06.05.2026
Sl. No. 1
Court No.1
PA (Chamber)

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT PORT BLAIR
ANDAMAN & NICOBAR ISLANDS
APPELLATE SIDE
(FROM PRINCIPAL BENCH)

WPA(P) 12 of 2024
with
WPA(P) 16 of 2025
with
WPA(P) 17 of 2025

Meena Gupta
Vs.
Union of India and others

Mr. Yogeshwaran A., Adv.
Ms. Poongkhulali B., Adv.
Mr. Pushan Majumdar, Adv.
Mr. Purbayan Chakraborty, Adv. (Through V.C.)
... for the petitioner
Mr. R. Venkataramani, A.G.I (Through V.C.)
Mr. Ashok Kr. Chakraborty, A.S.G.I
Mr. Kumar JyotiTewari, Sr. Adv.
Ms. Amrita Pandey, Adv.
Ms. Anamika Pandey, Adv.
Mr. Deboshree Mukherjee, Adv.
Mr. Yamika Khanna, Adv.
Mr. Ghanshyam Pandey,
... for the Respondent nos. 1 & 2
[in WPA(P) 12 of 2024 &
For All the Respondents in
WPA(P) 16 of 2025 & WPA (P) 17 of 2025]
Mr. R. Venkataramani, A.G.I. (Through V.C.)
Mr. Ashok Prasad, Adv.
... for the Respondent nos.3-8
[in WPA(P) 12 of 2024]

DICTATED BY SUJOY PAUL, C.J.:

Re :WPA(P) 12 of 2024

1. This matter was heard on the question of maintainability of the Public Interest Litigation (PIL).

2. The preliminary objections regarding maintainability were raised by Sri Ashoke Chakraborty, learned ASG by contending that -

(i) the petitioner is a permanent resident of Hyderabad (Telangana) and her temporary address is of Kolkata. Thus, she has no *locus standi* to file the present PIL, more so when no part of cause of action troubled her while remained stationed at Hyderabad.

In this regard, reliance is placed on the order of this Court passed in ***WPA (P) 359 of 2025 (Pardarshita and Anr. Vs. Union of India and Ors.)*** decided on 12.09.2025.

(ii) The impugned project is of great national importance and relating to port, airport, power station and defense infrastructure etc. The estimated cost of the project is 72 thousand crores. Thus, such project of national importance cannot be called in question in a PIL.

(iii) The tribals for whom this petition is filed are not parties in this matter.

(iv) The right of a sovereign to construct a project must prevail over the personal rights of its citizens.

3. To elaborate, learned ASG urged that the petitioner has not been authorized by any tribal person to file the present petition. The project will take shape in Andaman and Nicobar Islands. No cause of action has arisen for the petitioner who is

a permanent resident of Hyderabad (Telangana). Thus, the present PIL is not maintainable.

4. Sounding a *contra* note, learned Counsel for the petitioner has taken this Court to the certain paragraphs of the PIL to demonstrate as to how the petitioner has interest in the present matter. Apart from this, reliance is placed on Rule 56 of the **Appellate Side Rules of the High Court at Calcutta**, to contend that in the light of this Rule also, the PIL is maintainable. Reference is made to **(1982) 3 SCC 235 (People's Union for Democratic Rights & Ors. vs. Union of India & Ors.)** and **(2010) 3 SCC 402 (State of Uttaranchal vs. Balwant Singh Chaufal & Ors.)**.

5. To distinguish the judgment of this Court in ***Pardarshita and Anr. (Supra)*** it is submitted that the said matter was relating to a challenge made to the sand policy of Government of West Bengal by a person stationed at New Delhi. In this peculiar factual backdrop, this Court opined that the PIL is not maintainable whereas in the instant case the petitioner's background shows that she has keen interest since beginning relating Andaman and Nicobar Islands and was deeply involved with the framing of law regarding tribals of the said islands. Apart from this, the petitioner has expertise on the subject and therefore, her special interest permits her to file a PIL of general importance. By placing reliance on

Padmausundara Rao (Dead) &Ors vs State Of T.N. &Ors. [2002 (3) SCC 533], it is urged that one different fact may change the precedential value of the judgment.

6. It is highlighted that in the entire pleadings filed by the respondents, there exists no whisper of any objection regarding locus/ maintainability. It is submitted that the petitioner only seeks enforcement of the **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006** (**'FR Act'** in short) in letter and spirit and challenges the impugned orders which are issued in alleged violation of the provisions of FR Act. Thus, it is submitted that the PIL is very much maintainable.

7. The parties confined their arguments to the extent indicated above. We have heard the parties at length on the aspect of maintainability/locus and perused the record.

