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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO.9 OF 2024

VAIBHAV
RAMESH
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Dipak Atmaram Shirodkar

... Petitioner

V/s.

State of Maharashtra & Ors.

... Respondents

Mr. Narayan R. Bubna for the petitioner.

Ms. Neha S. Bhide, Government Pleader with Mr. O. A. Chandurkar, Additional Government Pleader and Ms. R. A. Salunkhe, AGP for respondent Nos.1, 2 and 4.

Mr. Kalpesh Patil with Mr. Vivek Rane for respondent No.5

Mr. Shreyash Sudhir Butala for respondent No.6.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ
& AMIT BORKAR, J.**

DATED : JANUARY 3, 2025

P.C. (PER AMIT BORKAR, J.)

1. The petitioner, by invoking Article 226 of the Constitution of India, seeks to bring to the notice of this Court the inaction of the respondent – Forest Officers, in failing to take effective steps to prevent the rampant destruction of forest resources and illegal smuggling activities by Kath manufacturers. The petitioner further seeks initiation of penal action against the

erring officials responsible for the said illegality, in accordance with the relevant provisions of the Indian Forest Act, 1927, and other applicable laws. The petitioner's grievances also highlight the urgent need for enforcement of statutory regulations aimed at protecting the environment, ensuring that forest conservation laws are upheld, and that public interest is protected.

2. In the present case, the petitioner has relied on the doctrine of public trust, which places an affirmative duty on the State to safeguard natural resources for the benefit of the public. According to the petitioner, around 102 kath manufacturing units are operating within a 1-kilometer radius of reserved forest land, a clear violation of the forest protection norms under the Forest (Conservation) Act, 1980, and the Indian Forest Act, 1927. The licenses issued by the competent authorities for these units have already expired. Despite this, the petitioner asserts that these 102 manufacturing units continue with their unlawful activities of processing wood products, specifically Khair wood, within the prohibited limits, in contravention of the statutory restrictions imposed by the Forest Conservation Act. Such continued operations amount to a breach of the prescribed conditions for

sustainable forest management and present a serious environmental hazard. The petitioner has argued that this unchecked activity, which violates the principles of forest conservation, has resulted in significant ecological degradation, thus necessitating intervention by this Court.

3. This Court, by order dated 6 March 2024, called upon learned AGP to seek instructions and to produce detailed reports on the inspection of kath manufacturing units within the Sindhudurg and Ratnagiri circles, in order to verify the allegations made by the petitioner regarding the ongoing illegal activities. In furtherance of this, the Deputy Conservator of Forests, Sawantwadi, filed an affidavit on 13 March 2024, wherein it was categorically stated that, as of the date of filing the affidavit, all 102 licenses had indeed expired and that no valid permits were subsisting for the purpose of processing Khair wood. The affidavit further details the steps taken by the respondent authorities, wherein, upon receiving complaints regarding the illegal operations, respondent No. 4 ordered a comprehensive inspection of the manufacturing units. The inspection, which began in November 2023 and concluded in March 2024, was aimed at ascertaining the current status of operations in these units. According to the

affidavit, none of the 102 units were found to be operating or processing Khair wood during the inspection period. The affidavit emphasizes that no violations were found at the time of inspection, and it appears that the respondent authorities acted promptly in addressing the concerns raised. However, the petitioner disputed the findings, contending that the Forest Department's inspection was factually incorrect, and therefore, further inquiry may be required to ascertain the full scope of the unlawful activity.

4. This Court, thereafter, on 1 October 2024, passed an order appointing a Committee headed by the Advocate Commissioner, accompanied by Forest Officers, to carry out a survey of all 102 units. This action was taken as a proactive measure to ensure thorough and impartial scrutiny of the operations in these units. The Deputy Conservator of Forests, Sawantwadi Division, again filed an affidavit dated 9 December 2024, wherein it was stated that out of the 102 units, 60 chulha bhatti units had been permanently closed, and out of the remaining 42 boiler-based units, 22 units were found to be carrying out prohibited activities, such as the illegal processing of Khair wood. The Forest Authorities have reportedly booked the offenders under the provisions of the

Indian Forest Act, 1927, against these 22 manufacturing units. While this represents a step towards enforcement, the failure to address the underlying issues of continued illegal activity raises serious concerns regarding the adequacy of the State's efforts in curbing such unlawful operations.

