

Natvarsinh R Kshatriya vs State Of Gujarat Through The Principal ... on 29 September, 2023

Item No.8

(Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE
THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.67/2023(WZ)
Earlier Original Application No.600/2022(PB) (LP)

Natvarsing R. Kashtriya

.....Applicant

Versus

State of Gujarat & Ors.

....Respondent(s)

Date of hearing: 29.09.2023

CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER

Applicant : None appeared
Respondent(s) : Mr. Aravindakshan V. Nair, Advocate for GSPCB

ORDER

1. None has appeared from the side of applicant despite having been informed, although we find that he has sent us his arguments in writing, annexed at page nos.373 to 374 of the paper book, which are quoted herein below:-

" 1. There are only 95 hotels and resorts prescribed in the interim report which is presented by the GPCB. It's my request to direct the GPCB to show all the legal and illegal commercial or resident constructions which are now present in the forest occupied area.

2. The directions given in the notification of the forest and environment department of New Delhi. The provisions of Wild life protection act are not adhered by the forest department.

3. The jungle area of Junagadh and Amreli district is the vastest but the GPCB did not declare it in the interim report.

4. Mobile tower are fitted in the KANSIYA RAILWAY STATION and the DEVALIYA SAFARI PARK area, the radiations thereof are damaging the wild life natural routine.

5. The radiations of mobile towers can be detected in whole the Foust of Gir. It is just the help to the mobile companies.

6. It is obvious that in the forest area, no mobile towers or any other private structures can be situated without permission of the forest department. If so, please ask information about it in the report.

7. The number of mobile tower increasing and it is the warning bell for the wild life. So please order the authority to remove the mobile towers from jungle area.

8. In past, the Lion Hunting in UNA taluka of Girsomnath district was resulted because of the long towers, so they are dangerous for the lions in future also.

9. No copy of gpcb final report is given to me the applicant, so please arrange for a copy of it.

10. There is too much encroachment in jungle area and there are many sites of the illegal mining in the jungle area. It is my personal knowledge that if any land is dug 3 feet, there will be no change of growing grass or trees in that land. So, please have look by the Google Map application. Or if the satellite mapping will be done by the department of survey. The reality will appear itself."

2. Above argument has been raised by the applicant only after conveying the Joint Committee Report as well as preliminary and final report to him because no where has he mentioned in his argument that he has not received the said report. Relevant part of the Joint Committee Report dated June 2023 is quoted herein below:-

"3. The Gir National Park, the Gir Wildlife Sanctuary, the Paniya Wildlife Sanctuary and the Mitiyala Wildlife Sanctuary are situated in Junagadh, Gir Somnath and Amreli District of Gujarat. Gir Protected Area covers a total area of 1469.99 square kilometre (Gir National Park-258.71 square kilometre; Gir Wildlife Sanctuary -1153.42 square kilometre; Paniya Wildlife Sanctuary-39.64 square kilometre and Mitiyala Wildlife Sanctuary-18.22 square kilometre). Natural Habitats and important Corridors present in the GIR Protected Area constitute very wide range of biodiversity and many endangered, rare and threatened species of flora and fauna. Nearly half of the area in Gir forests is occupied by Dry Deciduous Teak Forest. Dry deciduous scrub forests include babul, khair, babarkhair, bili, khakhara, timru, gorad, hermo, bordi, ingor etc and Dry savannah forests consist of large grassy open blanks with very sparse and poor scrub type vegetation where Shaniyar, Jinjavo and Moshti are some of the good quality palatable grasses growing in these areas. Wildlife habitat areas distributed horizontally and vertically across the landscape that fulfil the needs of a specific wildlife species for the basic requirements. It is generally accepted that increase in vegetation diversity across a landscape will increase the landscape value as a habitat for various species Many

wildlife species require more than one stage of succession in their habitat. Most habitats are managed for a featured species or species richness. In this aspect, many habitat improvement works have been done in Gir protected areas in the recent past. In the past few decades, dense foliage has increased across the protected areas. Though, in the recent past, some attention is given to the restoration of the grassland ecosystem.

In Gir Coastal Zone Area, there are 14 possible riverine corridors and one non river corridor from Park and Sanctuaries to Coastal areas of Saurashtra peninsula that support natural landscape features and help to guide animal movement. Forest Areas outside Gir Protected Area, declared as reserve forests, protected forests, unclassed forests are important wildlife habitats or wildlife corridors. There are also some tracks which are important areas which serves as corridor between nearby forest areas. Gir sanctuary is home to endemic Asiatic lion and a range of relishing flora & fauna. The presence of such biota and the environment has boosted tourism in this particular region and attracted allied commercial activities. The seven major perennial rivers of the Gir region are Hiran, Shetrunji, Dhatarvadi, Shingoda, Machhundri, Ambajal and Raval. The four reservoirs of the area are at four dams, one each on Hiran, Machhundri, Raval and Shingoda rivers. The region is also rich in mineralogy and is having basaltic and limestone rocks.

The Environment, Ecology and Minerology has attracted tourism & hospitality, mining and allied activities in this region. The region is devoid of major industrial habitation and hence the economy is majorly regulated by agriculture and allied activities. Unique ecosystem has attracted tourism, hospitality and horticulture activities. Minerology of the region has attracted mining of Basaltic Rock and Gaj Lime Stone. Although commercial activities are regulated by stipulated law-frame, there might be few unnoticed activities which are being practiced in the area. Ministry of Environment, Forest and Climate Change has published a draft notification to declare Eco-sensitive Zone around Gir Protected Area vide S.O. 3370(E) Dtd.- 25th October, 2016 (Annexure - IV). The Area of Eco-sensitive Zone is 3328.8139 Sq Km. It covers forest areas, riverine corridors, raised lands corridors and revenue areas around the Gir Wildlife Sanctuary, Gir National Park, Paniya Wildlife Sanctuary and Mitiyala Wildlife Sanctuary Region are located between latitude 20° 41' North to 21° 35' North and longitude 70° 15' East to 71° 35' East; falling in Junagadh, Gir-Somnath and Amreli districts of Gujarat State. It also include 291 villages situated in Junagadh, Visavadar, Mendarada, Maliya(Hatina), Talala, Kodinar, Una, Gir Gadhda, Jafarabad, Khambha, Savarkundala and Dhari taluka of the above three districts.

5. As submitted by the Applicant (Annexure - III), it is the fact that Banks of River Hiran and Saraswati of Gir Forest are being used by Lion for frequent movement and some of the stretches of these Rivers are declared as Corridor for Lion movement as per Draft Notification on Eco-Sensitive Zone (Annexure - IV). It is also claimed that the District Collector, Gir Somnath and the District Collector, Junagadh has granted permission for conversion of Agriculture land to Non- agriculture Land.

As submitted by CCF, Gir WL Circle there is no quarry, hotel or resort activity in protected area and neither the department has issued any kind of NOC in protected area however the department issues NOC on request to the concerns by following due departmental procedure. Forest department has

issued total 122 NOCs against request for conversion of agriculture land to non-agriculture land for Hotel & resort & 34 for homestay purpose during the year 2020-2023 in ESZ. There are 17 pending cases for issuance of Wild Life Clearances for mining and allied activities of which 5 are pending before National Board for Wildlife (NBWL) and 12 cases are pending with State Board for Wildlife. The 12 cases are kept on hold till notification is finalized. Till date only 1 clearance from NBWL has been issued to M/s. Sugala Lime Stone Mines of Ambuja Cements Ltd (Annexure - VIII). During the year 2020-2023 one offence has been registered in Jamwala range for mining in Chaara Reserved Forest and fine has been recovered, currently there is no mining activity in protected area. There are four cases of encroachment of forest land and the case is sub-judiciary before Court of Judicial Magistrate F.C., Talala. During the year 2020-2023, no lion death due to accident caused by mineral transport vehicle has been registered. The department has strategically installed CCTV cameras to track illegal activities and movement in reserved forest. It is noteworthy that MoEFCC has proposed "ECO-SENSITIVE ZONE" around protected area where anthropogenic activities are controlled according to its impact on the Environment. The same has been listed in Clause 4 of S.O. 3370(E) (Annexure - IV). As per the notification, eco-tourism shall be promoted as per prevailing regulations and Hotel & accommodation activities shall be regulated while quarrying/mining and related activities are prohibited.

As submitted by Sub-divisional Magistrate, Veraval, there are 95 farm houses of which 35 have converted their land from agriculture purpose to non-agriculture purpose by following due procedure and there are 19 homestays. There are total 41 violation cases and against 11 person case has been registered & actions are proposed against rest 30 cases and are in progress. The SDM, Veraval has further submitted that there is no illegal lion show, no registered cases pertaining to illegal mineral transport during 2020 to 2023(Annexure - IX).

