
(2018) 08 UK CK 0024

In the Uttarakhand High Court

Case No : Writ Petition (PIL) No.6 of 2012

Himalayan Yuva Gramin Vikas Sanstha

APPELLANT

Vs

State of Uttarakhand and others

RESPONDENT

Date of Decision : 02-08-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 197
Forest Act, 1927 — Section 20

Citation : (2018) 08 UK CK 0024

Hon'ble Judges : RAJIV SHARMA, J; LOK PAL SINGH, J

Bench : Division Bench

Advocate : C.K. Sharma, Rakesh Thapliyal, J.P. Joshi, Sushil Vashistha, D. Barthwal, Vipul Sharma, Jyoce Irwin

Final Decision : List this case on 03.08.2018 at 04:00 PM

Judgement

RAJIV SHARMA, J. (ORAL)

LOK PAL SINGH, J.

(Modification Applications 9969/18 and 9971/18)

1. Mr. Vipul Sharma, Advocate, for the applicant has argued that the concerned Divisional Forest Officer is not taking into consideration the Main

Stream Policy.

2. By order dated 1.8.2018, learned Additional Advocate General, appearing on behalf of the State Government, was directed to seek instructions

whether the Main Stream Policy is in existence or not.

3. It was submitted by learned Additional A.G. that the concerned area falls within the Reserved Forest u/s 20 of the Forest Act, 1927. The letter

dated 20.3.1948 was only administrative in nature. It has lost its efficacy after

declaring the concerned area as "Reserved Forest".

4. The Villagers of Dhikuli, Laduvaro and Laduwachaur Villages, through their Presidents, filed an appeal before the Collector, Nainital for

demarcation by way of Appeal No.51/75 Year 2007-08. It was dismissed by the Collector, Nainital on 9.7.2012, though its review is pending.

5. Accordingly, there is no merit in these modification applications and the same are hereby dismissed. The Court cannot direct the statutory authority

to act in a particular manner.

6. This Court on 12.3.2013 had directed the State Government to file the affidavit indicating therein as to what checks and balances it has installed for

the purpose of ensuring identity of each and every people either residing, or entering Corbett Park and the purposes thereof.

7. The State Government has filed the affidavit. It was permitted to be taken on record on 26.6.2013. It was stated in the affidavit that from Laal

Dhang Village, 111 families have been shifted. The Court had ordered the State Government to notify the land belonging to 111 families who had been

shifted as forest land and part of Corbett Park. The then Advocate General apprised the Court that there were 181 Gujjar families, comprising of

574 members, residing within Corbett Park. He also informed that the steps were being taken to verify whether, in fact, they

were Gujjars or not and, accordingly, directions were issued for issuance of bio metric cards for each of them. The task was given to the District

Magistrate, Pauri. Learned Advocate General also informed that appropriate land, to shift those Gujjars, has been identified beyond Rajaji Park and

necessary steps will be taken. The Court directed the Principal Secretary, Forests, Government of Uttarakhand to file a report that that the work

pertaining to identification of the Gujjars, residing within Corbett, be completed and Van Gujjars be shifted out of Corbett.

8. The status report was filed by the Additional Secretary on 29.4.2014 which is at page no.971 of the paper book. It is stated in the report that 181

Gujjar families were residing within Sonanandi Wildlife Sanctuary of Corbett Tiger Reserve, 160 hectare of land in Sabalgarh compartment no.8A has

been identified and relocation order was issued on 28.3.2013. 157 families were found to be currently residing in the forest area who were eligible for

relocation to the new area. The D.M., Pauri Garhwal has informed that the

process of issuance of biometric cards has been temporarily withdrawn by the authorized agency w.e.f. 18.12.2013 due to administrative reasons. The Conservator of Forests, Shiwalik has created a special unit consisting of a Range Officer, a Forester and Two Forest Guards on 14.8.2013 to expedite the relocation activities. A sum of Rs.95.10 lakh was transferred to Haridwar Forest Division on 10.3.2014 to undertake the development activities. A sum of Rs.35.00 lakh was sanctioned for 2014-15.

9. Learned Additional Advocate General today submitted before the Court that 57 families of Van Gujjars are still residing in the Corbett area. These families are required to be shifted/relocated away from National Parks including Jim Corbett and Rajaji National Park at the earliest.

10. Mr. D. Barthwal, appearing for Gram Panchayat, Dhikuli submits that Van Gujjars are running commercial dairies by keeping thousands of buffaloes inside the Jim Corbett National Park. They are conniving with the poachers to kill the tigers. The state of art technology is required to be installed to keep an eye on the poachers.

11. Mr. Rakesh Thapliyal, Advocate who has filed the application CLMA 8119/2012 stating that Van Gujjars are not being shifted/ relocated. The cases filed against the poachers are not being decided expeditiously. The criminal tribes i.e. Gopi, Balko Babariya and Gama are active in these areas and with the connivance of Van Gujjars, they are poaching wild animals from national parks.

12. Mr. Barthwal has brought to the notice of the Court that the Special Task Force has not been constituted. He has drawn the attention of the Court to earlier order dated 15.5.2014 passed by this Court in WPPIL No.34 of 2013 (Gauri Maulekhi v. Govt. of Uttarakhand). Paragraph nos.2 and 3 of the order reads as under: -

â??2. Our attention has been drawn to the notice dated 13th May, 2014, by which a Special Tiger Protection Force has been constituted. It has been brought on record by the State that the Special Tiger Protection Force has been granted protection under Section 197 of the Code of Criminal Procedure by Notification dated 13th May, 2014. The said Notification has also been brought to our notice. We request the State Government to recruit the members of the said Force to the extent permissible as quickly as possible and to deploy them in Corbett for protection of Corbett. The

learned Advocate General has submitted, which submission has been accepted on behalf of the Corbett administration, that appropriate funds have

been allocated to enable Corbett administration to purchase guns and other ammunitions for the purpose of providing the same to the forest keepers.

3. This Interest Litigation has raised many a questions and, accordingly, many a pleadings have been filed by the stakeholders from time to time. We

have dealt with them. It has come to our notice that there is an Intelligence Wing to assist prevention of animal poaching in the State; but it is claimed

and contended that the said Wing is ill-equipped to handle the matter. It appears that the person, who is In-charge of the said Wing, has written a letter

to the Principal Chief Conservator of Forests requesting him to take certain steps. According to the learned Advocate General, the steps for which

request has been made are to be taken by the person making the request. We think, this is a matter, which can be best sorted out if the same is

brought to the notice of Honâ??ble the Chief Minister of the State. We, accordingly, request the Principal Secretary, Forest, to prepare an

appropriate note for consideration of Honâ??ble the Chief Minister. We further request Honâ??ble the Chief Minister to take a decision on the

note, to be so prepared, after making such inquiry as he may deem fit and proper and, preferably, also after hearing those two officers of the State.

We hope that, with the intervention of Honâ??ble the Chief Minister, the State will be afloat with many a contemporary good ideas, implementation

whereof will eradicate poaching.

13. It is thus, evident that though the Special Tiger Protection Force has been constituted on 13.5.2014 but till date, it has not been made functional.

14. Learned Additional A.G. for the State submits that initially the proposal was mooted to constitute the Special Tiger Protection Force by resorting to

direct recruitment, however, thereafter, there was a change in the policy and it was decided to deploy the P.A.C. as Special Tiger Protection Force.

15. It is unfortunate that though the Special Tiger Protection Force has been constituted on 13.5.2014 but till date, it has not been made functional.

This year alone, more than 9 tigers have died in the State and number of elephants have died due to railway accidents and electrocution. The State

cannot be a mute spectator. It is an alarming situation. Remedial measures are required to be taken at the earliest to save the wildlife from poachers

and also to relocate/shift the Van Gujjars from the forest areas. It is also the need of the hour that the criminal tribes are kept at bay from the vicinity of national parks to protect the wildlife.

16. Accordingly, the Chief Secretary to the State of Uttarakhand is directed to file supplementary affidavit on the following points by tomorrow:-

A. How many Van Gujjar families are still residing in National Parks including Jim Corbett National Park in the State of Uttarkhand and how soon

they would be evicted from the National Parks, Reserved Forests and Protected Forests?

B. How soon the Special Tiger Protection Force will become functional to save the tigers living in National Parks of the State including Jim Corbett

National Park?

C. Whether the cases filed against the poachers under the relevant provisions of Wildlife Protection Act, 1972 have been decided by the Forest

Officers. Along with the same, the year-wise details of the pending cases and their respective stage in a tabular form be also supplied.

D. What effective and meaningful steps have been taken to keep at bay the gangs of Gopi, Balko Babariya and Gama Gujjars from the National Parks

of the State including Jim Corbett National Park?

E. Whether any policy has been framed to save the wild animals from electrocution and their deaths on railway tracks?

F. The Chief Secretary shall also supply the number of FIRs registered against the persons who have encroached upon the forest land.

17. These directions have been issued to the Chief Secretary to the State of Uttarakhand taking into consideration the alarming rate of death of tigers

in the Jim Corbett National Park and other National Parks in the State.

18. The State Government should also open sufficient number of Rescue Centers inside and outside the National Parks including Jim Corbett National

Park to treat the injured, sick and maim animals by deploying sufficient number of Veterinary Doctors and Paramedical staff.

19. It is made clear that if no categorical assurance for the deployment of the Special Tiger Protection Force is given, we may be constrained to

request the Ministry of Defence through Secretary (Defence), Govt. of India to deploy the Eco-Task Force to protect the Tigers.

20. List this case on 03.08.2018 at 04:00 PM.

21. Petitioner is directed to file the correct memo of parties to avoid confusion. The applicant/petitioner is also directed to ensure that the corrections

be carried out in memo of parties by retaining only one of the respondents. In other words, the respondents, who have been wrongly added twice, one

name may be deleted.

22. Let a certified copy of this order be issued to learned counsel for the parties, today itself, on payment of usual charges.