5. However, a material discrepancy in the affidavit filed by the Deputy Conservator of Forests, Sawantwadi Forest Division, is glaring. In the affidavit dated 20 March 2024, a categorical statement was made before this Court that none of the 102 manufacturing units were processing Khair wood at the time of inspection. This statement was intended to allay concerns raised by the petitioner regarding the illegal operations of these units. However, following the survey directed by this Court, the affidavit dated 9 December 2024 reveals that 22 manufacturing units were found carrying on prohibited activities, which contradicts the earlier statement made under oath. This inconsistency raises serious doubts about the credibility of the Forest Authorities' previous assertions and calls into question their commitment to enforcing the laws aimed at protecting forest resources. Such discrepancies undermine the public trust in the regulatory mechanisms that are supposed to safeguard the environment.

It is, therefore, evident that the respondent – Forest Officers have, at the very least, failed in their duty to provide accurate and truthful information to this Court, which is a matter of grave concern.

6. Moreover, with respect to the 22 manufacturing units found in violation, it is stated that the Forest Authorities have booked offences under the provisions of the Indian Forest Act, 1927, against these units. The filing of complaints in this regard is a necessary step to hold the offenders accountable. However, at this stage, it is necessary to extract Section 52 of the Indian Forest Act, 1927, which deals with the power of Forest Officers to seize tools and machinery used in the commission of forest offences. Section 52(1) reads as follows:

"52 (1) When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts or cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer."

7. On perusal of Section 52(1) of the Indian Forest Act, 1927, it is evident that the Forest Officer is empowered to seize all tools, implements, or machinery used by the accused in the commission of a forest offence related to forest

produce. However, curiously, the concerned Forest Officer has filed complaints against the erring 22 manufacturing units but has failed to initiate action under Section 52 of the Indian Forest Act, 1927, in relation to the machinery used in the alleged commission of the offence. The non-initiation of action under Section 52 undermines the effectiveness of the legal provisions meant to deter such illegal activities and raises questions about the seriousness with which the Forest Authorities are addressing the issue. It is imperative that the Forest Authorities take immediate steps to enforce the law in its entirety, including the seizure of machinery and other implements used for the illegal processing of Khair wood. The failure to do so may suggest a lack of commitment to protecting forest resources and may result in further destruction of valuable environmental assets.

8. On an overall consideration of the contentions raised by the petitioner and the conduct of the Forest Officers in making false statements on oath, it is clear that such actions require serious attention by this Court. The filing of contradictory affidavits and the failure of the Forest Authorities to notice or take appropriate action against the illegal activities being carried out by the manufacturing units within the prohibited

area constitute a breach of their statutory duties. The Forest Officers are entrusted with the critical responsibility of enforcing forest conservation laws, and their failure to act diligently is a matter that undermines public trust in the efficacy of these laws. In this context, the Court cannot overlook the significance of such lapses and must ensure that accountability is imposed on those responsible. It is imperative that those responsible for misleading the Court and failing to prevent illegal activities face appropriate scrutiny and consequences.

9. Therefore, by way of interim directions and to uphold the rule of law, we pass the following order:

(i) The concerned Forest Officer shall, in accordance with the provisions of the Indian Forest Act, 1927, and other enabling laws initiate action with respect to the 22 manufacturing units mentioned in the affidavit dated 9 December 2024, if he has reason to believe that a forest offence has been committed in respect of forest produce by using tools or machinery that were employed in committing such offence. The Forest Officer shall ensure that the legal process is followed and that all necessary

actions are taken to prevent further damage to the environment and to hold the violators accountable for their actions.

(ii) The Principal Secretary, Forests, State of Maharashtra, shall appoint an officer of the rank of Principal Chief Conservator of Forest to initiate an inquiry into the conduct of the persons responsible for filing contradictory affidavits before this Court, as well as those responsible for failing to notice the illegal activities being carried out by the manufacturing units within the prohibited area. This inquiry shall also include an investigation as to whether there was any willful neglect or intentional omission on the part of the Forest Officers in discharging their statutory duties under the Indian Forest Act, 1927, and related regulations. It is essential that the inquiry determines whether any Forest Officer's actions or omissions contributed to the perpetuation of illegal activities that have caused harm to forest resources. The inquiry must be conducted in a fair, transparent, and expeditious manner.

(iii) The Principal Chief Conservator of Forest, shall

complete the inquiry against the erring officials within three months from today. The Court expects that the inquiry will be thorough and impartial, and that the action taken will reflect the seriousness of the misconduct involved.

(iv) The Principal Secretary, Forests, State of Maharashtra, shall file an affidavit indicating the action taken/proposed to be taken against the erring officials. The affidavit shall specify the nature of the findings of the inquiry and detail the corrective or disciplinary measures to be undertaken. Should the inquiry reveal that any Forest Officer has acted in contravention of the law or failed in the discharge of their duties, appropriate action must be taken without delay, as deemed necessary.

10. Stand over to 21 February 2025.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)