

(2019) 05 KAR CK 0014

In the Karnataka High Court

Case No : Writ Petition No. 54849 Of 2017 (GM-RES)

K.A.Ravi Chengappa

APPELLANT

Vs

Deputy Commissioner

RESPONDENT

Date of Decision : 31-05-2019

Acts Referred:

Rajasthan Forest Act, 1953 — Section 29(3)

Constitution Of India, 1950 — Article 14, 19, 21, 48A, 51A, 51A(g)

Citation : (2019) 05 KAR CK 0014

Hon'ble Judges : B. Veerappa, J

Bench : Single Bench

Advocate : H.Pavan Chandra Shetty, H.C.Kavitha

Final Decision : Disposed Off

Judgement

1. The present writ petition is filed by the Prl.Convener, Kaveri Sene (R) (` Seneâ?? for short) for issuance of writ of mandamus to direct the first respondent-authority to consider the petitionerâ??s representation made on 6.3.2017 as per Annexure-A and direct the authorities to constitute a separate Task Force especially in the petitionerâ??s District to save the forest, its wild animals and birds from the fire.

Â I GRIEVANCE OF THE PETITIONER

2. It is the main grievance of the petitioner that, during the year 2017, in the month of February, an untoward incident and forest accident had taken place because of fire wherein, more than 10,000 acres of land got fire and damaged the forest environment and also thousands of creatures lost their life because of fire. The daily regional Kannada newspapers and English newspapers published detailed article in respect of the above incident on 4.3.2017.

II FACTS OF THE CASE

3. It is the specific case of the petitioner that, he is the permanent resident of Madikeri Taluk, Kodagu District. He is an agriculturist by profession. To

protect Kodagu District, he organized an association called as `Kaveri Seneâ?? to actively participate and to protect the Kodagu District from the

illegal activities of land grabbers, forest looters, wild animals and bird hunters. It is stated that, the said Kaveri Sene is registered under the provisions

of the Karnataka Societies Registration Act, 1960 with the objects of educating people, preserving conducive, clean and transparent Governments,

responsible citizenship, preservation of culture, custom and tradition, harmonies co-existence and protecting Government lands etc. It is stated that

Sene is involved in many moments in perpetuation of its objective in the form of mass education, agitations to draw the attention of the concerned

authorities of the State by preferring the public interest litigations.

4. It is further contended that, in the recent years, fires have taken place in Kodagu District which has spread throughout Kodagu District. Because of

this impact, several numbers of forest, varieties of trees, wildlife, wild animals and birds lost their valuable lives in the fire. The same has been

continuously affected to the forest in the petitionerâ??s District and petitioner repeatedly approached respondent-competent authorities for taking

necessary action to protect forest and wildlife from the fire. But, unfortunately the competent authorities as well as present respondents have not

shown any interest to save the forests from the fire.

5. It is submitted that the petitioner strongly believed that some miscreants are intentionally setting fire to forest from many years in between the

months of January to June and the same is happening for the last five to six years continuously and due to the impact, hectares of forest land suffered

from fire accident. Therefore, petitioner repeatedly approached competent authorities like Chief Conservator of Forest, Government of Karnataka,

Aranya Bhavan, Malleswaram, Bengaluru, Deputy Conservator of Forest, Kodagu District and District Fire Department to save the forest from fire

and at the same time, petitioner has serious doubt about the forest fire as stated supra. It is also apprehended that there may be timber mafia.

6. It is further contended that, during the year 2017 in the months of February and March, huge forest fire had taken place at petitionerâ??s District.

Because of this impact at Kushalnagar and Suntikoppa about 150 acres of forest area gutted in fire that erupted in Anekadu reserve forest in the north

Kodagu District, the fire, which was noticed in Arthur forest area subsequently because of spread of fire. The respondents being highest competent

authorities and 1st respondent being the Head of the District have not taken proper care to protect and save the forest. Since recent years incidents of

forest fire are very frequent. Therefore, Government of India decided to consider certain parts of the Kodagu District as "Eco Sensitive Zone".

Therefore, petitioner made representation to the 2nd respondent authority as per Annexure-A for patrolling unit such as High way patrolling unit of

Police Department and sought for separate name and style of "Task Force". Though the incidents have been widely published in the

newspapers, the respondents, being the responsible authorities, have not taken any steps. Therefore, the petitioner is before this Court for the reliefs

sought for.

