

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (PIL) No. 38 of 2019**

1. Laxmi Chouhan, S/o Late Shri B.R. Chouhan, aged about 45 years, R/o Ravi Shankar Shukla Nagar, Korba, District – Korba (C.G.)
2. Ashok Kumar Mishra, S/o Shri Ram Naresh Mishra, aged about 52 years, R/o Near Hanuman Temple, Rajendra Prasad Ward, Bijapur, District – Bijapur (C.G.) - 494444

---- Petitioners**Versus**

1. The Union of India, Through – Secretary, Ministry of Environment, Forest and Climate Change, Paryavaran Bhavan, Jorbagh Road, New Delhi (India)
2. National Tiger Conservation Authority (NTCA), Through – Secretary, B-1, 7th Floor, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi (India)
3. The State of Chhattisgarh, Through – Principal Secretary, Department of Forest, Mahanadi Bhawan, Naya Raipur (C.G.)
4. Indravati Tiger Reserve, Through – Director, Indravati Tiger Reserve, Jagdalpur, District Jagdalpur (C.G.)
5. Indravati Tiger Reserve, Through – Deputy Director Indravati Tiger Reserve, Bijapur, District – Bijapur (C.G.)

---- Respondents

For Petitioners	:	Shri Sudeep Agrawal, Advocate.
For Respondents No.1 & 2	:	Shri B. Gopa Kumar, Assistant Solicitor General.
For Respondents No.3 to 5	:	Shri Gagan Tiwari, Deputy Government Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Justice Parth Prateem Sahu, Judge****Order on Board****Per P. R. Ramachandra Menon, Chief Justice****15.07.2019**

1. The Petitioners have approached this Court as *pro bono publico*, raising the following prayers:

“10.1 That, the Hon'ble Court may kindly be pleased to call for the entire records pertaining to the matter from the respondent authorities in the interest of justice.

10.2 That, this Hon'ble Court may kindly be pleased to hold that the constitution of Expert Committee being against the provisions of Wild Life (Protection) Act, 1972 and the recommendation made by the State Government is void ab-initio as being without

jurisdiction and in gross violation of Section 38 W of the Wild Life (Protection) Act, 1972.

10.3 That, this Hon'ble Court may kindly be pleased to direct the respondent authorities, especially respondent no.2 to conduct extensive survey and study before accepting the proposal made by the State Government for reducing the buffer zone area of Indravati Tiger Reserve.

10.4 That, this Hon'ble Court may kindly be pleased to pass any other of further orders deemed fit and necessary in the facts and circumstances, in the matter."

2. Heard Shri Sudeep Agrawal, the learned counsel for the Petitioners, Shri B. Gopa Kumar, the learned Assistant Solicitor General appearing on behalf of Respondents No.1 & 2, besides Shri Gagan Tiwari, the learned counsel representing the State.
3. The grievance projected by the Petitioner is mainly that the area in question i.e. Indravati Tiger Reserve was declared as a National Park way back in the year 1981 which has derived its name from Indravati River flowing along the northern boundary of the park. It is stated that the said park was included in the Project Tiger Network in 1983 and is spread in an area of about 2799.08 sq. km. whereas its buffer zone itself extends in an area of 1438 sq. km. which includes as many as 81 villages.
4. The grievance projected in this petition is that despite the gazette notification issued on 06.03.2009, the State Government yielding to some unlawful demands raised by persons with vested interest has taken a decision to reduce the area to a meagre extent of 513 sq. km. (instead of 1438 sq. km.) and has sent a recommendation in this regard to the Central Government for getting it approved and implemented.
5. According to the Petitioner, various statutory formalities have to be completed by the State, if at all there has to be some alteration or de-notification of the

Tiger Reserves as envisaged under Section 38 W of the Wild Life (Protection) Act, 1972. The importance and the mandate of the Act, as discernible from Section 38 V (1) of the Wild Life (Protection) Act, 1972, is also specifically adverted to and the serious consequence to be resulted, if the recommendations of the State is to be given effect to, has been highlighted in the writ petition. Projecting all these facts and figures, the Petitioner has already moved the Respondents concerned, by filing a representation on 09.07.2014 and the inaction on the part of the Respondents made the Petitioners to approach this Court by filing the writ petition with the prayers as aforesaid.

6. When the matter came up for consideration before this Court, on the last occasion, the State was required to put forth their version in writing, which is still to be filed. However, considering the nature of the case projected in the writ petition and also the limited extent of relief now pressed before this Court, particularly as flowing from prayer No. 10.3 in the writ petition, this Court does not find it necessary to go into the merits of case at all. The Respondent No. 1 is directed to consider the issue as projected in the representation dated 09.07.2014, conduct necessary enquiry / survey as to the proposal mooted by the State Government before passing any final order. The matter shall be finalized in respect of the proposal mooted by the State Government only after confirming the satisfaction of all the requirements and the relevant provisions of the statute and in particular, the Wild Life (Protection) Act, 1972, after affording an opportunity of hearing to the Petitioner and the other stake holders. This shall be done as expeditiously as possible.
7. Writ petition stands disposed off.
8. On finalisation of the matter, the learned counsel for the Petitioner makes a fair submission to the effect that the amount deposited by the Petitioner as 'security

deposit' at the time of filing of writ petition, might be caused to be paid to the Legal Aid Committee of this Court. The genuineness in the cause of action projected and the fairness in the approach displayed by the Petitioner and the counsel stand appreciated. The Registry is directed to cause the security deposit to be paid to the High Court Legal Aid Committee.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge