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**(1998) 03 AP CK 0012**

**In the Andhra Pradesh High Court**

**Case No :** Writ Petition No''s. 2767 of 1998 and Batch

Kunapuraju Rangaraju — APPELLANT

Vs

Govt. of A.P. and Others — RESPONDENT

**Date of Decision :** 05-03-1998

**Acts Referred:**
Constitution of India, 1950 — Article 21, 48
Land Acquisition Act, 1894 — Section 9
Wild Life (Protection) Act, 1972 — Section 18, 19, 20, 21, 22

**Citation :** (1998) 2 ALD 802 : (1998) 3 ALT 215

**Hon'ble Judges :** G. Bikshapathy, J

**Bench :** Single Bench

**Advocate :** Mr. P. Sri Raghuram, Mr. A. Venkateswara Sarma, Mr. P.B. Vijayakumar, Mr. K. Ram Reddy, Mr. P. Rajam Raju and Mr. A.K. Narasimha Rao, for the Appellant; Government Pleaders for Forest and Revenue and Mr. B. Adinarayana, SC for Central Govt., for the Respondent

## Judgement

1. In all these writ Petitions though the relief is claimed in different ways but the common issue that arises for consideration is the validity of Notification issued in G.O.Ms. No.76 Environment, Forest, Science and Technology (Forest III) Department, dated 25-9-1995 u/s 18 of the Wild Life Protection Act (for short ''the Act'') and whether the petitioners could be prohibited from carrying on pisciculture in the lands owned or occupied by them till final notification u/s 26A of the Act is issued.

2. The petitioners in some of these writ Petitions are the owners of various extents of land situated in West Godavari and Krishna districts abutting Kolleru lake. It is their case that they have been conducting agricultural operations for some time but as the time went on it became uneconomic for them to conduct conventional agricultural system and therefore, they converted the land into fishing tanks and rearing the fish for commercial purposes. Some of the petitioners are lessees of Government land and they contend that the Government has leased out certain lands in the area abutting Kolleru lake and

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the leases were granted for purposes of fish tanks for eking out livelihood. Some others are D-form patta holders and they have dug the fish ponds and rearing the fish for sale. The petitioners also contend that they have already converted the land into fish tanks and they are trying to repair the tanks, the authorities are interfering the repair work. It is stated by the petitioners that Kolleru lake is one of the largest sweet water lakes in the country and it is the biggest shallow water lake in Asia The major drains have been let out into the streams leading into the lake. The lake is connected to sea at Upputeru point. Apart from regular lowering of water level due to the heavy silting, there is heavy inflow of polluted drain water from the cities of Vijayawada, Eluru and Gudivada etc. and that a part of heavy industrial wastes are diverted to the lake. On account of which the economic viability of agriculture had dwindled but, however, it was found that the pisciculture was found to be more economical in view of the changed circumstances and most of the petitioners have taken to fishing industry. But, however, after the judgment of the Supreme Court in S. Jagannadh v. Union of India, 1996 (9) Scale 167 the authorities have been interfering with the fishing operations conducted by the petitioners on the ground that the area fell in the CRZ (Coastal Regulation Zone). But, however, it appears that the Government have again clarified that this Kolleru Lake did not fall in the CRZ area But, at the same time the Government issued notification u/s 18 of the Act in G.O.Ms.No.76, Environment, Forest, Science and Technology (Forest-III) Department, dated 25-9-1995. The proclamation u/s 21 was also published in the District Gazette on 7-1-1997. However, no final notification has been issued. Therefore, it is the case of the petitioners that until final notification u/s 26A is issued, the authorities are not entitled to interfere with the fishing operations conducted by the petitioners by converting the lands into fish tanks. It is also their case that fishing operation is undertaken on conventional basis and it is not done on large scale commercial basis. Therefore, there will not any threat for ecology or environment if the petitioners are permitted to continue fishing operations in the area It is also the case of the petitioners that the area notified u/s 18 is impossible for conversion into sanctuary since the Government will not be able to pay the enormous compensation to the owners. Therefore, in the nutshell they submit that the respondents may be restrained from interfering with the activities of rearing and catching of fish in the tanks raised by them. It is also further case of the petitioners that until final notification is issued, it is not permissible for the authorities to interfere with such activity as admittedly some of the petitioners are owners of the land and some of them are lessees and some of them have been assigned the land for purpose of developing the fish ponds.