III STATEMENT OF OBJECTIONS BY THE RESPONDENTS-STATE

7. The State Government has filed statement of objections stating that Department of Forest and its Staff are regularly watching and monitoring the

forest fire each year; the Government prepares a comprehensive fire prevention/ Management Plan for every year as per Annexure-R1. It is further

contended that, the Forest Department adopts both conventional and modern techniques to prevent the forest fire and the said forest fire management

plan prepared with the prime intention of preventing occurrence of forest fire in Reserve Forest and other classified forest areas in Madikeri Division

during the year 2018-19 fire season and the main goal is to achieve "Zero Fire" in the forest of the Division. It is stated that the Forest Survey of

India, a Government of India Organization located at Dehradun is equipped with the fire alert system to recognize the fire occurrence, anywhere

throughout the nation. In the alert system, irrespective of designation of the officers, when the forest fire occurs in the forest areas of his/her

jurisdiction with GPS readings of latitude and longitude, it helps the officers/staff to immediately recognize the fire occurrence in his/her jurisdiction

and action will be taken by rushing to the spot with no loss of time.

8. It is further stated that, Department of Forest has initiated precautionary measures by keeping the source of fire or source of ignition separated from

combustible and inflammable material among other things. The Department also maintains existing fire line and also creates additional fire lines for the better protection of the forest from the forest fire. The Department has also constructed Watch Towers and appointed Fire Watchers only for the purpose of watching and preventing Forest Fire. It has also involved local villagers and formed various Committees to assist the Karnataka Forest Department in preventing forest fire.

9. It is further stated in the statement of objections that the Government has taken all precautionary measures to implement all the directions issued by this Court time and again and also the Apex Court in the case of T.N.Godavarman Tirumalpad vs. Union of India with full dedication/force. The respondents have specifically denied the assertion of the petitioner that Timber Mafia is behind forest fire and the respondents are not taking any effective steps to control the fire in Kodagu Region.

IV. ADDITIONAL STATEMENT OF OBJECTIONS BY THE RESPONDENT-STATE

10. The State has also filed additional statement of objections on 13.3.2019 stating that, there are around thirteen territorial forest circles, two wildlife circles for 'Project Tiger', Mysore. There are forty territorial divisions and six wildlife divisions in Karnataka. All the high risk Forest Fire Zones have been identified and no visitors are allowed inside the Reserve Forests and Sanctuaries during fire seasons. The Department has prepared Forest Fire Risk zones, Maps have been prepared for all the Divisions/Districts and incorporated in the comprehensive Forest Fire Disaster Management Plan produced as Annexure-R2. The action plans have been prepared for each of the Divisions from this year 2017-18 which includes two components i.e.

(a) Publicity and Advertisement and b) Training of Staff by Fire Force Personnel. The publicity and advertisement regarding the cause of fires, the damage that fire etc., are taken up. Media, including social media, cable TV, Cinema Theatres and places where people gather in large numbers have been used to educate the ill-effects of forest fires. Under component (b), training in the fire fighting and the do's and don'ts in case of fire incidences are taught to forest personnel/local villagers.

11. It is further averred that Additional Principal Chief Conservator of Forests (Forest Resource Management) at Aranya Bhavan, Bengaluru, has

been designated for monitoring forest fires in the State. In addition to this, the Information and Communications Technology (ICT) Wing in Bengaluru

in the office of the Principal Chief Conservator of Forest (Head of Forest Force), monitors and communicates the information of fire incidences

received from NRSC, Forest Survey of India (FSI) and other sources to the field officers down upto the Beat Guard level. It is stated that, Forest Fire

Master Control Room (MCR) has been established in the headquarters of each Forest Divisions as well as Range Offices of the Karnataka Forest

Department. The MCR of each Forest Division has information of the Forest Fire Danger Rating System to forecast the chances of forest fire and

focus on the vulnerable areas based upon historical information of forest fires. It is specifically submitted that, a toll free number 1926 operating 24x7

to receive any messages regarding forest fires and other forest related issues from the public and communicate the same to the concerned field

officers for further action. This system was introduced from the year 2018-19. The wireless network of the Department covers almost all parts of the

State including the parts which do not fall under the Range of Mobile Phones.