District Geologist has registered 132 cases pertaining to illegal mining during the year 2020-2023. The department has recovered fine at the tune of Rs. 133.51 Lakh in 97 cases and registered FIR and/or Court case against 33 defaulters. Stone crushers procure raw material from other permitted leases through delivery challan and the department is keeping vigil watch over it. The department has locked royalty accounts of 14 leases operated in past without obtaining Environmental Clearance. After publication of draft ESZ notification establishment of new quarry/stone crusher is not permitted in ESZ also expansion and/or renewal of such establishments are also barred (Annexure - X).

Applicant, in another representation Dtd. - 03/03/2023 (Annexure - V), has suggested to permanently close Hotels & Resorts established in ESZ and protected area and compared the case with conditions of Matheran (Maharashtra). However, there is no hotel or resort activity there in protected area. But, in revenue area "Home Stay" activity is permitted with due permission from District Administration and NOC from concerned forest office. These Home Stays needs to follow guidelines of Tourism Corporation of Gujarat Ltd. and are part of eco- tourism activity. Hotels & Resorts with more than 20 rooms requires 'Consent to Establish' and 'Consent to Operate' from Gujarat Pollution Control Board. In addition to which the establishments have to produce (i) NA permission, (ii) NOC from concerned forest office and

(iii) has to obtain approval of Building/construction from town planner. There is provision of maintaining green belt and restriction of construction area as per prevailing guidelines of NOC issuing authority. GPCB Regional Office, Junagadh looks after Junagadh and Gir Somnath Districts. GPCB - Junagadh has submitted details of action taken against defaulter Hotels & Resorts of Gir Somnath District, as per their online XGN data base. There are 23 hotels/resorts in Gir Somnath district (as per XGN Database) of which 11 units are having valid permissions of the Board. The Board has issued Show Cause Notice on 18.11.2022 to 12 non-complying units. Four units are served with Notice of Directions on 01-03-2023. Due to which 3 units are under compliance and 7 units are in process of being complied to the stipulated law frame. In addition to this, additional 6 non-complying units engaged in Hotel and allied activities has been identified during special drive w.r.t. aforementioned NGT matter, Notice of Directions has been issued to two units which has now applied for CTE and are under process of compliance. Actions are under process against other four units. After publishing draft notification on ESZ (Annexure - IV), no new and/or expansion of mining/quarrying/stone crushing activity has been granted permission from GPCB in ESZ. In order to operate limestone mine or black trap quarry the unit is required to seek prior permission in form of Environmental Clearance from State Environment Impact Assessment Authority, Gujarat. SEIAA studies the cases and approves EC to the units by following prevailing lawframe by considering anthropogenic and pollution potential of the mining and allied activity. Bringing non-complying units into the compliance is continual process and this has been routinely conducted practice by the GPCB (Annexure - XI).

Table 2. Summarized Specific remarks towards concerns raised by the applicant in submission Dtd.-03/03/2023 (Annexure VIII, IX & X).

Point Concern Raised Committee's Response No.

1. The Wild animals like asiatic lion are only ----

in the Gir Jungle of Gujarat.

2. In the early years of democracy of India there ----

were programs of saving the Forest and wild life were run by the Government in the district of Junagadh and Amreli.

3. The Hotels and Resorts in these two The hotels/resorts districts must be strictly closed whatever permissions are lose occur to the owners of them. granted as per prevailing lawsuite/ resolutions/ circulars.

However, fine is imposed and actions are taken against defaulters as per prevailing lawframe.

4. The tourists are coming in these two district jungle area hotels and resorts because there are not such restrictions like in the area of ---- MATHERAN area of Maharashtra.

5. The condition of growing green belt of 5 The proponent meters in any new N.A. permission is not applying for NA followed by the new N.A. owners. So required to get there should actions be taken by the Building Plan collectors for breach of conditions of N.A. approval of town planner/ raja chiththi (permission) from local panchayat body and can accordingly carryout construction as per conditions mentioned in N.A. Order.

6. There are many Black Stone Crushers No raid conducted by run by MAFIA. Many raid have been SMC in stone crusher done by the SMC of state of Gujarat. of black trap minerals They have done criminal cases against in Gir Somnath 55 persons and 35 tractors and 15 stone district. Details given cutters are seized by SMC. This is record by the petitioner in proof, many other crushers might be this regards are running in good blessings of revenue and incorrect. mining department. So it is a question of tension for environment.

7. The PGVCL of Gujarat has given electric ----

connections to most of the Hotels and Resorts. Actually the central environment department has prohibited this in many notifications.

8. The pollution created by the stone No such disease has crushing activity will result in the serious been reported in diseases in We Lion and many animals. Lions or other Specially the diseases like animals due to stone Tuberculosis (TB) may be erupted by this crushing activity pollution. (Annexure - X).

