

Writ Petition(s)(Civil) No(s).230/2001  
M.K. BALAKRISHNAN & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(with appln. (s) for including the applicant in the Committee of Experts and to sanction an amount of Rs.10 crores for National Wetlands Yatra and early hearing and intervention and directions and directions and office report)

Date : 08/02/2017 This petition was called on for hearing today.

CORAM :

HON&#39;BLE MR. JUSTICE MADAN B. LOKUR

HON&#39;BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Gopal Sankaranarayanan, Adv.

Mr. Zeeshan Diwan, Adv.

Dr. Joginder Samal, Adv.

Mr. Naresh Kumar, AOR

Mr. Ravindra Kr. Singh, Adv.

For Respondent(s)/

applicant(s)

UOI Mr. A.K. Panda, Sr. Adv.

Mr. Ajit Kumar Sinha, Sr. Adv.

Mr. A.K. Sanghi, Sr. Adv.

Mr. Wasim A. Qadri, Adv.

Ms. Binu Tamta, Adv.

Mrs. Sunita Sharma, Adv.

Mr. Shalinder Saini, Adv.

Mr. Vibhu Shanker Mishra, Adv.

Mr. Pankaj Pandey, Adv.

Mr. Raj Bahadur, Adv.

Mr. G.S. Makker, Adv.

Mr. B.K. Prasad, Adv.

Mr. Rajesh Mishra, Adv.

Mr. M.K. Maroria, Adv.

Mr. A.K. Kaul, Adv.

Mr. Abhinav Mukerji, Adv.

Mr. Jayant Bhushan, Sr. Adv.

For States of

Andhra Pradesh Mr. Guntur Prabhakar, Adv.

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Ms. Prerna Singh, Adv.

Assam Mr. Shuvodeep Roy, Adv.

Arunachal Pradesh Mr. Anil Shrivastav, AOR

Bihar Mr. Gopal Singh, AOR

Ms. Varsha Poddar, Adv.

Chhattisgarh Mr. A.P. Mayee, Adv.

Mr. A. Selvin Raja, Adv.

Gujarat Ms. Hemantika Wahi, AOR

Ms. Puja Singh, Adv.

Ms. Mamta Singh, Adv.

Haryana Mr. Sanjay Kumar Visen, AOR

H.P. Mr. D.K. Thakur, AAG

Mr. Williams Vinod, Adv.

Mr. Varinder Kumar Sharma, Adv.

Ms. Pragati Neekhara, Adv.

J&K Mr. Sunil Fernandes, AOR

Jharkhand Mr. Tapeshe Kumar Singh, Adv.

Mr. Mohd. Waquas, Adv.

Mr. Aditya Pratap Singh, Adv.

Mr. Sukant Vikram, Adv.

Karnataka Mr. V. N. Raghupathy, AOR

Mr. Prakash Jadhav, Adv.

Mr. Lagnesh Mishra, Adv.

Kerala Mr. G. Prakash, AOR

Mr. Jishnu M.L., Adv.

Mrs. Priyanka Prakash, Adv.  
Mrs. Beena Prakash, Adv.  
Mr. Manu Srinath, Adv.  
M.P. Mr. Purushaindra Kaurav, AAG  
Mr. Mishra Saurabh, AOR  
Mr. Ankit Kr. Lal, Adv.  
Maharashtra Mr. Nishant R. Katneshwarkar, Adv.  
Manipur Mr. Sapam Biswajit Meitei, Adv.  
Ms. B. Khushbansi, Adv.  
Meghalaya Mr. Ranjan Mukherjee, AOR

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Mizoram Mr. Pragyan Sharma, Adv.  
Mr. Shikhar Garg, Adv.  
Mr. Ganesh Bapu, Adv.  
Mr. P. V. Yogeswaran, AOR  
Nagaland Mrs. K. Enatoli Sema, AOR  
Mr. Edward Belho, Adv.  
Mr. Amit Kumar Singh, Adv.  
Mr. K. Luikang Michael, Adv.