12. It is further averred in the additional statement of objection by the State that, the Forest Department is supported by Satellite Based Informatin

System. Forest fire is one of the natural calamities classified under Disaster Management Act, 2005. National Remote Sensing Centre (NRSC,

Hyderabad) gets fire alerts from the satellites which are in turn consumed by FSI on their serves and in turn sent to Department in every two hours

duration, on a near real time basis. The location is processed by FSI to eliminate anomalies caused by agricultural and industrial activities. Forest

boundaries are used to extract forest fire location to send alerts. The GPS location of the spot of fire is transmitted to all jurisdictional officers up to

Beat level by way of short message service (SMS). Information about forest fires is taken from satellites as well as fire watchers and from fire

protection camps.

The details of fire spots are called Hot spots which are communicated to all jurisdictional staff up to the Beat Level. The Department has also taken

steps to fill water bodies for having the benefit of water at hand to douse the forest fire in the fire season. Since during summer forest fires are

common and water availability will be less, series of small ponds and tanks have

been built in the forest areas.

13. It is further stated that, around 100 Rapid Response Teams headed by respective Range Forest Officers assisted by Deputy Range Forest

Officers and Forest Guards along with four temporary Fires Watchers. Watch towers are strategically constructed on the Hill tops which are

connected with wireless system throughout the forest area in Kodagu Circle. Fire watchers are established in Coorg District alone. It is further

contended that Forest Fire Prevention methods have been adopted, both conventional and modern techniques to prevent the forest fire. The

Department is also equipped with motorized jet sprayers mounted on vehicles blowers, billhooks etc. They have also produced the Forest Fire

Prevention and Mitigation Plan for the year 2018-19 for the District of Coorg as Annexure-R3 to the objection statement. Therefore, respondents

have sought to dismiss the petition.

V REJOINDER BY THE PETITIONER

14. The petitioner has filed rejoinder to the said objection statement filed by the respondents. The petitioner contends that in the entire case, his

specific prayer is to appoint or constitute task force but, the objection statement is silent on this aspect. If permanent employees are appointed in the

Task force, it is more helpful than temporary contract basis employees. The petitioner has also sought for a direction to the respondents through

counter stating that respondent authorities may be directed to constitute permanent Task Force by appointing permanent employment to the said force

identically how Industrial Security Force constituted to the Industries and IT buildings by the State Government by forming separate Task Force.

Hence, sought for allowing the writ petition.

VI ARGUMENTS ADVANCED BY THE LEARNED COUNSEL FOR THE PETITIONER

15. I have heard the learned Counsel for the parties to the lis.

16. Sri. H. Pavana Chandrashetty the learned counsel for the petitioner reiterating the grounds urged in the writ petition along with enclosures

produced, contended that, though repeated fire accidents have occurred in the Kodagu District, inspite of repeated representations made through

petitioner-Sena, the State Government has not opened its eyes to take preventive measures. Therefore, the petitioner had to approach this Court with

the present writ petition.

17. He further contended that, it is the duty and constitutional obligation on the part of the respondents to prevent fire accidents and to protect the

environment, flora and fauna and to maintain existence of animals and birds. The State Government has not taken any action with the spirit of

implementation of Article 48A of the Constitution of India. He further contends that inspite of direction issued by the dictum of the Honâ??ble

Supreme Court in T.N.Godavarmanâ??s case referred to supra, the State Government has not taken any effective measures to prevent fire and

protect forest environment and ecology. Therefore, he sought to allow the writ petition.

VII ARGUMENTS ADVANCED BY THE LEARNED HCGP FOR STATE

18. Per contra, Smt.H.C.Kavitha, learned HCGP while supporting the statement of objections contended that all possible measures have been taken

by the State Government as more fully described in the statement of objections by introducing Madikeri Wildlife Protection Plan in year 2018-19. The

Forest Department has also prepared Forest fire Disaster Management Plan produced at Annexure-R2 and also Forest Fire Prevention and Mitigation

Plan for the year 2018-19 as per Annexure-R3 and taken all possible steps to prevent such repeated occurrences to protect the forest fire including

the wildlife. Therefore, she sought for dismissal of the writ petition.

VIII CONSIDERATION

19. Having heard the learned counsel for the parties, the specific contention of the petitioner who is a Convener of Kaveri Sene, Kodagu registered

under the Societies Registration Act is that, the State Government has not taken steps to prevent the fire and to protect the wildlife. The State

Government has filed statement of objection along with Annexures R1 to R3 by denying the averments made in the writ petition and contended that

the State Government has already taken all possible measures to prevent fire accidents in the forest areas.

20. This Court would appreciate the concern of the petitioner about the nature and environment, forest wealth including wildlife, birds etc. When the

petitioner or a similarly placed person brings to the notice of the Forest Officer/s of the Department or any local authority including the Tahsildar about

the occurrence of forest fire, it is the duty of every responsible officer of the

State to prevent the forest fire and to take immediate action to protect the forest nature and wildlife.

21. It is also not in dispute that the existence and sustenance of humanbeings is because of nature. If the nature is destroyed because of ambitious greed of one's own personal interest by encroaching forest lands and water bodies disturbing biodiversity, environment and ecology, definitely it affects existence and sustenance of humanbeings. Recently, we have witnessed the landslides at Kodagu district as well as Kerala State and more conflicts between humanbeings and wild life. Without nature, humanbeings cannot survive even for a moment.

22. The most common hazard in forests is, forest fire. Fire in Forest areas is as old as the forests themselves. They pose a threat not only to the forest wealth, but also to the entire regime to fauna and flora seriously disturbing the bio-diversity and the ecology and environment of a region. During summer, when there is no rain for months, the forests become littered with dry senescent leaves and twinges which could burst into flames ignited by the slightest spark. The forest fire can broadly be classified into three categories as under:

(a) Natural or controlled forest fire

(b) Forest fires caused by heat generated in the litter and other biomes in summer through carelessness of people (human neglect) and

(c) Forest fires purposely caused by local inhabitants.

23. To protect the said core issues, it is the duty of the State and the responsible officer of the Forest Department to take following strict precautions against the fire:-

1. To keep the source of fire or source of ignition separated from combustible and inflammable material;

2. To keep the source of fire under watch and control;

3. Not allow combustible or inflammable material to pile up unnecessarily and to stock the same as per procedure recommended for safe storage of such combustible or inflammable material;

4. To incorporate fire reducing and fire fighting techniques and equipment

5. The responsibility of a particular officer in the area to take all measures to prevent such repeated fire.

6. It is also the responsibility of every individual of the State to take initiative to prevent fire.â??

The State Government has constituted six Ranges of the division to assist the Fire watchers in preventing forest fires at a cost of Rs.231.735 lakhs

and further watch towers are also constructed inside the forest areas. New watch towers are constructed and erected in fire sensitive areas of

Somwarpet and Shanivarsanthe Ranges at a cost of Rs.4 lakhs.

24. The State Government has also constituted a team of Fire Watchers engaging in all six Ranges to watch and prevent forest fire occurrences co-

ordinating with the existing RRT Teams and Frontline Staff at a cost of Rs.3.45887 lakhs. Fire Fighting equipments have been installed in the division

and the same are provided to the frontline staff and the RRT teams assisting fire watchers in preventing forest fire and its occurrences in the forest

areas of the Division at a cost of Rs.25 lakhs. The preventive equipments are; jet sprayers, blowers, bill hooks, water canes, weed cutting machines,

torches, back packs, jackets (fire resistance uniforms) and caps.

25. Annexure-R1 produced by the State Government along with objection statement stating therein that the forest fire management plan is prepared

with the prime intention of preventing occurrence of Forest fire in the Reserve forests and other classified forest areas in Madikeri Division during the

year 2018-19 fire season. The main goal is to achieve `Zero Fireâ?? in the forests of the Division. Prevention of forest fire leads to protection and

conservation of Bio-diversity of the area, increasing the forest wealth, including wildlife. This â??zero fireâ?? will also enable and promote natural re-

generation of ecologically important and valuable tree species.

26. The provisions of Article 48A of the Constitution of India provides for protection and improvement of environment and safeguarding of forests and

wild life. The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country. As per Article

51-A (g) the Constitution, it is the duty of the every citizen of India to protect and improve the natural environment including forests, lakes, rivers and

wildlife, and to have compassion for living creatures.

27. It is well settled that not only human beings, but also the other living creatures have fundamental right to live with dignity within the meaning of

Article 21 of the Constitution of India. Their rights to live are also recognized by

the Constitution. Such being the case, the animals especially, which are inevitable for the welfare of the Society and the nation particularly, for the development of the agriculture, environment and economy of the country needs to be taken utmost care. There are five internationally recognized freedoms of animals, birds etc., which are as follows:

- â?? i) freedom from hunger, thirst and malnutrition;
- ii) freedom from fear and stress;
- iii) freedom for physical and thermal discomfort;
- iv) freedom from pain, injury and disease; and
- v) freedom to express normal patterns of behaviour.â??

28. It is the duty of every individual of the State to take proper steps under Articles 14 and 21 of the Constitution of India, which not only provides equality before law and also equal protection of life and personal liberty to the animals and birds etc.

29. The following are the five effects of Environmental Degradation;

1. Impact on Human Health: Human health might be at the receiving end as a result of the environmental degradation. Areas exposed to toxic air pollutants can cause respiratory problems like pneumonia and asthma. Millions of people are known to have died of due to indirect effects of air pollution.

2. Loss of Biodiversity: Biodiversity is important for maintaining balance of the ecosystem in the form of combating pollution, restoring nutrients, protecting water sources and stabilizing climate. Deforestation, global warming, overpopulation and pollution are few of the major causes for loss of biodiversity.

3. Ozone Layer Depletion: Ozone layer is responsible for protecting earth from harmful ultraviolet rays. The presence of chlorofluorocarbons, hydrochlorofluorocarbons in the atmosphere is causing the ozone layer to deplete. As it will deplete, it will emit harmful radiations back to the earth.

4. Loss for Tourism Industry: The deterioration of environment can be a huge setback for tourism industry that rely on tourists for their daily livelihood.

Environmental damage in the form of loss of green cover, loss of biodiversity, huge landfills, increased air and water pollution can be a big turn off for most of the tourists.

5. Economic Impact: The huge cost that a country may have to borne due to environmental degradation can have big economic impact in terms of restoration of green cover, cleaning up of landfills and protection of endangered species. The economic impact can also be in terms of loss of tourism industry.

There are lot of things that can have an effect on the environment. If we are not careful, we can contribute to the environmental degradation that is occurring all around the world. We can, however, take action to stop it and take care of the world that we live in by providing environmental education to the people which will help them pick familiarity with their surroundings that will enable to take care of environmental concerns thus making it more useful and protected for our children and other future generations.

30. Nature is something which created itself, which just happened. The five great elements of nature are:-

- (i) earth,
- (ii) air,
- (iii) fire-light,
- (iv) water, and
- (v) space.

The effects of their functions are Nature; the birth, life and death of the various animals are Nature; their bodies and sense organs are Nature. Thus the entire world which we experience and the functions of the elements therein are all Nature. When man exercises his intellect properly on the world already created, its result is culture.

31. Every individual and State & its concerned officers shall have to follow certain principles for maintaining a safe environment for human existence, which are as under:

1. The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.
2. The capacity of the earth to produce vital renewable resources must be maintained and, wherever practicable, restored or improved.
3. Man has the special responsibility to safeguard and wisely manage the

heritage of wild life and its habitat, which are now gravely imperiled by a combination of adverse factors. Nature conservation, including wild life, must therefore receive importance in planning for economic development.

4. Economic and social development is essential for ensuring a favorable living and working environment for man and for creating conditions on earth

that are necessary for the improvement of the quality of life.

5. Environmental deficiencies generated by the conditions of under development and natural disasters pose grave problems and can best be remedied

by accelerated development through the transfer of substantial quantities of financial and technological assistance as a supplement to the domestic

effort of the developing countries and such timely assistance as may be required.

6. In order to achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated and

coordinated approach to their development planning so as to ensure that development is compatible with the need to protect and improve environment

for the benefit of their population.