3. In the counter filed by the Collector, Krishna District, the history of the Kolleru lake has been traced out. It is stated that Kolleru lake and its Ecological support system stretches out over and above 2,50,000 acres in Krishna and West Godavari Districts between the two major river basins of Krishna and Godavari. It is functioning as a natural flood balancing reservoir between the two deltas. The lake was fed directly by the seasonal rivers, Budameru and Tammileru apart from

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30 flowing drains and channels most of them go dry in summer. The Budameru River brings in raw sewage from the city vijayawada and untreated sewage from the surrounding towns of Eluru and Gudivada and thus, it exceeded nutrient content. Another reason for increasing nulrient content is that the flow of heavy drainage water and consequential formation of silt beds. It was also found that the fishing tanks were allowed in Kolleru lake and it deteriorated the quality of water due to inflows of untreated upstream urban sewage agricultural waste and discharge of industrial activity. It was decided to restrict the drainage due to haphazard raising of fish tank bunds. Even the Government was considering the importance of the lake and to preserve the Ecology system. The Government have also issued directions prohibiting fishery tanks in the area and the leases already given to the various persons were directed not to be renewed and accordingly after 1982 no lease either to Societies or to the individuals were renewed. It is the case of the Government that patta holders-petitioners have no right to convert the land into fishing tanks and same is prohibited under the Board Standing Order No.7(BSO). No permission was granted to the petitioners for conversion of land into fishing tanks. Some of the petitioners have encroached the Government land and excavated the fish tanks, with plus five contour area of Kolleru and if the fish tanks are allowed, the free flow of Kolleru water will be affected and flora in the surrounding villages will be inundated. It is also the case of the respondents that the area is covered under Coastal Regulatory Zone as per the directions of the Supreme Court, aquaculture is prohibition.

4. While admitting the writ petition, interim orders were issued not to interfere with the fishing activity carried on by the petitioners. But, however, it was vacated in respect of the lands belonging to the Government and leased out for certain purposes other than the fishing activities. In respect of the pattedars, while considering the Vacate Stay application filed by the Government, the learned Judge observed that the petitioners may construct fish tanks in their private land without causing any damage to the crops. This right was subject to further restriction that the land in question is not a CRZ area and not covered by area under the Act. The learned Judge also directed that no fresh permission for digging fish tanks could be given as the preliminary notification was already issued u/s 18 of the Act. Therefore, by virtue of the interim orders the petitioners who are pattedars of the lands are being permitted to continue their fishing operations.

5. The Parliament enacted the Wild life (Protection) Act, 1972, which came into force in the State of Andhra Pradesh with effect from 5-8-1973. The prime object of the enactment is for the protection of wild animals and birds and for matters connected therewith or ancillary or incidental thereto. The lake is one of the country''s largest fresh water lakes and a Bird sanctuary attracting enormous species of birds and a variety of flora and fauna. It is, however, being threatened by economic and industrial development, expanding fisheries and pollution. Pressure on the lake has led to a proliferation of weeds fewer visiting birds,

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decline in fish catches, reduction in its catchment area, flooding and loss of drinking water. Sewage from the towns of Eluru, Gudivada and Vijayawada industrial effluents and pesticides from nearby villages also contaminated the lake.

6. The question that arises for consideration is whether notification issued u/s 18 of the Act is valid and whether pending final notification u/s 26A of the Act, it would be open for the authorities to restrain the pattedars and lease holders to continue their fishing operations ?

7. It is necessary to refer to certain provisions of the Act. ''Sanctuary'' was defined as area declared whether u/s 18 or Section 38 or deemed under sub-section (3) of Section 66 to be declared as Wild Life Sanctuary.

Chapter IV covers Sanctuaries, National Parks, In this case we are concerned only Sanctuary. Sections 18 to 26(A) are relevant which are extracted below:

"18. Declaration of sanctuary :--(1) The State Government may, by notification, declare its intention to constitute any area other than area comprised with any reserve forest or territorial waters as a sanctuary if it considers that such area is of adequate ecological, faunal, floral, geomorphological, natural or zoological significance, for the purpose of protecting, propagating, or developing Wild Life or its environment.

(2) The notification referred to in sub-section (1) shall specify, as nearly as possible, the situation and limits of such area.

Explanation :--For the purposes of this section, it shall be sufficient to describe the area by roads, rivers, Bridges or other well-known or readily intelligible boundaries.

19. Collector to determine rights :--When a notification has been issued u/s 18, the Collector shall enquire into, and determine, the existence, nature and extent of the rights of any person in or over the land comprised within the limits of the sanctuary.