Findings

8. Before dealing with the rival contentions, it is apposite to consider the relevant pleadings of the present PIL. The relevant portion reads thus:

> *"**1.** The Petitioner is a retired civil servant, having worked in the Indian Administrative Service, from 1971 to 2008. She retired in 2008 as Secretary to the Government of India in the Ministry of Environment and Forests. The Petitioner has served extensively in the sectors of environment, forests, tribal affairs, labour and health. She has also worked for 4 years with the Office of the International Labour Organisation (ILO) in Delhi, on secondment from the Government. Between September 2005 to May 2007, the Petitioner served as Secretary to Government of India in the Ministry of Tribal Affairs (MOTA). During*

this period, she was actively engaged in the finalisation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Bill, prior to its becoming an Act. The work consisted of discussing various aspects of the Bill with experts and members of the public, refining many aspects, including other traditional forest dwellers in the Bill: fixing a different, and stricter, eligibility criteria for other traditional forest dwellers, holding discussions with the Ministry of Environment and Forests, discussion with other Ministries and finally getting the Bill passed in the Cabinet and placing it in Parliament for discussion and passing.

2. *The Petitioner was also instrumental in changing the demeaning terminology Primitive Tribal Groups (PTG) (which was used to describe those tribes who lived in remote places and whose level of development was quite different and of a different kind from the mainstream) to the more respectful and honourable Particularly Vulnerable Tribal Groups (PVTG). The latter term is widely used at present. As Secretary of the Ministry of Tribal Affairs, she has been engaged in various activities to support the socio-economic development of tribal people including supporting the States' Tribal Sub Plan. After her retirement, the Petitioner has served on the Council of the International Union for Conservation of Nature (IUCN) as Regional Councilor representing Asia for four years, and on the Board of the IIM, Calcutta. She has also served on several government committees and is on the Board of some Non-Governmental Organisations.*

3. *The Petitioner has a deep attachment to the Andaman and Nicobar Islands, having spent four years on the islands a teenager (when her father was posted there as Principal Engineer of the Andaman Public Works Department), subsequently translating into English Bengali travelogue written by her mother about the islands, and finally visiting the islands, including Great Nicobar, in 2006, after the tsunami of 2004 when she was Secretary in the Ministry of Tribal Affairs of the Government of India.*

4. *The petitioner is aware of the intent, purpose, mandate and significance of the Scheduled Tribes and Other Traditional Forest Dwellers (Protection of Forest Rights) Act, 2006 (FRA) in ensuring protection of the rights of tribals, who are otherwise disenfranchised. The Shompen and Great Nicobarese, the tribes whose rights have been denied in the present process, are extremely vulnerable and are not denominations who are economically, socially and educationally advanced to access the Courts for justice. The petitioner has been keenly following the present issue and the flagrant violation of the FRA and has submitted representations along with other concerned citizens. The petitioner has approached this Hon'ble Court in public interest seeking only the implementation of the FRA in letter and spirit, challenging the impugned orders which make a mockery of the law and trample the rights of the very*

vulnerable tribal groups the law was enacted to protect. There is no vested right or oblique motive in filing of the present petition.
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6. *The present writ petition is being filed in public interest, challenging the validity of the following orders:*

a. Order No. 148 dated 26.07.2022 issued by the 4th respondent in so far as it relates to the constitution of the Sub Divisional Level Committee.

b. Resolution dated 12.08.2022 of the Gram Sabha of the 7th respondent Panchayat, which is claimed as a Special gram panchayat resolution to give consent for diversion under the FRA.

c. Proceedings dated 16.08.2022 of the 6th respondent Sub Divisional Level Committee's meeting held on 13.08.2022.

d. Certificate dated 18.08.2022 (Form II) issued by the 5th respondent Deputy Commissioner, Nicobar District."

(Emphasis Supplied)

9. The bone of contention of learned ASG is that since the petitioner is a permanent resident of Hyderabad and no cause of action has arisen in Hyderabad, she is precluded to file the present PIL. Reliance was placed on the order of this Court in ***Pardarshita and Anr. (Supra)***. On the first blush the argument appears to be attractive but lost much of its shine when it was considered in the light of the judgments of Supreme Court as were considered in ***Pardarshita and Anr. (Supra).*** In ***Janata Dal Vs. H.S. Chowdhary and Ors. [1992 (4) SCC 305]*** the apex Court opined as under:

*"**61.** Though it is imperative to lay down clear guidelines and propositions; and outline the correct parameters for entertaining a Public Interest Litigation* ***particularly on the issue of locus standi yet no hard and fast rules have yet been formulated***

and no comprehensive guidelines have been evolved. There is also one view that such adumbration is not possible and it would not be expedient to lay down any general rule which would govern all cases under all circumstances.

62.<u>*Be that as it may, it is needless to emphasize that the requirement of locus standi of a party to a litigation is mandatory, because the legal capacity of the party to any litigation whether in private or public action in relation to any specific remedy sought for has to be primarily ascertained at the threshold*</u>*."*

(Emphasis Supplied)

10. A minute reading of the above paragraphs makes it clear that there is no thumb rule regarding the aspect of "*locus standi*". The Court in so many words made it clear that it would not be expedient to lay down any general rule which would govern all cases under all circumstances. Pertinently, in **(1982) 3 SCC 235 (People's Union for Democratic Rights & Ors. vs. Union of India & Ors.)** it was held that:

"2. Before we proceed to deal with the facts giving rise to this writ petition, we may repeat what we have said earlier in various orders made by us from time to time dealing with public interest litigation. We wish to point out with all the emphasis at our command that public interest litigation <u>*which is a strategic arm of the legal aid movement*</u> *and which is intended to bring justice within the reach of the poor masses, who constitute the low visibility area of humanity, is a totally different kind of litigation from the ordinary traditional litigation which is essentially of an adversary character where there is a dispute between two litigating parties, one making claim or seeking relief against the other and that other opposing such claim or resisting such relief.* <u>*Public interest litigation is brought before the court not for the purpose of enforcing the right of one individual against another as happens in the case of ordinary litigation, but it is intended to promote and vindicate public interest which demands that violations of constitutional or legal rights of large numbers of people who are poor, ignorant or in a socially or economically disadvantaged position should not go unnoticed and unredressed.*</u> *That would be destructive of the rule of law which forms one of the essential elements of public interest in any democratic form of Government. The rule of law does not mean that the protection of the law must be available only to a fortunate few or that the law should be allowed to be prostituted by the vested interests for protecting and upholding the status quo under the guise of enforcement of their civil and political rights. The poor*

too have civil and political rights and the rule of law is meant for them also, though today it exists only on paper and not in reality. If the sugar barons and the alcohol kings have the fundamental right to carry on their business and to fatten their purses by exploiting the consuming public, have the chamars belonging to the lowest strata of society no fundamental right to earn an honest living through their sweat and toil? The former can approach the courts with a formidable army of distinguished lawyers paid in four or five figures per day and if their right to exploit is upheld against the Government under the label of fundamental right, the courts are praised for their boldness and courage and their independence and fearlessness are applauded and acclaimed. But, if the fundamental right of the poor and helpless victims of injustice is sought to be enforced by public interest litigation, the so-called champions of human rights frown upon it as waste of time of the highest court in the land, which, according to them, should not engage itself in such small and trifling matters. Moreover, these self-styled human rights activists forget that civil and political rights, priceless and invaluable as they are for freedom and democracy, simply do not exist for the vast masses of our people. Large numbers of men, women and children who constitute the bulk of our population are today living a sub-human existence in conditions of abject poverty; utter grinding poverty has broken their back and sapped their moral fibre. They have no faith in the existing social and economic system. What civil and political rights are these poor and deprived sections of humanity going to enforce? This was brought out forcibly by W. Paul Gormseley at the silver jubilee celebrations of the Universal Declaration of Human Rights at the Banaras Hindu University:
"Since India is one of those countries which has given a pride of place to the basic human rights and freedoms in its Constitution in its Chapter on Fundamental Rights and on the Directive Principles of State Policy and has already completed twenty-five years of independence, the question may be raised whether or not the fundamental rights enshrined in our Constitution have any meaning to the millions of our people to whom food, drinking water, timely medical facilities and relief from disease and disaster, education and job opportunities still remain unavoidable. We, in India, should on this occasion study the human rights declared and defined by the United Nations and compare them with the rights available in practice and secured by the law of our country."

The only solution for making civil and political rights meaningful to these large sections of society would be to remake the material conditions and restructure the social and economic order so that they may be able to realise the economic, social and cultural rights. There is indeed close relationship between civil and political rights on the one hand and economic, social and cultural rights on the other and this relationship is so obvious that the International Human Rights Conference in Teheran called by the General Assembly in 1968 declared in a final proclamation:

"Since human rights and fundamental freedoms are indivisible, the full realisation of civil and political rights without the enjoyment of economic, social and cultural rights is impossible."
Of course, the task of restructuring the social and economic order so that the social and economic rights become a meaningful reality for the poor and lowly sections of the community is one which legitimately belongs to the legislature and the executive, but mere initiation of social and economic rescue programmes by the executive and the legislature would not be enough and it is only through multi-dimensional strategies including public interest litigation that these social and economic rescue programmes can be made effective. Public interest litigation, as we conceive it, is essentially a cooperative or collaborative effort on the part of the petitioner, the State or public authority and the court to secure observance of the constitutional or legal rights, benefits and privileges conferred upon the vulnerable sections of the community and to reach social justice to them. The State or public authority against whom public interest litigation is brought should be as much interested in ensuring basic human rights, constitutional as well as legal, to those who are in a socially and economically disadvantaged position, as the petitioner who brings the public interest litigation before the court. The State or public authority which is arrayed as a respondent in public interest litigation should, in fact, welcome it, as it would give it an opportunity to right a wrong or to redress an injustice done to the poor and weaker sections of the community whose welfare is and must be the prime concern of the State or the public authority."

(Emphasis Supplied)

Likewise, in **(2010) 3 SCC 402 (State of Uttaranchal vs. Balwant Singh Chaufal & Ors.)** the Apex Court opined that:

"32. This Court while exercising its jurisdiction of judicial review realised that a very large section of the society because of extreme poverty, ignorance, discrimination and illiteracy had been denied justice for time immemorial and in fact they have no access to justice. Predominantly, to provide access to justice to the poor, deprived, vulnerable, discriminated and marginalised sections of the society, this Court has initiated, encouraged and propelled the public interest litigation. The litigation is an upshot and product of this Court's deep and intense urge to fulfil its bounden duty and constitutional obligation.
33. The High Courts followed this Court and exercised similar jurisdiction under Article 226 of the Constitution. The Courts expanded the meaning of right to life and liberty guaranteed under Article 21 of the Constitution. The rule of locus standi was diluted and the traditional meaning of "aggrieved person" was broadened to provide access to justice to a very large section of the society which was otherwise not getting any benefit

from the judicial system. We would like to term this as the first phase or the golden era of the public interest litigation."

(Emphasis Supplied)

11. In the instant case, the aforesaid pleadings of the PIL makes it clear that the petitioner has sufficient interest in the matter. During her childhood she spent few years in Andaman and Nicobar Islands. She was involved in the matter of drafting a bill which ultimately took the shape of **FR Act, 2006.** At that time, she was posted as Secretary in the Ministry of Tribal Affairs, Government of West Bengal. Thus, she was closely associated, concerned and interested in the life of the tribals.

12. The tribal population in Andaman and Nicobar Islands is a very vulnerable tribal groups and they are ordinarily not accessible to common men. As per Rule 56 of the 'said Rules', if a legal wrong or legal injury is caused to a person or a class of persons and their constitutions/ legal rights are breached, their protection can be sought for in a Public Interest Litigation. Rule 56 in clear terms provides that if a person or class of persons by reason of poverty, helplessness or disability or socially or economically disadvantageous positions, is unable to approach to Court for relief, for redressal of their grievance, *any member of the public can approach the Court.* If the petitioner's standing is tested on the anvil of Rule 56, there will be no cavil of doubt that the petitioner has

sufficient interest in the matter and she is espousing the cause of the vulnerable tribal community. Thus, we are unable to hold that petitioner has no *locus standi*.

13. As discussed above, the order of ***Pardarshita and Anr. (Supra)*** cannot be pressed into service in a mechanical manner in the present case. In the instant PIL, the petitioner has challenged certain orders, resolution, proceedings and certificates which are allegedly issued in clear breach of FR Act, 2006. Thus, the PIL is maintainable.

14. So far, argument of learned ASG regarding the cost and importance of project is concerned, at this stage we are not inclined to enter into the merits of the case. A project involving huge expenditure must proceed in accordance with governing laws holding the field and it is not beyond the scope of judicial review on permissible parameters.

15. In view of foregoing discussion, we are unable to hold that the petitioner has no *locus standi* and the PIL is not maintainable. Accordingly, preliminary objection is overruled.

16. Since, pleadings are complete, list this matter for final hearing on 23rd of June,2026 at 12 P.M. under the heading "for hearing" with the liberty to mention.

Re :WPA(P) 16 of 2025 and WPA(P) 17 of 2025

17. On the joint request these matters were analogously heard on the question of *locus standi* of petitioner and maintainability of the PIL.

18. Pertinently, this matter was heard with WPA (P) 12 of 2024 wherein the learned Additional Solicitor General had raised the objection of *locus*and maintainability. The objection of *locus* and maintainability is overruled in WPA(P) 12 of 2024 filed by the same petitioner and the said order will deal with the *locus* and maintainability aspect to the extent indicated above.