7. Planning must be applied to human settlements and urbanization with a view to avoiding adverse effects on the environment and obtaining maximum

social, economic and environmental benefits for all.

8. Appropriate national institutions must be entrusted with the task of planning, managing or controlling the environmental resources of states with a

view to enhancing environmental quality.

IX. DICTUMS OF THE APEX COURT

32. The Honâ??ble Supreme Court, while considering provisions of Articles 21, 48-A and 51A of the Constitution of India, in the case of Intellectuals

Forum, Tirupathi vs. State of Andhra Pradesh and Others reported in (2006) 3 SCC 549, at paragraphs 65, 67, 68, 82 to 88 held as under:

65. It is evident from the report of the Expert Committee that the members of the Expert Committee have taken technical aspects as contained therein

and the objections of the appellant in this regard are untenable. The Government of Andhra Pradesh has also taken various steps pursuant to the

directions given by this Court which could be seen from the additional affidavit dated 25-3-2005 filed by the State of Andhra Pradesh.

67. The responsibility of the State to protect the environment is now a well-

accepted notion in all countries. It is this notion that, in international law, gave rise to the principle of "State responsibility" for pollution emanating within one's own territories (Corfu Channel case [ICJ Rep (1949) 4]).

This responsibility is clearly enunciated in the United Nations Conference on the Human Environment, Stockholm 1972 (Stockholm Convention), to

which India was a party. The relevant clause of this declaration in the present context is para 2, which states:

"The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems,

must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate."

Thus, there is no doubt about the fact that there is a responsibility bestowed upon the Government to protect and preserve the tanks, which are an

important part of the environment of the area.

Sustainable development

68. The respondents, however, have taken the plea that the actions taken by the Government were in pursuance of urgent needs of development. The

debate between the developmental and economic needs and that of the environment is an enduring one, since if the environment is destroyed for any

purpose without a compelling developmental cause, it will most probably run foul of the executive and judicial safeguards. However, this Court has

often faced situations where the needs of environmental protection have been pitched against the demands of economic development. In response to

this difficulty, policy-makers and judicial bodies across the world have produced the concept of "sustainable development". This concept, as

defined in the 1987 report of the World Commission on Environment and Development (Brundtland Report) defines it as

"Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs." Returning

to the Stockholm Convention, a support of such a notion can be found in para 13, which states:

"In order to achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated and

coordinated approach to their development planning so as to ensure that development is compatible with the need to protect and improve environment

for the benefit of their population.â??

82. Article 48-A of the Constitution mandates that the State shall endeavour to protect and improve the environment to safeguard the forests and wildlife of the country. Article 51-A of the Constitution enjoins that it shall be the duty of every citizen of India, inter alia, to protect and improve the national environment including forests, lakes, rivers, wildlife and to have compassion for living creatures. These two articles are not only fundamental in the governance of the country but also it shall be the duty of the State to apply these principles in making laws and further these two articles are to be kept in mind in understanding the scope and purport of the fundamental rights guaranteed by the Constitution including Articles 14, 19 and 21 of the Constitution and also the various laws enacted by Parliament and the State Legislatures.

83. On the other hand, we cannot also shut our eyes that shelter is one of the basic human needs just next to food and clothing. Need for a national housing and habitat policy emerges from the growing requirements of shelter and related infrastructure. These requirements are growing in the context of rapid pace of urbanisation, increasing migration from rural to urban centres in search of livelihood, mismatch between demand and supply of sites and services at affordable cost and inability of most new and poorer urban settlers to access formal land markets in urban areas due to high costs and their own lower incomes, leading to a non-sustainable situation. This policy intends to promote sustainable development of habitat in the country, with a view to ensure equitable supply of land, shelter and services at affordable prices.

84. The world has reached a level of growth in the 21st century as never before envisaged. While the crisis of economic growth is still on, the key question which often arises and the courts are asked to adjudicate upon is whether economic growth can supersede the concern for environmental protection and whether sustainable development which can be achieved only by way of protecting the environment and conserving the natural resources for the benefit of humanity and future generations could be ignored in the garb of economic growth or compelling human necessity. The growth and development process are terms without any content, without an inkling as to the substance of their end results. This inevitably leads us to

the conception of growth and development which sustains from one generation to the next in order to secure â??our common futureâ?. In pursuit of

development, focus has to be on sustainability of development and policies towards that end have to be earnestly formulated and sincerely observed.

As Prof. Weiss puts it, â??conservation, however, always takes a back seat in times of economic stressâ?. It is now an accepted social principle that

all human beings have a fundamental right to a healthy environment, commensurate with their well-being, coupled with a corresponding duty of

ensuring that resources are conserved and preserved in such a way that present as well as the future generations are aware of them equally.

85. Parliament has considerably responded to the call of the nations for conservation of environment and natural resources and enacted suitable laws.

86. The judicial wing of the country, more particularly this Court, has laid down a plethora of decisions asserting the need for environmental protection

and conservation of natural resources. The environmental protection and conservation of natural resources has been given a status of a fundamental

right and brought under Article 21 of the Constitution. This apart, the directive principles of State policy as also the fundamental duties enshrined in

Part IV and Part IV-A of the Constitution respectively also stress the need to protect and improve the natural environment including the forests, lakes,

rivers and wildlife and to have compassion for living creatures.

87. This Court in *Dahanu Taluka Environment Protection Group v. Bombay Suburban Electricity Supply Co. Ltd.* [(1991) 2 SCC 539] held (at SCC p.

541, para 2) that the Government concerned should

â??consider the importance of public projects for the betterment of the conditions of living of the people on the one hand and the necessity for

preservation of social and ecological balances, avoidance of deforestation and maintenance of purity of the atmosphere and water free from pollution

on the other in the light of various factual, technical and other aspects that may be brought to its notice by various bodies of laymen, experts and public

workers and strike a just balance between these two conflicting objectivesâ??.

88. However, some of the environmental activists, as noted in *The Environmental Activities Handbook* authored by Gayatri Singh, Kerban

Ankleswaria and Colins Gonsalves, that the Judges are carried away by the money spent on projects and that mega projects, that harm the

environment, are not condemned. However, this criticism seems to be baseless since in *Virender Gaur v. State of Haryana* [(1995) 2 SCC 577] this

Court insisted on the demolition of structure which have been constructed on the lands reserved for common purposes and that this Court did not allow

its decision to be frustrated by the actions of a party. This Court followed the said decision in several cases issuing directions and ensuring its

enforcement by nothing short of demolition or restoration of status quo ante. The fact that crores of rupees were spent already on development

projects did not convince this Court while being in a zeal to jealously safeguarding the environment and in preventing the abuse of the environment by

a group of humans or the authorities under the State for that matter.

33. The Honâ??ble Supreme Court in the case of *Tarun Bharath Sangh vs. Union of India* reported in AIR 1992 SC 514 while considering the

protection of animals and birds held at paragraphs 7,9,10 and 11 as under:

7. The stand of the Zila Khaniz Udyog Sangh seems to be that the notification under Section 29(3) of the Rajasthan Forest Act, 1953, declaring

Sariska as a protected forest itself contemplates doubts as to the statutory entitlement of the State to promulgate such notification without an enquiry

as to â??the nature and extent of the rights of the State Government and of private persons in or over the forest land or waste land comprised

thereinâ?, that the Notification dated January 1, 1975 itself provides that it is issued subject to and pending such inquiry and that till such inquiries are

completed no prohibition sought in the interlocutory prayer could be granted.

9. We might, at the outset, clear some misconceptions about the inquiry contemplated by the notification under the Rajasthan Forest Act, 1953. That

inquiry is nothing to do with the mining privileges claimed by the members of the Zila Khaniz Udyog Sangh. Indeed, none of them asserts any private

rights in or over the forest land. They, to the extent they derive their rights under a grant from the State subsequent to January 1, 1975, cannot claim

any private rights in or over the forest land and the inquiry envisaged under sub-section (3) of Section 29 has nothing to do with mining privileges

derived by them from the State.

10. The purpose of the notification declaring the area as a Game Reserve under the Rajasthan Wild Animals and Birds Protection Act, 1951; or the

declaration of the area as a sanctuary under the Wild Life (Protection) Act, 1972

and the Notification dated January 1, 1975 declaring the area as a protected forest under the Rajasthan Forest Act, 1953 is to protect the forest wealth and wild life of the area. It is, indeed, odd that the State Government while professing to protect the environment by means of these notifications and declarations should, at the same time, permit degradation of the environment by authorising mining operations in the protected area.