20. Bar of accrual of rights :--After the issue of a notification u/s 18, no right shall be acquired in, or over the land comprised within the limits of the area specified in such notification, except by succession, testamentary or intestate.

21. Proclamation by Collector :--When a notification has been issued u/s 18, the Collector shall publish in the regional language in every town arid village or in or in the neighbourhood of the area comprised therein, a proclamation:

(a) specifying, as nearly as possible, the situation and the limits of the sanctuary, and

(b) requiring any person, claiming any right mentioned in Section 19, to prefer before the Collector, within two months from the date of such proclamation, a written claim in the prescribed form, specifying the nature and extent of such

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right with necessary details and the amount and particulars of compensation, if any, claimed in respect thereof

22. Inquiry by Collector :--The Collector shall, after service of the presribed notices upon the claimant, expeditiously inquire into:

(a) the claim preferred before him under clause (b) of Section 21, and

(b) the existence of any right mentioned in Section 19 and not claimed under clause (b) of Section 21.

So far as the same may be ascertainable from the records of the State Government and the evidence of any person acquainted with the same.

23. Powers of Collector ;--For the purpose of such inquiry, the Collector may exercise the following powers, namely:

(a) the power to enter in or upon any land and to survey, demarcate and make a map of the same or to authorise any other officer to do so;

(b) the same powers as are vested in a Civil Court for the trial of suits.

24. Acquisition of rights :--(1) In the case of a claim to a right in or over any land referred to in Section 19, the Collector shall pass an order admitting or rejecting the same in whole or in part.

(a) exclude such land from the limits of the proposed sanctuary,

(b) proceed to acquire such land or rights, except where by an agreement between the owner of such land or holder of rights and the Government, the owner or holder of such rights has agreed to surrender his rights to the Government, in or over such land, and on payment of such compensation as is provided in the Land Acquisition Act, 1894(1 of 1894); or

(c) allow, in consultation with the Chief Wild Life Warden, the continuances of any right of any person in or over any land within the limits of the Sanctuary.

25. Acquisition proceedings :--(1) For the purpose of acquiring such land, or rights in or over such land :-

(a) the Collector, shall be deemed to be a Collector, proceeding under the Land Acquisition Act, 1894, 1 of 1894,

(b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of notice given u/s 9 of the Act;

(c) the provisions of the sections, preceding Section 9 of the Act, shall be deemed to have been complied with;

(d) where the claimant does not accept the award made in his favour in the matter of compensation he shall be deemed, within the meaning of Section 18 of the Act, to be a person interested who has not accepted the award, and shall be

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entitled to proceed to claim relief against the award under the provisions of Part-Hi of the Act;

(e) the Collector, with the consent of the claimant, or the Court with the consent of both the parties, may award compensation in land or money or partly in land and partly in money; and

(f) in the case of the stoppage of public way or a common pasture, the Collector may, with the previous section of the State Government, provided for an alternative public way or common pasture, as far as may be practicable or convenient

(2) The acquisition under this Act of any land or interest therein shall be deemed to be acquisition for a public purpose.

26, Delegation of Collector''s powers :--The Slate Government may, by general or special order, direct that the powers exercisable or the functions to be performed by the Collector under Sections 19 - 25 (both inclusive) may be exercised and performed by such other officer as may be specified in the order.

26-A Declaration of area as Sanctuary :-

(1) When,-

(a) a notification has been issued u/s 18 and the period for preferring claim has elapsed, and all claims, if any, made in relation to any land in an area intended to be declared as a sanctuary, have been disposed of by the State Government, or

(b) any area comprised within any reserve forest or any part of the territorial waters, which is considered by !he State Government to be of adequate ecological, faunal, floral, geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing Wild Life or its environment, is to be included in a Sanctuary,

the State Government shall issue a notification specifying the limits of the area which shall be comprised within the sanctuary and declare that the said area shall be sanctuary on and from such date as may be specified in the notification;

Provided that where any part of the territorial waters is to be so included, prior concurrence of the Central Government shall be obtained by the State Government

Provided further that the limits of the area of Ihe territorial waters to be included in the sanctuary shall be determined in consultation with the Chief Naval Hydrographer of the Central Government and after taking adequate measures to protect the occasional interests of the local fishermen

(2) Notwithstanding anything contained in sub-section (1), the right of innocent passage of any vessel or boat through the territorial water shall not be affected by the notification issued under sub-section (1).

