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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Petition (MD) Nos.3388 and 3389 of 2013

SWASAM Trust,
Rep by its Managing Trustee,
S.Ramesh,
Door NO.11-A, Agasthiyar Kovil
East Street,
Ambasamudram 627 401,
Tirunelveli District

... Petitioner in both W.Ps.

Vs.

- 1.Union of India,
Rep by its Secretary,
Ministry of Environment and Forests,
Annexe No.5, Bikaner House,
Shahjahan Road,
New Delhi 110 011.
- 2.The Deputy Inspector General,
National Tiger Conservation Authority,
Annexe No.5, Bikaner House,
Shahjahan Road,
New Delhi 110 011.
- 3.State of Tamil Nadu,
Rep by its Secretary,
Department of Environment and Forests,
Secretariat,
Chennai 9.
- 4.The Principal Chief Conservator of Forests and
Chief Wild Life Warden
O/o.the Principal Chief Conservator of Forests,
Panagal Maligai,
Saidapet,
Chennai 15.
- 5.The Additional Principal Chief Conservator of
Forests, Project Tiger,
O/o.the Additional Principal Chief Conservator of
Forests (Project Tiger)
Coimbatore
- 6.The Principal Chief Conservator of Forests and Field Director,
Kalakad Mundanthurai Tiger Reserve/Member
Secretary,



Local Advisory Committee for Kalakad,
Mundanthurai Tiger Reserve,
Tirunelveli 7.

7. Thamiraparani Tourism Boat Owner's Association,
Regn.No.23/2004,
Karaiyar, Papanasam,
Tirunelveli District,
Rep by its Secretary,
K.Kalan,
23-C, Papanasam Upper Dam,
Ambasamuthiram Taluk,
Tirunelveli District.

... Respondents in both W.Ps.

Prayer in W.P.No.3388/2013: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Proceedings in C.No.6417/2012/D dated 18.02.2013 on the file of the Respondent No.6 and quash the same as illegal and consequently for a direction forbearing the Respondents No. 1 to 6 from permitting tourism related activities within the Kalakad Mundanthurai Tiver Reserve such as boating in Karaiyar Dam allowing private vehicles to upper Kodayar area within the time period stipulated by this Honourable Court.

Prayer in W.P.No.3389/2013: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Notification in FNo.15-31/2012-NTCA dated 15.10.2012 on the file of the Respondent No.1 and quash the same as illegal to the effect of Part-B of the Impugned Notification and consequently for a direction forbearing the Respondents No. 1 to 6 from permitting eco-tourism and tourism related activities within the Kalakad Mundanthurai Tiver Reserve.

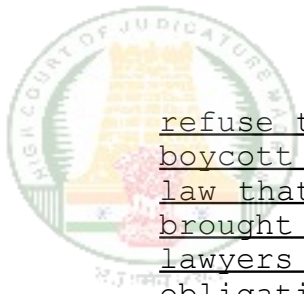
For Petitioner (In both W.Ps.)	: No appearance
For Respondents 3-6 (In both W.Ps)	: Mr.M.Govindan, Special Government Pleader.
For Respondents 1&2	: Ms.S.Srimathy
For 7 th Respondent	: No appearance

ORDER

(Order of the Court was made by R.SUDHAKAR,J.)

None appears for the petitioner on account of boycott. This shows that the learned counsel for the petitioner is not interested in conducting the case. It is a clear breach of the decision of the Hon'ble Supreme Court in Ex.Capt. Harish Uppal Vs. Union of India and another [2003 (2) SCC 45], wherein the Hon'ble Apex Court has held as follows:-

"20.Thus the law is already well settled. It is the duty of every Advocate who has accepted a brief to attend trial, even though it may go on day to day and for a prolonged period. It is also settled law that a lawyer who has accepted a brief to attend Court because a boycott call is given by the Bar Association. It is settled law that it is unprofessional as well as unbecoming for a lawyer who has accepted a brief to



refuse to attend Court even in pursuance of a call for strike or boycott by the Bar Association or the Bar Council. It is settled law that Courts are under an obligation to hear and decide cases brought before it and cannot adjourn matters merely because lawyers are on strike. The law is that it is the duty and obligation of Courts to go on with matters or otherwise it would tantamount to becoming a privy to the strike. It is also settled law that if a resolution is passed by Bar Associations expressing want of confidence in judicial officers it would amount to scandalising the Courts to undermine its authority and thereby the Advocates will have committed contempt of Court. Lawyers have known, at least since Mahabir Singh's case (supra) that if they participate in a boycott or a strike, their action is ex-facie bad in view of the declaration of law by this Court. A lawyer's duty is to boldly ignore a call for strike or boycott of Court/s. Lawyers have also known, at least since Roman Services' case, that the Advocates would be answerable for the consequences suffered by their clients if the non-appearance was solely on grounds of a strike call.

