
(2003) 05 JH CK 0007

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 6443 of 2002

Satyapal Verma

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 13-05-2003

Acts Referred:

Constitution of India, 1950 — Article 226, 48A, 51A
Wild Life (Protection) Act, 1972 — Section 33, 35(8)

Citation : AIR 2004 Jhar 69 : (2004) AIR Jhar HCR 822 : (2003) 4 JCR 481

Hon'ble Judges : P.K. Balasubramanyan, C.J;R.K. Merathia, J

Bench : Division Bench

Advocate : Bijaya Kishore Prasad and Bakshi Vibha, for the Appellant; Anil Kumar Sinha, for the Respondent

Final Decision : Dismissed

Judgement

1. The petitioner claims to be the President of Palamau Pramandal Khan Mazdoor Sangh, Daltonganj (Palamau), the President of the Motor Workers Union (Regd.), Palamau and a resident of the area in question. As such, he claims to be highly concerned and affected by the impugned order dated 14.9.2002, passed by the Chief Conservator of Forests-cum-Chief Wild Life Protector, the State of Jharkhand, prohibiting the plying of trucks loaded with Bauxite or any other major or minor mineral on the Public Works Department Road between Kutmu village and Mahuatanr through Bella Wild Life Sanctuary. The impugned notification has been issued in exercise of power u/s 33(b) and Section 35(8) of the wild Life Protection Act, 1972, as amended.

2. It is seen from the map annexed as Annexure-C to the counter affidavit filed by the respondents, that the road in question, as mentioned in the impugned order-(Annexure-1), passes through the area of Palamau Tiger Reserve, Palamau Wild Life Sanctuary and Betla National Park. According to the writ petition, by the banning of the passing of heavy vehicles loaded with Bauxite or any other major or minor mineral, not only the right of the people of the area, but also the right

of the daily wage workers has been badly affected. Except stating that and voicing an apprehension that the impugned order may lead to stoppage of movement or transport of Bauxite and other minerals and that the alternative route is dangerous, nothing has been produced to show how the people of the locality or persons in general in that area are affected. According to the petitioner, Bauxite loaded trucks were passing through this road since long and there has been not a single instance of any wild life being run over and killed by any truck whatsoever and in that situation, there was no justification in issuing the notification prohibiting the passing of trucks loaded with Bauxite or any other major or minor mineral as well as the passing of vehicles in the night. A vague assertion has been made that the notification was issued with ulterior motive and as mala fide. According to the petitioner, there was no justification in preventing movement of the vehicles as has been done by issuance of the said notification under the Wild Life (Protection) Act. He has also submitted that the action of preventing movement of vehicles through the said road has badly affected the people of the area and such action has only helped the free movement of outlaws and extremist outfits such as MCC and Peoples War Group and from that angle also, the impugned order was not in public interest.

3. In the counter-affidavit filed on behalf of the respondent it is submitted that the impugned order has been issued in exercise of power under the Wild Life (Protection) Act. According to the respondents in order, to ensure the security of wild animals in the sanctuary and the preservation of the sanctuary and for the purpose of protecting, propagating or developing wild life in the area in question and its environment, the notification has been issued u/s 33(b) and Section 35(8) of the Wild Life (Protection) Act, 1972. It is also submitted that plying of heavily loaded vehicles through the area has caused serious threat to wild life and has restricted the movement of animals since plying of vehicles used to produce a lot of sound and exhaust fumes, which adversely affect the climate, which may cause injury to, or endanger, the lives of tigers and other wild animals of the sanctuary. It is submitted that under Article 48A of the Constitution of India, there is a duty on the State to protect and improve the environment and to safeguard forests and wild life of the country. Even a citizen like the petitioner has a duty to protect the environment and wild life in view of Article 51A(g) of the Constitution. It is submitted that there was no mala fides or oblique motive in issuing the impugned order. It was issued in exercise of statutory power and the said power has been exercised bona fide for protecting and improving the natural environment and wild life. It is also contended that this was not really a public interest litigation and the petitioner is a person who has been set up by the truck owners in view of the fact that the present route is a convenient route for them for plying their vehicles during night, ignoring the other route available for their use.

4. Learned counsel for the petitioner submitted that there is no justification in issuing an order like Annexure-I on the facts and in the circumstances of the case. There is nothing to show that there any danger was posed to the lives of

wild animals by the passing of trucks loaded with Bauxite. There is also nothing to show, as a matter of fact, that the movement of heavily loaded vehicles with Bauxite and other minerals, has ever caused any injury to or causality among wild animals. The route in question is the most economical route for transportation of Bauxite to the appropriate destination. In that situation, the notification deserves to be struck down. No justification was forthcoming for issuance of the notification.

5. Learned Advocate General, appearing on behalf of the respondents, in addition to referring to the decision in *BALCO Employees Union (Regd.) Vs. Union of India and Others*, , and contending that this application should not be treated as a public interest litigation, also submitted that by the impugned order, only vehicles carrying minerals like Bauxite have been stopped from passing through the route in question during the night and the vehicles carrying other essential goods and passengers have been allowed to run during day time. The stoppage of transportation of bauxite and other minerals does not in any way affect the interest of labourers. The Advocate General submitted that in the given situation, the authority concerned under the Wild Life (Protection) Act, has issued the present notification/order. He pointed out that it is not as if this is the only viable route. There is another route, which is still being used by transporters for carriage of Bauxite. The relevant materials would show that the transportation of Bauxite through the alternative route has been taking place even earlier. Referring to Annexure-4, it has also been submitted that there has been rapid decline in population of wild animals in the concerned area and it was absolutely essential to protect wild life and do all that is necessary in that behalf.

6. We have considered the rival submissions. We find that the authority concerned has issued the impugned order (Annexure-A) in terms of the power vested u/s 33(b) and Section 35(8) in order to achieve the object of protecting the environment and wild life, in terms of the mandate contained in Article 48A of the Constitution of India. There is no challenge to the statute by which the power is conferred. The power is vested in the authority concerned to issue a notification and it could not be shown by the petitioner that the power has been exercised for any extraneous consideration or for any oblique motive. The circumstances clearly suggest that the notification has been issued bona fide, in the interests of the wild life and the environment and thus it is in public interest.

7. We are also not satisfied that the petitioner or persons of the locality whose cause the petitioner seeks to espouse, are in any manner prejudiced by the impugned order. Of course, they have no right to insist and transport through or to ply their heavily loaded vehicles through a National Park and Wild Life Sanctuary. It is also established that they have got another route which is normally being used by the vehicles. There is no material to show that the people of the locality are in any manner affected by the impugned order, except the bald assertion in the writ petition. On the facts and in the circumstances of the case, we are satisfied that no case has been made out for interference. In fact, it is

difficult to discard the argument advanced by the learned Advocate General that the petitioner is merely a person who has been set up by the transporters.

8. The object of issuing the impugned notification is to ensure the security of the wild life sanctuary, and the wild life. The object of the enactment is sought to be achieved by the notification. It has been issued by an authority competent to do so. It is seen that the object of the notification is to carry forward the intent of the Act. The Court can interfere in exercise of its power on the basis of so called public interest only if clear violation of a constitutional or statutory right available to a group of people is made out. In that situation, the Court has also to see the consequences of interfering with the notification. On the facts and in the circumstances of the present case, we are satisfied that the impugned notification is clearly in terms of the Act and any interference with it will be against public interest and the object that is sought to be achieved, namely, the protection of the wild life. In this situation, we find no reason to interfere. We dismiss the writ petition.