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(3) No alteration of the boundaries of sanctuary shall be made except on a resolution passed by the Legislation of the State."

8. It is the case of the learned Counsel for the petitioners that the Notification u/s 18 of the Act has been issued and the Proclamation consequent on the Notification u/s 18 was also issued by the Collector as required u/s 21, and that final notification is required to be issued u/s 26A of the Act. It is only after publication of final notification declaring the area as Sanctuary the restrictions will be made applicable and till such time the respondents will not be justified in refusing to carry on with the fishing operations. He also submits that after intention to declare the area as sanctuary u/s 18, there is a blanket prohibition of acquiring any rights over the lands within the area limit of such notification except by succession, testamentary or intestate. What is contemplated u/s 20 is that nobody can sell or create any encumbrance over the properly but at the same time, it does not prohibit use of the land to which it was put to prior to the issue of Notification u/s 18. He also relied on the judgment of the Supreme Court reported in Pradeep Krishen Vs. Union of India and Others, .

9. On the other hand, the learned Government Pleader submits that no activity is permitted in the area notified u/s 18 of the Act and, therefore, Government can refuse permitting any person from entering the area. He also submits that once a notification is issued u/s 18, the restriction of entry into Sanctuary is automatic and nobody will be permitted into Sanctuary'' without proper permission of the Chief Wild Life Warden or the Authorised Officer. He relies on the judgment of the Supreme Court reported in Animal and Environment Legal Defence Fund Vs. Union of India and others, , wherein it was held that:

"Even for the villagers, tribals, formerly residing in National Park area have no absolute right and that directions were issued for permitting them to conduct traditional fishing avocation which was only source of livelihood through permits."

In the above case, the association Lawyers and others filed public interest litigation challenging the order issued by the Government of Madhya Pradesh, granting 305 fishing permits to the tribals formerly residing within the Pench National Park area, which is situated in the heart of the Pench National Park Tiger Reserve. It was the contention that the area was declared as Reserve Forest and no rights will be acquired over such land. Therefore, the persons who are residing in the area including tribals cannot be said to have acquired fishing rights in the Pench River. It was the contention of the Government that the tribals who are residing in the National Park area have represented that their livelihood was taken away and traditional right of fishing may be preserved as that is only their source of livelihood. Therefore, by an order dated 30-5-1996, the tribals were given permission to fish in the reservoir and more over no final notification was issued u/s 35(4) of the Act. It was also the contention of the Government that the permits issued were in lieu of the traditional rights of fishing of the tribals and these permits were issued prior to the final notification u/s 35(4). The Supreme Court, however, did not disturb the notification and

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directed the Government to issue Notification u/s 35(4) of the Act as expeditiously as possible. But, however, the question as to continue any activity by the persons who are pattedars of the land did not fall for consideration as the entire area was in the Reserve Forest. As such, no person was having proprietory rights in the area Since the tribals were residing along the National Park area eaking out their livelihood by traditional fishing methods they were granted permits and that too when the final notification u/s 35(4) was yet to be issued. The permits were issued by the Government with certain restrictions, but in the instant case the fishing operations are being conducted by the Pattedars in their own land after converting the land into fish tanks and in some cases fish ponds were dugged by the lessees an they are continuing to rear the fish for livelihood. Therefore, the decision of the Supreme Court is not applicable to the facts of this case.

10. u/s 18, it is only a declaration that is made by the State Government expressing its intention to constitute an area as Sanctuary and after such notification is issued the Collector is required to conduct enquiry and determine the existence nature and extent of the rights of any person over the land comprised within the limits of Sanctuary. u/s 21, the Collector is required to publish the proclamation, specifying, as nearly as possible, the situation and the limits of the Sanctuary requiring any person, claiming any right within the period mentioned in the said provision. Thereafter, the Collector is required to enquire and to pass an order either admitting or rejecting the rights claimed over the properly, including acquisition in the process of Land Acquisition Act. Final notification u/s 26A will be issued only after specifying the limits of the area which shall be within the sanctuary and declare that the said area shall be sanctuary from such date as may be specified in the notification. Therefore, provisions would indicate that the intention to constitute the area as Sanctuary cannot be constituted as final notification inasmuch as, the Collectors are given powers to adjudicate the rights of the person and to pass appropriate orders and the Collector may also exclude any area from the limits of the proposed sanctuary notified u/s 18. Once the boundaries are fixed under the final notification 26A, it shall not be altered except on a resolution passed by the legislation of the State. It is only when final notification u/s 26A is issued declaring the definite area as Sanctuary after taking into account the adequate measures for protecting the rights of the locals, it could be said that the particular area falls under the Sanctuary and not the area mentioned in the notification u/s 18 of the Act. But, the question that falls for consideration is, whether after the issuance of the draft notification u/s 18, the Government is empowered to prohibit the pattedars or lease holders of the land to enter into the land or to convert the land into fishing tanks for their livelihood.

