

WP (PIL) No. 02/2020

IN RE : CLOSURE OF ENTRY POINT FOR THE PUBLIC OF SYARI BY THE ARMY AT GANJU LAMA DWAR, SYARI.

For Petitioner : Mr. S.S. Hamal, Legal Aid Counsel.

For Respondent No.1 : Ms. Sangita Pradhan, Asst. Solicitor General of India.

For Respondent No.2 : Mr. Sudesh Joshi, Addl. Advocate General.
Mr. Sujan Sunwar, Asst. Govt. Advocate.

Date: 21/10/2021

CORAM:

HON'BLE MR. JUSTICE BISWANATH SOMADDER, CHIEF JUSTICE
HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

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JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

This matter has been treated as a Public Interest Litigation on the basis of a letter dated 3rd March, 2020, received from the public of Syari, East Sikkim, Gangtok, stating that the public of Syari, East Sikkim, were facing problem after they were barred from using the footpath along the entry point from the Army area, Ganju Lama Dwar, Ward no. 01, 02, 03 and 04 under Syari, East Sikkim. As per the said letter, local residents of the above-mentioned Wards were using the footpath for many years. There is no alternative route connecting their residence from the main road. The fencing of the entire Army area by the Army personnel and locking the area and barring the residents of the said area from commuting through the said route had led to harassment and difficulties. In such circumstances, the applicants requested for a Public Interest Litigation to be initiated by this Court.

2. Thereafter, the matter has been taken up for consideration by this Court several times. The first order in the matter was passed on 18th March, 2020 and the last order was passed on 7th October, 2021. During

HIGH COURT OF SIKKIM

Record of Proceedings through Video Conferencing

the pendency of this matter, several affidavits have been filed. We, however, wish to focus on the affidavit affirmed by the Special Secretary of Land Revenue and Disaster Management Department, Government of Sikkim, Gangtok, East Sikkim, on 21st September, 2021. Paragraph 4 of this affidavit is required to be noticed and is, therefore, set out hereinbelow:-

"4. I say that after thorough discussions, the following resolutions were passed and agreed upon by all:-

- i. The road from 'VC Ganju Lama Dwar', Deorali to Syari, falling under the jurisdiction of Indian Army will remain open for commuters and for Public Transport till an alternative solution is worked out.
- ii. There will be no restrictions for transportation of essential commodities, milk supply and other necessary items from this road/route.
- iii. The contact no. of concerned person (Army) will be displayed on the gate in case any sort of permission is required for emergency entry and exit.
- iv. Alternative road will be constructed subject to NOC from the landowners.
- v. Principal Chief Engineer, Roads and Bridges Department, GOS will facilitate to carry out the survey of the proposed alternative road in consultations with the public of the area if NOC for the same is obtained.
- vi. The village Panchayat will work on the modalities for identification of genuine vehicle/person entering the gate.

A copy of the minutes of the meeting held on 29.07.2021 is filed herewith and marked as Annexure R-1."

3. Considering the fact that an amicable solution has been arrived at by all concerned including representatives from the Army, we are of the view that this Public Interest Litigation can be disposed of with a direction upon all concerned to adhere to the Resolution which was agreed upon by

HIGH COURT OF SIKKIM
Record of Proceedings through Video Conferencing

all and passed on 29th July, 2021, in a meeting held under the Chairmanship of the Hon'ble Minister, Shri Kunga Nima Lepcha, at the Hon'ble Minister's chamber.

4. The Public Interest Litigation stands disposed of accordingly.

(Meenakshi Madan Rai)
Judge

(Biswanath Somadder)
Chief Justice

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