the various forest lands, sanctuaries and reserves in a time bound manner. The assurance on the part of the aforesaid officers is given that by the next date of hearing i.e. 27/07/2022, the revenue records will be updated in accordance with the provisions of the notifications issued under the respective Acts like the Indian Forest Act, 1927 etc. Failing in the aforesaid will be deemed to be acting not in bona-fide manner and appropriate proceedings will be initiated against the erring officers.

17. Shri Suresh Ola, District Collector, Sawaimadhopur, present in person in Court, has also assured that qua the entries in the revenue records, against flouting the terms and guidelines notified on 15/10/2012 and with reference to the judgment rendered by the Apex Court in **Ajay Dubey (supra)** and in terms of 'Guidelines Tourism in and around Tiger Reserve', appropriate directions and orders will be passed in DB Civil Writ Petition No.12279/2018 (Babu Lal Jajoo Vs. Member Secretary, National Tiger Conservation Authority) & DB Civil Writ Petition No.13703/2020 (Badri Lal Meena Vs. State of Raj.).

18. Shri Shikhar Agarwal, Principal Secretary, Forest & Environment has also submitted that the Tiger Conservation Plan for 2022-23 to 2033-34 as per the provisions of Section 38V of the Act of 1972 is under preparation and will be finalized and submitted before the National Tiger Conservation Authority (NTCA) prior to August, 2022. Such plan will be prepared in a most efficient, transparent and careful manner so that the purpose and object of the same is fulfilled and is not an eye-wash.

19. Shri RD Rastogi, learned Additional Solicitor General for the Union of India has assured this Court that upon submission of the said plan (TCP), the same will be considered and if found appropriate, approval will be granted in accordance with law on defined terms and conditions.

20. The Principal Chief Conservator of Forest (HOFF) and also the Chief Wild Life Warden, present in Court, taking cognizance to the news paper reports and for indiscipline in Zypsy Safari, non recording of entry in the different sanctuary and forest reserves have assured that appropriate orders and directions will be issued qua the same. They have also appraised the Court that in the light of indiscipline in Ranthambore Sanctuary and for other forests and sanctuaries certain orders have already been passed on 19.05.2022.

21. This Court, in facts and circumstances, appoints Shri Rajendra Prasad, Senior Advocate and Shri Sunil Samdaria, Advocate to assist the Court as Amicus Curiae and by the next date submit compilation of the related pronouncements of the Apex Court as well as the jurisdictional High Courts on the subject,

apprise the Court about the matters listed, go through the revenue records, the concerned notifications issued under the respect Act, guidelines framed by the Apex Court and assist the Court in passing appropriate orders. In this regard, if they consider and need support of any of the respondents, the same will be duly provided in coordination with the office of the Registrar (Judicial) as well as the Secretary, Rajasthan State Legal Services Authority, Jaipur. We expect the Registrar (Judicial) as well as the Secretary, Rajasthan State Legal Services Authority, Jaipur to provide full assistance and cooperation to the respective Amicus Curiae whenever required.

22. By the next date, it is expected from the Amicus Curiae to submit their response and assistance to the Court in all the connected matters relating to illegal mining, violation of guidelines vis-a-vis wild life, entry of the forest land in the revenue records, illegal encroachments and qua the negligence of the respondents.

23. In addition to above, it is also noteworthy to mention that Shri Abhishek Sharma, who was already appointed as Amicus Curiae in one of the writ petitions will continue to assist the Court in all the connected matters.

24. It is also expected from the Principal Conservator of Forest and Chief Wild Life Warden to act in accordance with Section 28 of the Act of 1972, the guidelines framed by the Apex Court in relation to Wild Life and tourism activities in the surrounding areas and pass appropriate orders as well as to consider the fact that continuation of 'half day safari', 'full day safari' and permission of safari visit in the buffer zone in the prohibited time (for instance

'night safari') is in accordance with the guidelines or not and to discontinue the same if it is not in accordance with the guidelines framed. Otherwise, for the said failure, appropriate action will be initiated on the next date of hearing.

25. In this background, we direct the Chief Secretary, Government of Rajasthan to consider the same, evaluate personally and ensure necessary compliance is made of statutory provisions, guidelines, directions of this court expediently to avoid adverse orders qua the concerned officer's, failing which, necessary explanation shall be called upon by the Court as to any violation.

26. In this background, this Court deems it appropriate to expect from the above authorities, who are present in Court, to carry out the specified orders qua the entry of Forests, Wild Life Sanctuaries, Forest Reserves, Tiger Reserves, etc., as notified, in the revenue records so that no encroachments take place and to preserve them.

27. In the interest of Wild Life, TCP should be submitted with the appropriate competent authority. Appropriate directions be issued by the District Collectors of Sawaimadhopur, Alwar, Jaipur in the light of notification dated 15.10.2012 wherein 'Guidelines for Tourism in and around Forest Reserves' are specified. Appropriate exercises be carried out before the next date of hearing i.e. 27.07.2022.

28. The issue pertaining to illegal mining shall also be dealt with by this court on the next date. Qua the same

29. List these matters on 27.07.2022. Tag along with DB Civil Writ Petition No.3840/2022 filed qua the illegal mining in forest area as prayed by Mr. Ashwani Chobisa, Adv.

30. Names of Mr. Rajendra Prasad, Sr. Adv., Mr. Sunil Samdaria, Adv. and Mr. Abhishek Sharma, Adv. be shown in the case list as Amicus Curiae.

(PRAKASH GUPTA),J

The emblem of the Government of Karnataka is a black and white illustration. It features a central lion standing on a circular base. The lion has a large, ornate mane and is flanked by two smaller lions on either side. The base of the emblem is decorated with a central wheel and two smaller figures on the sides.

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