11. The learned Counsel for the petitioners submits that the petitioners have been conducting agricultural operations since a long time, but on account of non-viability of the agriculture, they have to shift the fishing avocation. Therefore, petitioner-either pattedars or leaseholders have converted their lands into fishery

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tanks and hence, till such time the final notification is issued, it will not be permissible for the authorities to interfere with their fishing operations.

12. The learned Government Pleader, however, submits that by converting the land into fishing tanks any amount of pollution is causing to the lake, which was intended to be declared as Sanctuary, with the result the ecological value and environment is being diminished. He also contends that there is every possibility for extinction of water birds as well as migrated birds. By permitting large scale fishing operations, the vegetation in the peripheral area will be destroyed. Therefore, the Government is required to make every attempt to preserve Econology and Sanctuary.

13. The Pradeep Krishan ''s case (supra), public interest litigation was brought before the Supreme Court challenging the notification issued by the Madhya Pradesh Government dated 28-3-1995 permitting the Tendu leaves from Sanctuary and National Parks by villagers living around them. The Government issued notification in supercession of earlier orders permitting he villagers living around the boundaries of the National Parks and Sanctuaries to collect tendu leaves, pending final notification u/s 26A and 35 of the Act. Therefore, the writ petition was filed by the petitioner with a view to preserve ecology, environment and wild life in the National Parks and Sanctuaries which are likely to adversely affect by the impugned order. The question that arose for consideration was whether the area was declared as Sanctuary and National Park under Sections 18 and 35 respectively can be exploited by collecting minor produce in violation of the said Act or whether the Slate Government has right to exploit minor forest produce from the Sanctuary or National Park which are so sought to be declared. It was the contention of the Government that there are 11 National Parks and 33 Sanctuaries in the State of Madhya Pradesh. Out of which, three National Parks are finally notified under the National Parks Act and one sanctuary was notified under the Act. But, final notification was yet to be issued in respect of remaining 8 National Parks and 32 Sanctuaries, but, however, proceedings under Sections 19 - 25 were not issued to acquire the rights of the people. The rights of the tribals and villagers residing in and around the National Park and Sanctuary area could not be taken away as they were dependent on minor forest produce. It is for this reason final notifications under Sections 26A and 35 were not issued.

14. Petitioners herein sought to quash the impugned order dated 28-3-1995, It was also pointed by the petitioners therein that the rights of the villagers/tribals living in and around the National Park and Sanctuary to collect minor forest produce for their personal and bonafide use is correct, but the Government to permit such produce for commercial use was highly objectionable.

15. The Supreme Court after referring to various provisions under Chapter-IV of the Act observed as follows:

" 17. On a plain reading of these provisions, it is, therefore, obvious that the procedure in regard to acquisition of rights in and over the land to be included in

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a Sanctuary or National Park has to be followed before a final notification u/s 26A or Section 35 is issued by the State Government. In the instant case, it is not the contention of the petitioner that the procedure for the acquisition of rights in or over the land of those living in the vicinity of the areas proposed to be declared as Sanctuaries and National Parks under Sections 26A and 35 of the Act has been undertaken. It was for this reason that the order of 28-3-1995 in terms stated that since no final notification was issued under the said provisions, the State Government was not in a position to bar the entry of villagers living in and around the Sanctuaries and the National Parks so long as their rights were not acquired and final notifications under the aforesaid provisions were issued. It is, therefore, not possible to conclude that the State Government had violated any provision of law in issuing the notification dated 28-3-1995 in question.

