

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.10006 of 2020
and WMP No.12165 of 2020

People for Cattle in India (RFD)
represented by its Founder
Mr.G.Arun Prasanna
having office at
8/22, Ragaviah Road
T.Nagar, Chennai -600 017 petitioner

vs.

1. Additional Director General of Forests (Wildlife)
Member-Secretary
National Board for Wildlife,
Ministry of Environment, Forests and Climate Change
Indira Paryavaran Bhawan, Agni Wing
Jor Bagh Road, Aliganj
New Delhi - 110 003

2. Principal Secretary
Environment & Forests (FR.5) Department
Secretariat, Chennai - 600 009 ... Respondents

Prayer ::- Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the 1st Respondent, Additional Director General of Forests (Wildlife) Member-Secretary, National Board for Wildlife, to provide a personal hearing to the Petitioner prior to passing any order on the application for denotification of outer 2 kilometers of land in Vedanthangal Bird Sanctuary made by the 2nd Respondent, Principal Secretary, Environment & Forests (FR.5) Department, Government of Tamil Nadu.

For Petitioner : Mr.Kaushik N.Sharma
For respondent : Ms.Anitha,
for 1st respondent
Mr.S.R.Rajagopal, A.A.G.,
for Mr.S.Prabhu, A.G.P.
For 2nd respondent

ORDER

(Made by DR.VINEET KOTHARI, J.)

The Court was held by Video Conference, as per the Resolution of the Full Court dated 3 July 2020, by Judges at their respective residence and the counsel, staff of the Court appearing from their respective residences.

2.The present public interest litigation has been filed by the petitioner seeking intervention of this court in the curtailment of territory of Vedanthangal Bird Sanctuary. Two Benches of this court have already disposed of similar writ petitions, on the same issue, in W.P.No.8525 of 2020 (S.Stalin Raja vs. The Additional Chief Secretary to Government, Environment and Forest Department, Secretariat, and others), by the First Bench headed by the Hon'ble the Chief Justice, on 16 July 2020 and W.P.No.9693 of 2020 (T.Vennila vs. The Secretary (EF&CC), Government of India. Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan. Jor Bagh Road, New Delhi and ors.), disposed of by this court on 24 July 2020. The operative portion of the order dated 24 July 2020, in W.P.No.9693 of 2020 is reproduced below for ready reference :-

2. This Public Interest Litigation has been filed by Ms.T.Vennila, an Environment Activist, with a prayer to issue a writ of Mandamus to the sixth respondent, namely the Chairman of the State Environment Impact Assessment Authority, Tamilnadu, to consider the petitioner's representation dated 22.06.2020, to reject the Proposal No.SIA/TN/IND-2/155205/2020, dated 30 May 2020, of the seventh respondent company M/s. Sun Pharma Pharmaceuticals Industrial Limited seeking to expand its industrial unit for manufacture of drugs, which according to the petitioner, is within the protected area of Vedanthangal Birds Sanctuary, admeasuring about 29.51 hectares and 5 kms of surrounding radius known as Wild Life Sanctuary Zone declared by G.O.No.199 dated 03.07.1998 under the provisions of Wild Life Protection Act, 1972.

3. The cause which has triggered the petitioner to approach this Court by way of the present public interest litigation seems to be that the seventh respondent company has given some proposal to expand it's industrial activity on the area, part of which falls within the protected area of Birds Sanctuary and there is a proposal on the part of the State Government to reduce or curtail the area of such protected Birds Sanctuary from 5 km radius to 3 km radius. The petitioner, therefore, felt aggrieved by

the intended expansion of the industrial activity of the seventh respondent Sun Pharmaceutical Industries Limited and therefore, has approached this Court for appropriate directions in the matter to reject the said proposal of the seventh respondent company.

4. Mr.S.R. Rajagopal, learned Additional Advocate General has put in appearance on behalf of the respondents 4 and 5 and Mr.V.Chandru, learned counsel has put in appearance for respondents 1 to 3.

5. The learned Additional Advocate General informed the Court that the seventh respondent company's proposal to expand it's business would require clearances from several concerned authorities. But, as of now, this proposal has been returned back by respondents 4 and 5, the authorities of the State Board for Wild Life, on 15.06.2020 and therefore, the prayer of the petitioner to that extent has become infructuous. However, the matter about curtailment of the area in question is pending with the National Wild Life Board, the Member Secretary of which is arrayed as the second respondent before this Court.

6. The Departments concerned have not taken a final call on the decision of the respondent State and it's functionaries about the curtailment of the area in question, nor the proposal of the seventh respondent company has been cleared and sanctioned by the concerned authorities.

7. Therefore, in our opinion, it would be premature for this Court to express any opinion on the rival claims of parties, either of the petitioner who seeks to prohibit any such expansion of the business activity of the seventh respondent company or as that of the seventh respondent company. Therefore, at this stage, we are not inclined to interfere in the present public interest litigation at all. The present petition is therefore disposed of, of course, with liberty to the petitioner to approach the concerned authority/authorities where the said matter is pending or comes up for clearance or sanction and we expect the concerned authorities to consider the objections of the petitioner, which may be made along with relevant evidence before them, in accordance with law, before a final decision in the matter is taken.

8. With the aforesaid liberty to the petitioner and respondents, we dispose of this public interest litigation. No costs.

3. In view of the above, we are not inclined to take a different view in the matter, and leaving the petitioner free to pursue his representation before the authorities, we dispose of the writ petition in the same terms. There is no order as to costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kpl/tar

To

1. Additional Director General of Forests (Wildlife)
Member-Secretary
National Board for Wildlife,
Ministry of Environment, Forests and Climate Change
Indira Paryavaran Bhawan, Agni Wing
Jor Bagh Road, Aliganj
New Delhi - 110 003

2. Principal Secretary
Environment & Forests (FR.5) Department
Secretariat, Chennai - 600 009

+1 cc to M/s.P.J.Anitha, Advocate Sr.No. 25783
+1 cc to The Government Pleader, Sr.No. 25782

W.P.No.10006 of 2020

VS (CO)
RMP (31/08/2020)

सत्यमेव जयते

WEB COPY