

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (PIL) NO. 12 OF 2017

Sanjay Agrawal, S/o Late Shri Satya Narayan Agrawal, Aged About 47 Years, R/o Jai Estambh Chowk, Dongargarh, Distt. Rajnandgaon (Chhattisgarh) Trustee of Shri Ma Bamleshwari Mandir Trust Samiti, Dongargarh, Distt. Rajnandgaon (Chhattisgarh)

... Petitioner

Versus

1. Union of India, through Secretary, Ministry of Environment, Forest and Climate Change, Ground Floor, East Wing, New Secretariat Building, Civil Lines, Nagpur 440001 (Maharashtra)
2. State of Chhattisgarh, through Secretary, Ministry of Forest, Govt. of Chhattisgarh Mahanadi Bhavan, Naya Raipur, Distt. Raipur (Chhattisgarh)
3. Conservator of Forest, Aranya Bhavan, Medical College Road, Raipur (Chhattisgarh)
4. Conservator of Forest, Durg, District Durg Chhattisgarh.
5. District Forest Officer, Khairagarh, Forest Division Khairagarh, Distt. Rajnandgaon (Chhattisgarh)
6. Sub Divisional Officer, Dongargarh, General Forest Division-Khairagarh, Distt. Rajnandgaon (Chhattisgarh)
7. Shri Ma Bamleshwari Mandir Trust Samiti, Dongargarh, Distt. Rajnandgaon (Chhattisgarh), through its Secretary,
8. M/s Conveyor & Ropeway Services Pvt. Ltd., 75 C, Park Street, 6th Floor, Kolkata 700 016 (West Bengal)

... Respondents

For Petitioner	:	Ms. Fouzia Mirza, Advocate.
For Respondent 1	:	Mr. N.K. Vyas, Asstt. Solicitor General.
For Respondents 2 to 6	:	Mr. J.K. Gilda, Advocate General.
For Respondent 7	:	Mr. Parag Kotecha, Advocate.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per Thottathil B. Radhakrishnan, C.J.

24/04/2017

1. We have heard learned Counsel for the Petitioner, learned Advocate General, learned Assistant Solicitor General and learned Counsel for 7th Respondent - Shri Ma Bamleshwari Mandir Trust Samiti.
2. The Petitioner is a member of 7th Respondent-Trust. That Trust is putting up a second rope-way for movement of pilgrims to Ma Bamleshwari Temple. The Writ Petition is projected as if the said Trust has violated the sanction order relating to identification of forest land through which the proposed structure could run. Through the materials placed on record by

the 7th Respondent, it is clear that the management of the forest area is not a problem by itself. It is now on record that the competent authority has granted sanction. Obviously, if there is a slight encroachment beyond the land that was originally allotted for the purpose, it may call for appropriate proportional rectification measures including by afforestation and adding on to the diminution in the forest area.

3. However, learned Counsel for the Petitioner points out that there is a larger public interest issue because the alignment of the rope-way has been adversely affected by the shifting of the base and that this would result in a dangerous situation for the human being who use the rope-way in question. She points out to the pleadings in paragraph C(i) of the Writ Petition. Such pleadings are insufficient for us to enter into a probe as to whether the 7th Respondent-Trust and the 8th Respondent which is its Agent to erect the rope-way, are carrying out such activities in accordance with the requisite prescriptions in terms of the different laws, which are mandatory for such establishment. We therefore leave open that issue and also the Petitioner with liberty to make appropriate complaint to the competent authority, in the event there is a real grievance on any such issue, which requires to be addressed by any statutory authority which has control over the structure in question.

4. The Writ Petition is dismissed accordingly.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge