

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS.

Respondent(s)

(INTERLOCUTORY APPLICATION FOR 23.07.2024 "ONLY"

[1] IN RE : "CONSTRUCTION OF MULTI STOREYED BUILDINGS IN FOREST LAND MAHARASHTRA" [i] I. A. No. 2079 OF 2007 [Application For Impleadment And Directions] WITH [ii] I.A Nos. 2301-2302 OF 2007 [Applications For Impleadment And Directions] AND [iii] I.A. Nos. 3044-3045 OF 2011 [Applications For Impleadment And Directions] AND [iv] I.A. Nos. 2771-2772 OF 2009 [Applications For Impleadment And Directions] AND [v] I.A.Nos. 111725 AND 154041 OF 2018 [Applications For Substitution Of Applicant, I.E. Smt. Housabai Haribhau Bhairat And Condonation Of Delay In Filing Application For Substitution In I.A. Nos. 2771-2772/2009] AND

[2] I.A. NOS. 100352 AND 100351 OF 2024 (Applications for Directions and Impleadment) IN RE : SHRI RAM KRISHNA PANDEY AND

[3] I. A. NOS. 157777 AND 157782 OF 2023 [Applications For Impleadment And Directions] IN RE : PRADEEP IN RE : MINING WITHIN 10 KMS WETLAND AND

[4] I.A. NOS. 1424-1425 OF 2005 AND 2749 OF 2009 (Applications for Directions and Stay) IN RE : ALLEGED NON-FORESTRY ACTIVITIES AND ENCROACHMENT BY BALCO AND [ii] I.A. NOS. 2211 OF 2008 (Applications for Clarification of Court's Order dated 29.02.2008) In Re : BALCO AND [iii] I.A. NO. 3427 OF 2012 (Applications for Directions) WITH I.A. NOS. 167802 AND 167804 OF 2019 (Applications For Directions And Exemption From Filing O.T.) WITH I.A. NOS. 187590 AND 187591 OF 2019 (Applications For Directions And Exemption From Filing O.T.) IN RE : BALCO, RESPONDENT NO. 7 IN I.A.NO. 1424-1425 WITH [iv] CONTEMPT PETITION (C) No. 388 OF 2009 IN I.A. NOS. 1424-1425 IN WRIT PETITION(C) NO. 202 OF 1995 WITH SPECIAL LEAVE PETITION(C) NO. 37511 OF 2013 WITH WRIT PETITION (C) NO. 469 OF 2005 AND

[5] I.A. NO. 920 OF 2003 (Application for Intervention/Directions) IN I.A. NO. 703 OF 2001 (Application by the Amicus Curiae for Directions against illegal encroachment of forests) AND I.A. NO. 988 OF 2003 (Application for Modification/Clarification of order dated 25.08.2003 in I.A. 920/2003) AND I.A. NO. 1129 OF 2004 (Application seeking leave to

withdraw Affidavit of Fishries Department) AND I.A. NO. 1151 OF 2004 (Application seeking leave to withdraw Affidavit filed on behalf of Forest Department of State of West Bengal) IN RE: NATIONAL FISHWORKERS' FORUM (NFF) (THROUGH ITS CHAIRPERSON HAREKRISHNA DEBNATH 1073, A.G. COLONY, P.O.-MANIKTALA-743263, 24 PARGANAS(N), WEST BENGAL AND

[6] I.A. NO. 20650 OF 2023 (CEC REPORT NO. 3/2023 - REPORT OF CEC IN APPLN. NO. 1558/2021 FILED BEFORE IT BY GAURAV KUMAR BANSAL) WITH I.A. NO. 75033 OF 2023 (Application For Exemption From Filing O.T.) IN RE : GAURAV KUMAR BANSAL AND

[7] I. A. NOS. 130609 AND 130612 OF 2024 [Applications For Impleadment And Directions] IN RE : M/S. ASHOKA MINERAL GRINDING MILLS THROUGH POWER OF ATTORNEY HOLDER AND

[8] I. A. NOS. 134900, 134904 AND 134906 OF 2024 [Applications For Impleadment, Directions and official translations] IN RE : M/S. SHRI MODI MINERAL GRINDING MILLS PVT. LTD. AND

[9] I. A. NOS. 149950 AND 149951 OF 2024 [Applications For Impleadment and Directions] AND IN RE : DELHI METRO RAIL CORPORATION LTD. AND

WITH

CONMT.PET.(C) No. 388/2009 In W.P.(C) No. 202/1995 (PIL-W)

W.P.(C) No. 469/2005 (X)

SLP(C) No. 37511/2013 (IV-C)

(IA No. 68210/2018 - EXEMPTION FROM FILING O.T.

IA No. 68208/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 90909/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 23-07-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE K.V. VISWANATHAN

Mr. Harish N. Salve, Sr. Adv. [A.C.] (Not Present)
Mr. A.D.N. Rao, Sr. Advocate [A.C.] (Not Present)
Ms. Aparajita Singh, Sr. Advocate [A.C.] (Not Present)
Mr. Siddhartha Chowdhury, Advocate [A.C.]

Mr. K. Parameshwar, Advocate [A.C.]
Mr. M.V. Mukunda, Adv.
Ms. Kanti, Adv.
Ms. Aarti Gupta, Adv.
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Mr. Neeraj Kumar Sharma, Adv.
Ms. Indira Bhakar, Adv.
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Mr. Vinayak Sharma, Adv.
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Mr. Sourav Singh, Adv.
Mr. Aditya Krishna, Adv.
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Mr. Pradeep Kumar Aggarwal, Adv.
Mr. Vineet Yadav, Adv.
Mr. Amir Yadav, Adv.

Mr. Pranav Sachdeva, AOR

Mr. P.C. Sen, Sr. Adv.
Mr. Shivanshu Singh, Adv.
Ms. Rukmani Bobde, Adv.
Mr. P. S. Sudheer, AOR
Mr. Rishi Maheshwari, Adv.
Ms. Anne Mathew, Adv.
Mr. Bharat Sood, Adv.
Ms. Miranda Solaman, Adv.
Mr. Paul P. Abraham, Adv.
Ms. Nivedita Sudheer, Adv.

Mr. Nishant Patil, AOR

Mr. Aswathi M.K., AOR

Mr. Puneet Jain, Adv.
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Mr. Sunil Kumar Jain, AOR

Mr. Satish Kumar,
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Mr. Shankar Divate, AOR

Ms. Binu Tamta, AOR

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Ms. Vidyottma Jha, Adv.

Mr. S. Niranjana Reddy, Sr. Adv.

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Mr. Ramesh Allanki, Adv.
Mr. Syed Ahmad Naqvi, Adv.
Mr. Yash Gupta, Adv.

Mr. Tarun Johri, AOR
Mr. Ankur Gupta, Adv.
Mr. Vishwajeet Tyagi, Adv.

Mr. Jaswant Singh Rawat, AOR

Mr. Akshat Kumar, AOR

Mr. Kuldip Singh, AOR

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Mrs. Aishwrya Bhati, A.S.G.
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Mr. Raj Bahadur Yadav, AOR
Mrs. Ruchi Kohli, Adv.
Mr. Uday Prakash Yadav, Adv.
Mr. Suhasini Sen, Adv.
Mr. S S Rebello, Adv.
Mr. Shyam Gopal, Adv.
Mr. Raghav Sharma, Adv.
Mr. Sughosh Subramaniam, Adv.

Mr. Sudip Shrivastava, Adv.
Mr. Prashant Bhushan, Adv.

Mr. Shrey Kapoor, Adv.

Petitioner/Applicant-in-person

UPON hearing the counsel the Court made the following
O R D E R

[1] I. A. NOS. 130609 AND 130612 OF 2024
IN RE : M/S. ASHOKA MINERAL GRINDING MILLS THROUGH POWER OF
ATTORNEY HOLDER

AND

[2] I. A. NOS. 134900, 134904 AND 134906 OF 2024
IN RE : M/S. SHRI MODI MINERAL GRINDING MILLS PVT. LTD. AND

1. I.A. Nos.130612/2024 and 134904/2024 are filed seeking
following prayers:-

"I.A. No.130612/2024

1. To direct the State of Rajasthan to further process the Application for Renewal of the Mining Lease pending since last 14 years and/or
2. To direct the State of Rajasthan to issue necessary instructions for obtaining statutory clearances from the various authorities for present mining lease.
3. To direct the State of Rajasthan to consider the present application and grant permission to commence mining operation and/or

I.A. No.134904/2024

- a) To direct the Respondent State to process the application for Diversion of the applicant expeditiously in terms of approval granted by the Govt. of India vide permission dated 07.10.2008 and
- b) to direct the Respondent State to consider the present application for Automatic Renewal in terms of section 8A of M.M.D.R. (Amended) Act 2015 and grant permission to commence mining operation or"

2. Vide order dated 09.05.2024 this Court had clarified that though the State Government would be at liberty to consider and process the applications for grant of mining leases and also for renewal thereof including obtaining statutory clearances from the various authorities but no final permission shall be granted for mining in the Aravalli Hills/Ranges, as defined in the FSI Report dated 25.08.2010, without permission from this Court.

3. Indisputably, the area in respect of which the permission is being sought falls within the area of Aravalli Hills/Ranges, as defined in the FSI Report dated 25.08.2010.

4. We, therefore, direct the State Government to process the proposal for renewal of the mining licences including obtaining statutory clearance from the various authorities, however no final permission shall be granted for renewal of the mining lease, without obtaining prior approval of this Court.

[3] I. A. NOS. 149950 AND 149951 OF 2024
IN RE : DELHI METRO RAIL CORPORATION LTD.

1. I.A. No. 149951 of 2024 has been filed with the following prayers:-

"a) Refer the matter to the Central Empowered Committee appointed by this Hon'ble Court for detailed consideration and examination of the proposal of the Applicant for temporary diversion of 0.19 ha (0.15 + 0.04) of Ridge Reserve forest and 0.39 ha of Morphological Ridge Area, on South Central/Morphological Ridge, for timely completion of Neb Sarai metro station forming part of 23.623 km Aerocity - Tughlakabad metro corridor being proposed for construction of Phase-IV of MRTS Project;

b) Allow the instant Application and thereby, permit the Applicant to temporarily divert 0.19 ha of Ridge Reserve Forest and 0.39 ha of Morphological Ridge Area, for construction of Neb Sarai metro station forming part of 23.623 Km Aerocity - Tughlakabad metro corridor being proposed for

construction of Phase-IV of MRTS Project.”

2. Taking into consideration the importance of Delhi Metro and since the prayer is only for referring the matter to the Central Empowered Committee (CEC), we are inclined to allow this application insofar as prayer clause (a) is concerned. Ordered accordingly. So far as prayer clause (b) is concerned, we will consider it after the CEC submits its Report.

3. Four weeks' time is granted to CEC to submit its report.

4. List after four weeks.

[4] IN RE : “CONSTRUCTION OF MULTI STOREYED BUILDINGS IN FOREST LAND MAHARASHTRA”

[i] I. A. No. 2079 OF 2007 WITH

[ii] I.A Nos. 2301-2302 OF 2007 AND

[iii] I.A. Nos. 3044-3045 OF 2011 AND

[iv] I.A. Nos. 2771-2772 OF 2009 AND

[v] I.A.Nos. 111725 AND 154041 OF 2018,

I.A. NOS.25496/23 & 37911/24, AND W.P.(C) NO.301/2008

1. The facts in the present case are glaring. The predecessor-in-title of the petitioner(s)/appellant(s) succeeded up to this Court for getting possession of the land which was illegally occupied by the State Government. Subsequently, the stand of the State Government was that the land owned by the predecessors of the petitioners was occupied by Aramament Research Development Establishment Institute (for short, 'ARDEI'), which was a unit of Defence Department of the Union of India. In the execution proceedings, the ARDEI has opposed the same.

2. Faced with this situation and realizing its mistake the State Government allotted another piece of land in lieu of the land which

was in possession of the ARDEI.

3. However, the record shows that the land which was allotted to the petitioner(s)/applicant(s) was notified as a forest land.

4. Learned senior counsel appearing for the petitioner(s)/applicant(s) submits that the land in question is shown as grazing land in the revenue records.

5. In any case, the petitioner(s)/applicant(s) who succeeded up to this Court cannot be denied the benefits of the decree passed in their favour. Firstly, the action of the State Government in encroaching upon the land of a citizen was itself illegal. Secondly, the State Government ought to have taken due precaution before allotting a piece of land. A land which is notified as forest land could not have been allotted. The State ought to have allotted a land, which has clear title and also the land which has a marketable value.

6. The matter has been pending for almost fifteen years, still the State Government has not yet come up with a concrete proposal.

7. We permit the petitioner(s)/applicant(s) to place on record the ready reckoner rates of the land in Pashan as well as the land at Kondre Khurd.

8. We, therefore, direct the State Government to come with a clear stand:

i. As to whether another piece of equivalent land will be offered to the petitioner(s)/applicant(s); or

ii. As to whether adequate compensation would be paid to the petitioner(s)/applicant(s); or

iii. As to whether the State Government proposes to move the

Central Government for denotification of the said land as forest land.

9. The State Government shall file an affidavit specifying its stand within a period of two weeks from today.

10. The matter is directed to be posted on 07.08.2024 at S. No.1. We clarify that if we find that the State Government does not come with a clear stand we would be compelled to direct the personal presence of the Chief Secretary of the State.

[5] I.A. NOS. 100352 AND 100351 OF 2024
IN RE : SHRI RAM KRISHNA PANDEY

1. When the matter was listed on 15.05.2024, no one was present for the applicant(s). Today also, no one is present for the applicant(s).

2. These applications are dismissed for want of prosecution.

[6] I. A. NOS. 157777 AND 157782 OF 2023
IN RE : PRADEEP
IN RE : MINING WITHIN 10 KMS WETLAND

1. List on 21.08.2024.

2. Report be filed in the meantime.

[7] [i] I.A. NOS. 1424-1425 OF 2005 AND 2749 OF 2009
IN RE : ALLEGED NON-FORESTRY ACTIVITIES AND ENCROACHMENT BY BALCO
AND [ii] I.A. NOS. 2211 OF 2008 In Re : BALCO AND
[iii] I.A. NO. 3427 OF 2012 WITH
I.A. NOS. 167802 AND 167804 OF 2019 WITH
I.A. NOS. 187590 AND 187591 OF 2019 IN RE : BALCO,
IN I.A.NO. 1424-1425 WITH
[iv] CONTEMPT PETITION (C) No. 388 OF 2009 IN I.A. NOS. 1424-1425
IN WRIT PETITION(C) NO. 202 OF 1995 WITH SPECIAL LEAVE PETITION(C)
NO. 37511 OF 2013 WITH WRIT PETITION (C) NO. 469 OF 2005

1. Shri Sen, learned senior counsel appearing for the

petitioner(s)/applicant(s), submits that when Bharat Aluminium Company Ltd (BALCO) was originally established 1804 acres of Government land was allotted to it. He further submits that 914 acres of private land was also acquired and given to BALCO. He further submits that in 1971, BALCO was in possession of 1136 acres of land, out of which 947.95 acres was a notified forest land. It is submitted that a compensation for converting the said forest land for non-forest purposes and felling of trees was already paid to the State Government.

2. He further submits that most of the felling of trees has been from the area in this 947.95 acres. Learned senior counsel fairly admits that after the order restraining the felling of trees was passed by this Court on 29.02.2008, there have been felling of trees. He submits that the same is only restricted to 9 acres and not 97.36 acres as has been found in the Report of the CEC dated 22.02.2019.

3. Shri Sen further submits that around 55 lakhs trees have been planted by BALCO in its premises over the years till 2014-15.

4. Shri Sudip Shrivastava, learned counsel appearing on behalf of the original contempt petitioner(s) submits that the report of the CEC dated 22.02.2019 does not depict the correct picture. He submits that the Report of the CEC dated 17.10.2007 depicts the correct picture. He further submits that the CEC in the 2007 Report has found that the entire land of 1751 acre is a revenue forest land.

5. We find that, taking into consideration the passage of time, it will be appropriate that the CEC considers the matter afresh and

submits a report. The CEC shall also verify and assess the area of forest land, which was put to non-forest use after 29.02.2008. The CEC shall assess the NPV to be payable by BALCO in respect of the forest area, which was put to non-forest use after 25.10.1980. While determining the same, the CEC shall also take into consideration as to whether there has been any compensatory afforestation made by the BALCO.

6. We also find that it will be appropriate that the State Government of Chhattisgarh identifies and assesses the area of forest land which was put to non-forest use after 25.10.1980 i.e. the date on which the Forest (Conservation) Act, 1980 came into force.

7. Insofar as the action to be taken against BALCO or any of its Directors concerned, including the imposition of penalty, the same shall be considered after the reports of the CEC and the State Government are submitted.

8. Three months' time is granted to the CEC to submit its report in this regard.

9. List after receipt of the report from the CEC.

[8] I.A. NO. 920 OF 2003 IN I.A. NO. 703 OF 2001 AND
I.A. NO. 988 OF 2003 AND
I.A. NO. 1129 OF 2004
IN RE: NATIONAL FISHWORKERS' FORUM (NFF) (THROUGH ITS CHAIRPERSON
HAREKRISHNA DEBNATH 1073, A.G. COLONY, P.O.-MANIKTALA-743263, 24
PARGANAS(N), WEST BENGAL

1. When the matter was listed on the last date, no one was present for the applicant(s). Today also, no one is present for the applicant(s).

2. These applications are, therefore, dismissed for want of prosecution.

[9] I.A. NO. 20650 OF 2023 (CEC REPORT NO. 3/2023 - REPORT OF CEC IN APPLN. NO. 1558/2021 FILED BEFORE IT BY GAURAV KUMAR BANSAL) WITH I.A. NO. 75033 OF 2023
IN RE : GAURAV KUMAR BANSAL

1. In pursuance of our orders dated 06.03.2024, a Status Report has been filed by the State of Uttarakhand pointing out various actions taken against the officers of the Forest Department. Learned counsel appearing for the State of Uttarakhand seeks three months' time for filing a further affidavit. Time as prayed for is granted.

2. The Inspector General of Forest (Wildlife), Ministry of Environment, Forest and Climate Change (Wildlife Division), has also sent a communication dated 20.07.2024 to Shri K. Parameshwar, learned Amicus Curiae, pointing out various steps taken in pursuance of the aforesaid order with regard to finalization of the Standard Operating Procedure (SOP) for tiger projects/wildlife sanctuaries, the same is taken on record. It has been requested in the said communication to grant eight more weeks for submission of final report. Time as prayed for is granted.

3. The CBI also filed its status report, in pursuance of the directions issued by this Court on 06.03.2024. The same is taken on record and be resealed and kept in safe custody. As requested in the said Report, a further time of six months' is granted to complete the investigation. However, the CBI also shall file a further Status Report after a period of three months.

4. List after three months.

I.A. NOS.156703/2024 & 156707/2024

1. These applications were mentioned by the learned counsel for the applicant(s) for listing before the Court.

2. List on 24.07.2024.

(NARENDRA PRASAD)
DEPUTY REGISTRAR

(ANJU KAPOOR)
COURT MASTER