9. Blackstone material is transported in There is no blacktrap many trucks and dumpers from Amblash quarry in reserved village of talala taluka of Girsomnath forest area near district Amblash Village.

Two Black Trap
leases outside ESZ
in amblash village
are operational
(Annexure - X).

10. The politicians are also giving bribe of removing Eco Sensitive Zone from this gir area. It is really breach of model code of ---- conduct.

11. It is my humble request that No Policy Matter changes must be done in the limits of Eco applicable to Union Sensitive Zone at Gir Forest area. of India.

12. There is plenty of encroachment in the gir As soon as the report jungle area. The forest Department has of encroachment is attracted attention of the government received from the about

this that there is about 800 cases ground staff, the of encroachment but the forest department inquires department has just only done the matter with "MANDVAAL". No person is fined. evidence of the Newspaper gutting is attached. records. If encroachment is found, suitable legal actions are initiated against the encroachers as per the provision of the Forest Laws (Annexure - VIII).

13. The Collector of Girsomnath has presented the Interim Report in NGT but it is not accepted by the applicant. We ----

want the Complete Report. I think the report is suspicious. Many relatives of government officers and MPs and MLAs.

So it is favourable to hotel Resort Owners.

14. CCTV Cameras Should be Fitted in Gir At checking Naka of Jungle at Lumbha, Amblash, Chhara, Gir P.A., CCTV Sarakhadi and Jamvala, Ankolvadi, cameras has been Talala, Sasan, Bhatchel and Mendarda installed at and its Controlling and Monitoring various strategic should be done by forest department of points (Annexure -

India and NGT VIII).

15. I request to take strict action against (1) revenue department (2) Forest Department (3) Gir somanth Collector (4) ----

Amreli Collector (5) PCCF Gandhinagar (6) CCF Junagadh (7) ACF Sasan (8) ACF Junagadh (9) ACF Talala (10) ACF Jamvala (11) Mamlatdar Talala (12) Mamlatdar Mendarda (13) Mamlatdar Amreli (14) ACF Dhari Dalkhaniya

16. The World Bank has given millions of No such reports are dollars for the conservation of lion, forest on records (As such and wild tile but it is totally being the World Bank has misused by forest Department So Please its own machinery to get the Accounts of last 30 years from scrutinize the them proposals for loan/aid submitted by the Forest Dept. of any Government.

After scrutinizing the Loan, The World Bank keeps vigilant watch).

17. Most of N.A. is done in Gir somnath, Junagadh and Amreli area so please notice the CCF Junagadh to Come with the files of N.A. Permission from the year 2001 with them in next date.

N.A. cases are being processed since year 2015 onwards as per Govt. of Gujarat guidelines only (Annexure - VIII).

6. CONCLUSION:

The facts submitted in the report are observed and identified during various drives & special drives conducted and available records with departments involved in the task. On the basis of which it is evident that there is no Lion Death due to vehicular movement during the year 2020-2023. There is no illegal mining activity in protected area. Concerned authorities/departments have taken actions against the violation(s) noticed. Also, bringing non-compliances into compliance is continual process. The committee recommends that the further proceeding must involve two other districts i.e. Junagadh and Amreli, which holds major part of the protected area and eco-sensitive zone around it to ensure compliance in and around Gir Protected area."

3. From the perusal of above report, we find that with respect to the allegation that quarry, hotels or resorts are running their activities in protected areas, in this regard, actions have already been taken and some actions are still in progress. Fine has also been realized from the culprits.

No lion death due to accident has been found to have been there due to mineral transport vehicle. In respect of the farm houses, 41 violation cases were found, out of them, against 11 persons cases have been registered and action is going on. Against the rest, action is stated to be in progress. In tabular form, replies have been recorded in respect of the concerns raised by the applicant, in which no adverse has been recorded.

4. We also find that at strategic points, CCTV cameras have also been installed. In the written arguments, which have been placed before us from the side of applicant, no specific objection has been raised against the said report. Much emphasis has been laid by the applicant before us on radiation emanating from the mobile towers but we do not find any such report on record. It is quite natural that for the purposes of communication, mobile towers have to be installed.

5. We do not find any substance in the argument of applicant of any specific nature, which needs to be addressed by us. Therefore, in view of the Joint Committee Report, which has come on record, we do not find to proceed any further and accordingly, dispose of this application.

6. Dinesh Kumar Singh, JM Dr. Vijay Kulkarni, EM September 29, 2023 Original Application No.67/2023(WZ) Earlier Original Application No.600/2022(PB) (LP) P.Kr