



W.P.Nos. 26494, 26515, 26517,
26519 & 26521 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.01.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.Nos. 26494, 26515, 26517, 26519 & 26521 of 2022

- | | |
|----------------------|---------------------|
| 1. Rajendran | ... Petitioner |
| 2022 | in W.P.No. 26494 of |
| 2. Yenaskuttan | ... Petitioner |
| 2022 | in W.P.No. 26515 of |
| 3. Devas | ... Petitioner |
| 2022 | in W.P.No. 26517 of |
| 4. K. Mantheshkuttan | ... Petitioner |
| 2022 | in W.P.No. 26519 of |
| 5. K. Mantheshkuttan | ... Petitioner |
| 2022 | in W.P.No. 26521 of |

Vs

1. The District Collector,
Nilgiris District,
Chairman of the Committee Constituted
under Tamil Nadu Hill Areas Preservation of
Trees Act Collectorate,
Uthakamandalam,
The Nilgiris.
2. The District Forest Officer,
Nilgiris Forest Division,
Mount Streat Hill,
Uthakamandalam,



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The Nilgiris.

... Respondents
in all WPs.

Prayer in W.P.No. 26494 of 2022: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of mandamus directing the respondents herein to consider the petitioner's online application No.2019/11/00074 dated 06.11.2019 in respect of which petitioner has paid 10% security deposit being Rs. 1,07,844/- pursuant to order dated 31.08.2018 issued by the second respondent herein.

Prayer in W.P.No. 26515 of 2022: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of mandamus directing the respondents herein to consider the petitioner's online application No.2021/18/00130 dated 10.08.2021 in respect of which petitioner has paid 10% security deposit being Rs. 40,489/- pursuant to order dated 31.08.2018 issued by the second respondent herein.

Prayer in W.P.No. 26517 of 2022: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of mandamus directing the respondents herein to consider the petitioner's online application No.2019/11/0076 dated 06.11.2019 in respect of which petitioner has paid 10% security deposit being Rs. 1,78,166/- pursuant to order dated 31.08.2018 issued by the second respondent herein.

Prayer in W.P.No. 26519 of 2022: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of mandamus directing the respondents herein to consider the petitioner's online application No.2021/07/00125 dated 29.07.2021 in respect of which petitioner has paid 10% security deposit for 1 Hectare being Rs. 83,564/- pursuant to order dated 31.08.2018 issued by the second respondent herein.

Prayer in W.P.No. 26521 of 2022: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of mandamus directing the respondents herein to consider the petitioner's online



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application No.2021/07/00126 dated 29.07.2021 in respect of which petitioner has paid 10% security deposit for 1 Hectare being Rs. 1,20,581/- pursuant to order dated 31.08.2018 issued by the second respondent herein.

For the Petitioners : Mr. T. Moorthy

For the Respondents : Mr. T. Seenivasan
Special Government Pleader

COMMON ORDER

Since the issue involved in the five writ petitions are same, and since learned counsel for the petitioners and learned Special Government Pleader also pointed out the same factors which are required to take a decision on the five writ petitions, a common order is passed.

2. Let me take as an illustration the W.P.No. 26494 of 2022 to narrate the facts.

3. The petitioner in the said writ petition, Rajendran son of Malliarasu resident of Muthunadmandh at Thalaikundha in Nilgiris



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District had filed a writ petition against the District Collector of Nilgiris District and against the District Forest Officer of Nilgiris District.

4. He had sought a relief to issue a Mandamus seeking a direction to the respondents particularly the first respondent to consider the on-line application bearing No. 2019/11/00074 dated 06.11.2019 wherein he had paid 10 % security deposit of Rs. 1,07,844 consequent to an order dated 31.08.2018 issued by the second respondent and examine the said application.

5. Even before proceeding further, it must be stated that all the other writ petitioners have also filed the writ petitions seeking a similar mandamus with respect to their respective representations wherein they had submitted them through on-line and had also paid 10 % of security deposit as directed by the second respondent.

6. These online applications given by the petitioners herein independently and individually will have to be considered by the first



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respondent/District Collector who incidentally is the Chairman of the Committee constituted under the Tamil Nadu Hill Areas Preservation of Trees Act. That is a unique statute which is applicable to the Nilgiris District.

7. In Nilgiris District, owing to the large scale planting of Eucalyptus trees, the underwater had been seriously affected and thereafter the Government at various stages had taken a policy decision to ensure that if trees are planted to plant only native and indigenous trees and certainly not grant permission to plant alien trees or invasive trees. The forest landscape which is prevalent in Nilgiris District is called the Shola forest. This not only protects the landed area from on sought of turbulent weather but also, ensures that the rain water which falls is retained in the soil and thereby there is further growth of greenery surrounding that particular area. Shola forest is of the distinctive feature of the Nilgiris district.

8. The writ petitioners herein had submitted their on-line applications as aforementioned consequent to the fact that they sought permission to cut trees which were now standing in their



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lands. As stated, Nilgiris is a protected area and the enactment directs that before any tree is cut, the District Forest Officer should be informed and permission should be obtained. A security deposit is also sought from those who cut trees to ensure that they plant trees again and in this connection, care should be taken that they plant trees which can be categorized as forming a Shola forest and also only native or indigenous trees, can be planted and certainly not invasive or alien trees. The petitioners had given an affidavit and all the petitioners in their affidavits have stated that they would abide by that particular condition. That particular condition has been given by proceedings of the District Collector dated 06.02.2019 in proceedings No. A4/TP.No.10/2018. Condition No. 8 is relevant. It is as follows:

"8. வெட்டப்பட்ட மரங்களுக்கு ஈடாக செயற்கை முறையாக மரங்களை மறு உற்பத்தி செய்யப்படும் பட்சத்தில் இயற்கையான மரங்களின் இனத்தை சேர்ந்த நாற்றுக்களைக் கொண்டோ அல்லது வேறு இனத்தை சேர்ந்த நாற்றுக்களைக் கொண்டோ (சீகை மரங்களை தவிர) (*Syzygium cumini* - நாவல மரம், *Eleocarpus oblongus* - விக்க மரம், *Celtis Tetrandra* - அதுவ மரம், *Michelia nilagirica* - காட்டு சென்பம் மரம்) தகுந்த தேதிக்குள் மறு உற்பத்தி செய்து முடிக்க வேண்டும்."

9. The undertakings by the petitioners in the affidavit that they would abide by that condition, are as follows:



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" I state that in the event of grant of permission, after removal of existing eucalyptus/wattle trees, I hereby undertake that tree to plant Shola and other permissible species of trees as per the conditions to be imposed by the 2nd respondent Committee in the entire extent of my lands and to maintain the same till the trees grow well."

10. In view of this particular stand and particularly taking note of the fact that the learned counsel for the petitioners had also reiterated the said undertaking and also stated that the petitioners herein would abide by the above extracted Clause 8 of the condition imposed by the first respondent and the stand of the Special Government Pleader that the petitioners must be directed to adhere to the said conditions and should also not plant any invasive or alien tress and only plant native tress which lead to formation of Shola forest, I would allow the said writ petitions and direct the first respondent herein in his capacity as Chairman of the Committee constituted under the Tamil Nadu Hill Areas Preservation of Trees Act, to examine the on-line application of the five petitioners independently and individually and pass necessary orders in accordance with rules and regulations and if required, by imposing necessary conditions and getting undertakings from the petitioners as



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stated already in the course of this order.

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11. It is also seen that the petitioners and the respondents should ensure that there is complete adherence to G.O.(Ms).No. 102, Environment and Forests (FR-3) Department dated 20.07.2018.

12. The first respondent may examine the applications of the petitioners and also give a personal hearing and endeavour to dispose of the said representations within a period of four weeks from the date of receipt of a copy of this order.

13. The writ petitions stand allowed in the aforesaid terms. No costs.

30.01.2023

Index: Yes/no
mrn

To

1. The District Collector,
Nilgiris District,
Chairman of the Committee Constituted
under Tamil Nadu Hill Areas Preservation of
Trees Act Collectorate,

8/10



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Uthakamandalam,
The Nilgiris.

2. The District Forest Officer,
Nilgiris Forest Division,
Mount Streat Hill,
Uthakamandalam,
The Nilgiris.

C.V.KARTHIKEYAN, J.
(mrn)

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