18. The matter, however, does not rest there. The petitioner contends that the forest cover in the State of Madhya Pradesh is gradually shrinking As pointed out earlier, there is a shrinkage to the extent of 145 Sq. kms between 1991 and 1993. In our country, the total forest cover is far less than the ideal minimum of one-third of the total land. We cannot, therefore, afford any further shrinkage in the forest cover in our country. If one of the reasons for this shrinkage is the entry of villagers and tribals living in and around the Sanctuaries and the National Parks, there can be no doubt that urgent steps must be taken to prevent any destruction or damage to the environment, the flora and fauna and wild-life in those areas. If the only reason which compels the State Government to permit entry and collection of tendu leaves is it not having acquired the rights of villagers/tribals and having failed to locate any area for their rehabilitation, we think that inertia in this behalf cannot be tolerated. We are, therefore, of the opinion that while we do not quash the order of 28-3-1995, we think that the State Government must be directed to decide on the question of completing the process for issuing final notifications and then take urgent steps to complete the procedure for declaring/notifying the areas as Sanctuaries and National Parks under Sections 26A and 35 of the Act. We, therefore, direct that the State Government shall take immediate action under Chapter IV of the Act and institute an inquiry, acquire the rights of those who claim any right in or over any land proposed to be included in the Sanctuary/National Park and thereafter proceed to issue a final notification under Sections 26A and 35 of the Act declaring such areas as Sanctuaries/National Parks. We direct the State Government to initiate action in this behalf within a period of 6 months from today and expeditiously conclude the same showing that sense of urgency as is expected of a State Government in such matters as enjoined by Article 48A of the Constitution and at the same time keeping in view the duty enshrined in Article 51A(g) of the Constitution. We are sure, ad we have no reason to doubt, that the State Government would show the required zeal to expeditiously declare and notify the areas as Sanctuaries/National Parks."

In this case, the rights of the Tribals and the villagers residing nearby National Parks and Sanctuaries came up for consideration but the position of pattedars of

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the land in the notified area u/s 18 of the Act did not come up for consideration. However, the Supreme Court observed that permitting the tribals and the villagers to collect tendu leaves pending final notification cannot be said in violation of provisions of the law and directed the authorities to complete the process fixing certain time limit.

16. The learned Government Pleader also relied on the decision of the Supreme Court in Tarun Bharat Sangh, Alwar Vs. Union of India and others, . The writ petition was brought as a public interest litigation for enforcement of certain notifications promulgated under the Wild Life Environmental Protection and Forest Conservation Laws in areas declared as a Reserved Forest in Alwar District of State of Rajasthan. The Supreme Court did not consider the relevant provisions of the Wild Life Act. However, constituted a committee and passed interlocutory orders prohibiting mining operations in the protected area. This case has no application to the facts of the case on hand.

17. The learned Counsel for the petitioners also makes a convincing argument that if pending final notification u/s 26A, the petitioners are not permitted to cover the land into fish tanks, it will deprive them of their livelihood, thereby right to life enshrined under Article 21 of the Constitution of India is violated. Further, the Government cannot deprive the enjoyment of property except in accordance with law. Admittedly, the notification u/s 18 was issued in 1995 and so far no final notification has been issued although 3 years have elapsed. To keep them away from the land for all these years, it would be harsh and hard and indirectly denying their livelihood itself The contention cannot be said to be ill-founded. Once the process was commenced u/s 18, it is to be completed within a reasonable time. It would not be open for the Stale that having issued notification u/s 18, it can prohibit entry or restrain agricultural or fishing operations in patta lands for years together. The learned Government Pleader submits that they are not opposing the agricultural operations pending final notification, but if the petitioners convert the land into fish tanks the entire water gets polluted and the very purpose of notification will be frustrated. To avoid this contingency the only course that could be safely adopted by the Court is to expedite the final notification.

18. Under these circumstances, it is but necessary, that the Government should take expeditious action for completing the process under Chapter-IV of the Act. In the interests of both the Government and the persons whose lands are sought to be declared under the limits of Sanctuary that final notification should be issued within a reasonable time, when the proclamation u/s 21 was published in 1997 itself

19. Under these circumstances, I am inclined to dispose of the writ petitions with the following directions:

(a) that the respondents shall proceed with further action in pursuance of the Notification issued u/s 18 and Proclamation u/s 21 of the Act and pass final

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notification u/s 26A declaring the Sanctuary with the definite boundaries within a period of 6 months from the date of receipt of copy of this order;

(b) the petitioners who are pattedars of the land situate within the notified Sanctuary area u/s 18 of the Act shall be permitted to continue the fishing operations. However, they shall not further construct any fish tanks nor make any preparations in that regard, pending issue of final notification.

(c) Such of those petitioner who are holding valid and subsisting leases or D Form Patta holders of the land shall be permitted to exploit the land for the purpose for which the lease was made or patta was granted in their favour only and they shall not me the land other than the purpose for which the land was leased out to them, or D form patta was granted, pending final notification

20. The Writ Petitions are accordingly disposed of No costs.

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