

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.226 OF 2014

Sunil V. Gaonkar	Petitioner
versus	
The Principal Chief C.F.S.G.N.Park & others	Respondents

Mr.Zoman Ali i/by Ms.Gayatri Singh for Petitioner.

Mr.Milind More, Additional Govt.Pleader for Respondents 1 & 2.
Mr.Advait M. Sethna for Respondent no.3 Union Government.

Mr.Vikas T. Gupta, Chief Conservator of Forests, Sanjay Gandhi National Park, Borivali, present.

CORAM : S.C.DHARMADHIKARI AND
B.P.COLABAWALLA, JJ.

DATE : 2 December 2015

PC :

The Petitioner claims that he was carrying on a small commercial activity in Sanjay Gandhi National Park (now a reserved forest). He is differently abled person and unable to earn his livelihood and expects State's assistance. He was conducting a stall but in view of the extensive directions of Hon'ble Supreme Court of India and this court, no commercial activities are permitted within the boundaries of the reserved

forest. Sanjay Gandhi National Park being such a reserved forest, rehabilitation of the Petitioner within the forest area is impermissible.

2. Mr.Gupta, Chief Conservator of Forest from whom Mr.More, learned Additional Government Pleader was directed to take instructions, has placed an affidavit before us. That affidavit sets out the details of this Court's order and directions and categorically states that there is no policy to rehabilitate persons who were carrying on business/commercial activities on the land within Sanjay Gandhi National Park, whether by permission or otherwise within the park boundaries. It is in these circumstances that despite the letter at page-20 of the paper book, Annexure-B, and in view of the subsequent events and developments including the Court orders, that it is not possible to grant any relief on this petition in terms of the prayers sought.

3. However, after having perused the petition and the annexures thereto including the affidavits filed earlier and the additional affidavit-in-reply filed today, we are of the firm view that the State Government must assist the parties like the Petitioner. The Directive Principles of State Policy, as enshrined in the Constitution of India, require the State to take such measures and in terms of Articles 38, 39, 43 so that differently abled persons can seek livelihood.

4. In terms of these policies and larger public interest, which is subserved by enacting the Parliamentary Legislation to help disabled persons, we direct the Collector, Mumbai Suburban District, to treat present petition as a request of the Petitioner to rehabilitate him by allotting him suitable space so that he can carry on a small commercial activity himself. The Collector shall within the applicable policies and frame work of the Rules and Regulations consider the request of the Petitioner and if permissible in law, allot a stall or a space to the Petitioner. The Collector is free to impose such conditions as are permissible in law so as to ensure that none other than the Petitioner carries on the commercial activity. Equally, the Collector can impose a condition that only legally permissible activities would be carried on from the stall to be allotted. The Collector shall, in terms of the Directive Principles of State Policy, Rules and Regulations, take a decision as expeditiously as possible and within a period of eight weeks from the date of receipt of a copy of this order. The decision shall be taken after due notice and an opportunity being given to the Petitioner.

5. This order is passed in the peculiar facts and circumstances of this case and though the request is belated, but considering that the Petitioner is a differently abled person, this Court has rendered him assistance. Needless to clarify that the order is passed in the peculiar facts and circumstances of this case and shall not be treated as a precedent by anybody.

6. The petition stands disposed of with above directions and clarifications. No order as to costs.

(S.C.DHARMADHIKARI, J.)

(B.P.COLABAWALLA, J.)

MST