21. It must also be remembered that an Advocate is an officer of the Court and enjoys special status in society. Advocates have obligations and duties to ensure smooth functioning of the Court. They owe a duty to their client. Strikes interfere with administration of justice. They cannot thus disrupt Court proceedings and put interest of their clients in jeopardy. In the words of Mr. H. M. Seervai, a distinguished jurist:-

"Lawyers ought to know that at least as long as lawful redress is available to aggrieved lawyers, there is no justification for lawyers to join in an illegal conspiracy to commit a gross, criminal contempt of court, thereby striking at the heart of the liberty conferred on every person by our Constitution. Strike is an attempt to interfere with the administration of justice. The principle is that those who have duties to discharge in a court of justice are protected by the law and are shielded by the law to discharge those duties, the advocates in return have duty to protect the courts. For, once conceded that lawyers are above the law and the law courts, there can be no limit to lawyers taking the law into their hands to paralyse the working of the courts. "In my submission", he said that "it is high time that the Supreme Court and the High Court make it clear beyond doubt that they will not tolerate any interference from anybody or authority in the daily administration of justice. For in no other way can the Supreme Court and the High Court maintain the high position and exercise the great powers conferred by the Constitution and the law to do justice without fear or favour, affection or ill-will."

.....

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33. The only exception to the general rule set out above appears to be item (III). We accept that in such cases a strong protest must be lodged. We remain of the view that strikes are illegal and that Courts must now take a very serious view of strikes and calls for boycott. However, as stated above, lawyers are part and parcel of the system of administration of justice.



A protest on an issue involving dignity, integrity and independence of the Bar and judiciary, provided it does not exceed one day, may be overlooked by Courts, who may turn a blind eye for that one day.

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35. In conclusion it is held that lawyers have no right to go on strike or give a call for boycott, not even on a token strike. The protest, if any is required, can only be by giving press statements, TV interviews, carrying out of Court premises banners and/or placards, wearing black or white or any colour arm bands, peaceful protect marches outside and away from Court premises, going on dharnas or relay fasts etc. It is held that lawyers holding Vakalats on behalf of their clients cannot not attend Courts in pursuance to a call for strike or boycott. All lawyers must boldly refuse to abide by any call for strike or boycott.". (emphasis supplied)

2. In view of the law laid down by the Hon'ble Apex Court, we are inclined to dismiss the writ petitions. Accordingly, the writ petitions are dismissed. No costs. Consequently, M.P(MD)Nos.1,2 and 3 of 2013 are closed.

Sd/-

Assistant Registrar(Per.Admn)

/True Copy/

Sub Assistant Registrar.

To

1. The Secretary,
Union of India,
Ministry of Environment and Forests,
Annexe No.5, Bikaner House,
Shahjahan Road,
New Delhi 110 011.
2. The Deputy Inspector General,
National Tiger Conservation Authority,
Annexe No.5, Bikaner House,
Shahjahan Road,
New Delhi 110 011.
3. The Secretary,
State of Tamil Nadu,
Department of Environment and Forests,
Secretariat,
Chennai 9.
4. The Principal Chief Conservator of Forests and
Chief Wild Life Warden
O/o the Principal Chief Conservator of Forests,
Panagal Maligai,
Saidapet, Chennai 15.



5.The Additional Principal Chief Conservator of Forests,
Project Tiger,
O/o.the Additional Principal Chief Conservator of
Forests (Project Tiger)
Coimbatore

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6.The Chief Conservator of Forests and Field Director,
Kalakad Mundanthurai Tiger Reserve/Member Secretary,
Local Advisory Committee for Kalakad,
Mundanthurai Tiger Reserve,
Tirunelveli 7.

+2CC to Mr.T.Lajapathi Roy, Advocate, SR.No. 57265 and 57264

+1CC to M/s.S.Srimathy, Advocate, SR.No. 56918.

Writ Petition (MD) Nos.3388 and 3389 of 2013
28.09.2015

AM/16.11.2015/GSV.PM/5P/10C