

ITEM NO.1

COURT NO.5

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 230/2001

M.K. BALAKRISHNAN &amp; ORS.

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

Date : 16-08-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE DEEPAK GUPTA

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Mr. Naresh Kumar, AOR

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

We have heard learned counsel for the parties as well as learned Additional Solicitor General.

Our dissatisfaction as recorded in the order dated 13<sup>th</sup> of July, 2017 continues and has now transformed into disappointment due to governmental apathy.

As far as the Wetlands Rules are concerned, an assurance is given to us by learned Additional Solicitor General that these will be finalized and notified on or before 30<sup>th</sup> September, 2017. We take the assurance of the learned Additional Solicitor General on record.

As far as the constitution of the Central Wetlands Regulatory Authority is concerned, we have seen the notification issued by the Government of India. The notification indicates that there are four experts who are constant members of the Authority for the next three years. The remaining eight members can change and theoretically it is possible that in every meeting a different combination may participate. This is hardly conducive to an effective functioning of the Regulatory Authority.

It would be appropriate, as suggested by learned counsel for the petitioners, that the concerned officers be named so that there is continuity in the composition

of the Regulatory Authority without any frequent change in the participation.

Learned Additional Solicitor General says that he would like to take instructions in this regard and see to what extent the suggestion of learned counsel for the petitioners can and should be complied with.

With regard to the steps taken to preserve the Ramsar sites and the accounts of funds, we had clearly mentioned in our order dated 8<sup>th</sup> February, 2017 followed by the order dated 3<sup>rd</sup> April, 2017 that we would like to know the specific steps taken with regard to the funds made available, their utilization and impact of the utilization of those funds.

We had noted in our order dated 3<sup>rd</sup> April, 2017 that the amount spent seems to be to the extent of Rs.945.95 crores. This is a huge amount and unless there is proper utilization of this amount with audited accounts, it will not serve any purpose.

Learned Additional Solicitor General informs us that despite several letters having been written to the various State Governments there is no effective response from most of the States except perhaps from two States.

This is an extremely unfortunate situation and a matter of concern for preservation of wetlands which are absolutely necessary for the preservation of the environment and water resources as well.

At the instance of learned counsel for the

petitioners as well as learned Additional Solicitor General, we direct the Chief Secretaries of all the States to look into the entire issue and inform the Secretary in the Ministry of Environment, Forests and Climate Change the amount that has been received by the State Government towards wetlands preservation till date along with audit reports and indicate the impact of the expenditure incurred. We expect this to be done by all the Chief Secretaries within a period of four weeks from today failing which we will have no option but to require the presence of the concerned Chief Secretary given the seriousness of the issue that has been raised both by learned counsel for the petitioners as well as by the learned Additional Solicitor General.

With regard to the furnishing of brief documents as well as rectification of deficiencies in the brief documents and protection of the wetlands under Rule 4 of the existing Wetlands Rules, we have been informed by learned Additional Solicitor General that there is no effective response from the State Governments.

We have already expressed our dissatisfaction and now our disappointment at the lack of interest shown by the State Governments in this regard, particularly when it concerns the environment and preservation of water resources in the country. We, therefore, require the Chief Secretary of each State to comply with all the requirements of the Ministry of Environment, Forests and

Climate Change and to furnish all necessary information. Information is required with regard to the brief documents, removal of deficiencies in the brief documents as well as identification of wetlands in the State.

We need not emphasise again and again about the importance of the wetlands for the purposes of the environment and for the purposes of conserving and preserving water resources of the country. We expect the Chief Secretaries to comply with this direction within a period of four weeks from today.

We had already by our order dated 3<sup>rd</sup> April, 2017 requested the Chief Justices of 15 High Courts to look into the matter of maintenance of Ramsar sites. We have received no intimation whether the documents have been furnished by the Registry of this Court and whether they have been received by the concerned High Courts and whether a public interest litigation has been registered on receipt of the documents.

We require the Secretary General of this Court to coordinate with the Registrar General of the concerned High Courts and let us have the information on or before the next date of hearing.

We have been informed by the learned Additional Solicitor General that the Space Application Centre in Ahmedabad has some time in 2010-2011 identified 1,75,740 wetlands (area greater than 2.25 hectares) excluding rivers/streams which are about 25,763. About six or

seven years have gone by since then. Given the state of affairs, we will not at all be surprised to know that many of the identified wetlands have disappeared or shrunk.

We require the learned Additional Solicitor General to take instructions from the Space Application Centre, Ahmedabad and inform us how much time it will take to ascertain whether and how many of the 1,75,740 wetlands exist today. We are not presently concerned with shrinkage of the wetlands but we are certainly concerned with the existence of wetlands and whether they have disappeared or not. Necessary information will be provided by learned Additional Solicitor General within four weeks from today.

We expect the Chief Secretaries of the State Governments to cooperate with the Secretary in the Ministry of Environment, Forests and Climate Change as well as the Government of India in providing the requisite information and data.

List the matter on 4<sup>th</sup> October, 2017.

Liberty is granted to learned Additional Solicitor General to file additional documents/affidavit.

(SANJAY KUMAR-I)  
AR-CUM-PS

(MADHU NARULA)  
COURT MASTER