11. Indeed, referring to the high purpose of the measures for protection of environment and ecology, this Court said: [State of Bihar v. Murad Ali Khan, (1988) 4 SCC 655, paras 8 and 10]

“The state to which the ecological imbalances and the consequent environmental damage have reached is so alarming that unless immediate, determined and effective steps were taken, the damage might become irreversible. The preservation of the fauna and flora, some species of which are getting extinct at an alarming rate, has been a great and urgent necessity for the survival of humanity and these laws reflect a last ditch battle for

the restoration, in part at least, a grave situation emerging from a long history of callous insensitiveness to the enormity of the risks to mankind that go

with the deterioration of environment. The tragedy of the predicament of the civilised man is that “Every source from which man has increased his

power on earth has been used to diminish the prospects of his successors. All his progress is being made at the expense of damage to the environment

which he cannot repair and cannot foresee”. In his foreword to International Wild Life Law, H.R.H. Prince Philip, the Duke of Edinburgh said:

“Many people seem to think that the conservation of nature is simply a matter of being kind to animals and enjoying walks in the countryside. Sadly, perhaps, it is a great deal more complicated than that”.

“As usual with all legal systems, the crucial requirement is for the terms of the conventions to be widely accepted and rapidly implemented.

Regrettably progress in this direction is proving disastrously slow”.

“Environmentalists’ conception of the ecological balance in nature is based on the fundamental concept that nature is “a series of complex

biotic communities of which a man is an interdependent part” and that it should not be given to a part to trespass and diminish the whole. The

largest single factor in the depletion of the wealth of animal life in nature has been the “civilised man” operating directly through excessive

commercial hunting or, more disastrously, indirectly through invading or destroying natural habitats.â??

X CONCLUSION

34. In view of the aforesaid reasons, it is the time that every individual, either Forest Officer or petitioner, educated or uneducated to have a faith in the nature, wild life and birds. If the man proposes to protect the nature, wild life and birds, ecology and environment, the same will definitely protect the humanbeing.

35. It is high time that every individual officers including the petitioner, officers of the Forest Department to take every steps to protect the nature, wildlife including birds and has to maintain three principles in life i..e.

â??a) Daiva Preethi â?" Love for God

b) Papa Bheethi â?" Fear of Sin

c) Sangha Neethi â?" Morality in Societyâ??

If there is no morality to a person in life, it is his death itself. Therefore, every individual or the officers of respondent-State to maintain such principles to protect the nature (forest) and wildlife to sustain the Society.

XI RESULT/DIRECTIONS

36. For the reasons stated above, the writ petition is disposed of with the following directions to the respondents-state to take strict measures to prevent the fire accidents not only in Coorg District, but also in the entire State.

1. While entrusting the responsibility to a particular officer of a particular zone, to protect forest, personal responsibility should be fixed on the concerned officer in case of any untoward incident.
2. The State Government while constituting the Village Committees shall also take into confidence of the concerned Villagers and include the concerned villagers in the committee including the petitioner and the Sena Members by fixing the responsibility.
3. Strict application of Environment Protection Act, 1986 should be enforced.
4. Extensive afforestation campaign should be launched in the interest of environment protection.
5. While designating the Officer for maintaining the fire in the State, the State Government shall fix the responsibility on such Officer concerned.

6. To take strict action against forest hunters and miscreants, who make use of forest produce for personal benefits thereby to destroy the forest

under the provisions various forest Acts, Rules etc.

7. The State Government shall fix responsibility on the person, who operates toll free no. i.e 1926 which is operating 24 x 7 to receive message

regarding forest fire or forest related issue from the public and community and also the concerned Officers forthwith.

8. The State Government while constituting the rapid response teams in the entire State by the respective forest officers assisted by the forest guards,

watchers shall also fix responsibility on the officers in order to prevent repeated fire and mischief in the Coorg or any other areas of State of

Karnataka.

37. The State Government shall ensure strict implementation of the directions to protect the forest wealth, improvement of environment and

safeguarding the forests and wild life etc.

Ordered accordingly.