Odisha Mr. Sibho Sankar Mishra, AOR  
Mr. Umakant Mishra, Adv.  
Punjab Mr. Sanchar Anand, AAG  
Mr. Apoorv Singhal, Adv.  
Mr. Anant K. Vatsya, Adv.  
Rajasthan Mr. S.S. Shamsheery, AAG  
Mr. Amit Sharma, Adv.  
Mr. Ankit Raj, Adv.  
Mr. Milind Kumar, Adv.  
Sikkim Ms. Aruna Mathur, Adv.  
Mr. Yusuf Khan, Adv.  
Mr. Avneesh Arputham, Adv.  
Ms. Anuradha Arputham, Adv.  
Mr. Amit Arora, Adv.  
for M/s Arputham Aruna & Co.  
Tamil Nadu Mr. B. Balaji, Adv.  
Mr. S. Kumar, Adv.  
Telangana Mr. S. Udaya Kumar Sagar, Adv.  
Mr. Mrityunjai Singh, Adv.  
Tripura Mr. Gopal Singh, AOR  
Mr. Rituraj Biswas, Adv.  
Ms. Varsha Poddar, Adv.  
West Bengal Mr. Joydeep Mazumdar, Adv.  
Mr. Debojyoti Bhattacharya, Adv.  
Mr. Parijat Sinham Adv.  
Puducherry Mr. V. G. Pragasam, AOR  
Mr. S. Prabu Ramasubramani, Adv.  
A&N Islands Mr. Bhupesh Narula, Adv.  
Ms. G. Indira, AOR  
Dr. Monika Gusain, Adv.

Mr. Abhijit Sengupta, AOR

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Mr. Abhishek Chaudhary, AOR  
Mr. Anil Kumar Jha, AOR  
Mr. Anuvrat Sharma, AOR  
Mr. A. Venayagam Balan, AOR

Mr. B. S. Banthia, AOR  
Mr. Khwairakpam Nobin Singh, AOR  
Mr. Kunal Verma, AOR

Mr. Naresh K. Sharma, AOR  
Mr. P. V. Dinesh, AOR

Mr. R. Ayyam Perumal, AOR  
Mr. R. D. Upadhyay, AOR  
Mr. R. Nedumaran, AOR

Mr. S. Chandra Shekhar, AOR  
Mrs. D. Bharathi Reddy, AOR  
Mr. Shiv Sagar Tiwari, AOR

M/s Corporate Law Group (NP)

Ms. Kamini Jaiswal, AOR  
Ms. Sumita Hazarika, AOR  
Ms. Minati Rani, Adv.

UPON hearing the counsel the Court made the following

O R D E R

We have, at length, heard learned counsel for the parties including learned counsel for the Union of India.

An affidavit dated 7<sup>th</sup> February, 2017 filed by the Union of India has been shown to us.

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Annexed to the affidavit is an Office Memorandum issued on 6<sup>th</sup> January, 2017 with reference to the Draft Wetlands (Conservation and Management) Rules, 2016. The Draft Rules were made available to the public for inviting objections/suggestions some time in March, 2016. As many as 175 comments were received. For the examination of these comments, a Committee has been constituted. The Committee was given 45 days to look into the suggestions and submit its report to the Union of India.

We are told orally by learned counsel appearing for the Union of India that perhaps the term of the Committee may need to be extended. This is stated by him on the basis of information received pursuant to a meeting held yesterday, i.e., 7<sup>th</sup> February, 2017 by the said Committee.

Be that as it may, for the reasons given below, we are compelled to direct that the Wetlands (Conservation and Management) Rules, 2016 should be notified on or before 30<sup>th</sup>

June, 2017. We are compelled to issue this direction since the matter has been pending with the Union of India for the last almost a year and there has to be some finality to the publication of the Rules. The comments/suggestions have been given by all stakeholders such as the State Governments including its organizations, individuals and civil society organizations. That being the position, there is obviously a great deal of interest in the Rules being

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formulated and notified. Under these circumstances, there is no justification why the Union of India should not have taken prompt action and constituted the Committee much earlier for the purposes of finalizing the Rules. Finally, the conservation of wetlands is of immense ecological importance.

Learned counsel for the Union of India says that all efforts will be made to ensure compliance with this direction and to ensure that the Rules are notified on or before 30<sup>th</sup>

June, 2017.

We are sure that both the Committee as well as the Union of India will take into consideration the comments and suggestions offered by the State Governments and its organizations, individuals and civil society organizations before taking a final decision.

With regard to the Central Wetlands Regulatory Authority, we are told that its term is expiring on 14<sup>th</sup>

February, 2017. We have been informed by learned counsel for the Union of India that the Central Wetlands Regulatory Authority will be notified on 13 th February,

2017. The Union of India is bound by the statement made by learned counsel for the Union of India, which statement has been made on instructions received by him from an officer of the Ministry of Environment, Forest and Climate Change.

In our order dated 31 st January, 2017, we had required the Union of India to tell us the steps taken to preserve

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the 26 wetlands covered by Ramsar Convention, 1971. The affidavit that has now been filed by the Union of India merely gives the disbursement of amount made by the Union of India from time to time. What specific steps have been taken including how the funds made available have been utilized and what is the impact of those steps have not been adverted to. We must have specific details. We direct the Union of India to file an affidavit within four weeks positively giving required specific details.

Learned counsel for the petitioners has drawn our attention to an additional affidavit filed by the Union of India on or about 9 th

September, 2014. The additional affidavit contains an Information Brochure â- SNational Wetland Inventory & Assessmentâ- \235. This Brochure indicates on page 11 thereof that 2,01,503 wetlands have been mapped at 1:50,000 scale. All these wetlands have an area of more than 2.25 hectares. As a first step, the â- SBrief Documentsâ- with regard to these 2,01,503 wetlands should be obtained by the Union of India from the respective State Governments in terms of Rule 6 of the Wetlands (Conservation and Management) Rules, 2010. We are told that obtaining these â- SBrief Documentsâ- may take some time. We are inclined to grant adequate time for this purpose. The Union of India should follow this up with the State Governments and inform us of the time frame on the next date of hearing.

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The apprehension expressed by learned counsel for the petitioners is that with the passage of time there is a possibility that some of the wetlands may disappear. On a reading of the Information Brochure, this apprehension is not unfounded.

Accordingly, we direct the application of the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to these 2,01,503 wetlands that have been mapped by the Union of India. The Union of India will identify and inventorize all these 2,01,503 wetlands with the assistance of the State Governments and will also communicate our order to the State Governments which will also bind the State Governments to the effect that these identified 2,01,503 wetlands are subject to the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010, that is to say:

â- S (i) reclamation of wetlands;

(ii) setting up of new industries and expansion of existing industries;

(iii) manufacture or handling or storage or disposal of hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 notified vide S.O. No. 966(E), dated the 27th November, 1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms/Genetically engineered organisms or

cells notified vide GSR No. 1037(E), dated the 5th December, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008 notified vide S.O. No. 2265(E), dated the 24th September, 2008;

(iv) solid waste dumping: provided that the existing practices, if any, existed before the commencement of these rules shall be phased out within a period not exceeding six months from the date of commencement of these rules;

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(v) discharge of untreated wastes and effluents from industries, cities or towns and other human settlements: provided that the practices, if any, existed before the commencement of these rules shall be phased out within a period not exceeding one year from the date of commencement of these rules;

(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;

(vii) any other activity likely to have an adverse impact on the ecosystem of the wetland to be specified in writing by the Authority constituted in accordance with these rules.â- \235

Learned counsel for the Union of India has shown us a chart of proposals/brief documents that have already been received by the Union of India under Rule 6 of the Wetlands (Conservation and Management) Rules, 2010. The total number of wetlands covered in this document are 1683. Many of these proposals/brief documents received by the Union of India contain deficiencies which have already been identified in the document handed over to us.

The Central Wetland Regulatory Authority will take up the rectification of deficiencies with the State Governments with promptitude and ensure that all these deficiencies are removed and complete proposals/brief documents are furnished within the next about one month so that the Central Wetland Regulatory Authority is in a position to take a final decision with regard to these 1683 wetlands and their notification, if required, on or before 31 st March, 2017.

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List the matter on 3 rd April, 2017.

(SANJAY KUMAR-I)  
AR-CUM-PS

(JASWINDER KAUR)  
COURT MASTER