19. In addition, learned Additional Solicitor General raised two-fold submissions regarding maintainability by contending – (i) the petitioner could have prayed for the relief claimed in these petitions in WPA (P) 12 of 2024. Since, the grounds and relief claimed in these matters were available to the petitioner when WPA (P) 12 of 2024 was filed and petitioner had not inserted those reliefs, by applying the principles analogous to Order 2 Rule 2 of CPC, the present petitions are not maintainable; (ii) by placing reliance on a decision of National Green Tribunal in **Ashish Kothari vs. MOEF & CC Ors.**, learned Additional Solicitor General urged that the present petitions are hit by principle of issue estoppel and *res judicata*. To elaborate, the learned Additional

Solicitor General has placed reliance on paragraph 7 of WPA(P) 12 of 2024 to contend that petitioner has raised the aspect of ‘environment’ which aspect is common in present PIL as well.

20. *Per contra*, learned counsel for the petitioner has taken us to the impugned order, resolution, proceeding and certificates which are subject matter of challenge in WPA(P) 12 of 2024. It was pointed out that all these documents impugned in WPA(P) 12 of 2024 are called in question because the same are issued in alleged breach of FR Act, 2006. Merely because in paragraph 7, the word ‘environment’ is mentioned, it does not make the present two petitions similar to the first one i.e. WPA(P) 12 of 2024.

21. It is highlighted that principle analogous to Order 2 Rule 2 of CPC are not applicable to the writ proceedings. The test depends on the cause of action on which a particular petition is filed. The cause of action for filing WPA(P) 12 of 2024 is totally different than the cause of action of other two matters.

22. It is further pointed out that the cause of action of WPA(P) 16 of 2025 and WPA(P) 17 of 2025 are also different. In WPA(P) 16 of 2025, the petitioner has called in question the action of reducing the buffer zone of **Galathea National Park** whereas in WPA(P) 17 of 2025 he has assailed similar action in relation to a different

park i.e. **Campbell Bay National Park**. It is highlighted that earlier the buffer zone of both the parks were about 10km which is reduced contrary to the Environment (Protection) Act, 1986 to 0 to 1km. It is submitted that cause of action in both relates to different parks and arising out of different impugned orders are called in question in both the matters. Thus, Order 2 Rule 2 principle is not attracted.

23. The parties confined their arguments to the extent indicated above.

24. We have heard the parties at length and perused the records.

Findings:

25. So far question of *locus standi* of petitioner and maintainability in the light of Order of this Court in ***Paradarshita & Anr. (supra)*** are concerned, this Court has already overruled the similar objection in connected WPA(P) No. 12 of 2024. The said finding will hold the field in this regard for both the petitions.

26. If the pleadings, cause of action and prayer of WPA(P) No.12 of 2024 are minutely examined, it will be crystal clear that petitioner is challenging the order, resolution, proceeding and certificate mainly on the ground that it is contrary to FR Act 2006. In other two petitions namely, WPA(P) 16/2025 and WPA(P) 17/2025, the cause of action

are different and not based on alleged breach of FR Act 2006. Thus, in our considered opinion, the cause of action for filing WPA(P) 12 of 2024 is different than the cause of action for filing remaining two petitions. For this reason alone, the principle analogous to Order 2 Rule 2 cannot be pressed into service. Although parties cited Judgments of Supreme Court and this Court on this aspect, we are not inclined to deal with those Judgments in specific for the simple reason that unless cause of action is shown to be same, the principle of Order 2 Rule 2, CPC cannot be applied.

27. So far WPA(P) 16 of 2025 and WPA(P) 17 of 2025 are concerned, a conjoint reading of both the petitions makes it clear that the matters are similar in nature. However, in WPA(P) 16 of 2025 the challenge is mounted to impugned notification dated 12.03.2021 whereby buffer zone of Galathea National Park was allegedly reduced contrary to **Environment (Protection) Act, 1986**. In WPA (P) 17 of 2025 the similar challenge is mounted to notification dated 12.03.2021 whereby buffer zone of Campbell Bay National Park was reduced allegedly in contravention of the said act.

28. Putting it differently, the cause of action for filing WPA (P) 16 of 2025 and WPA (P) 17 of 2025 are two different notifications relating to two different National Parks. The legal questions may

be similar but cause of action and impugned orders are different and distinct. Thus, we find substantial face in the argument of learned counsel for the petitioner that these petitions cannot be thrown to the wind on the touchstone of the Order 2 Rule 2 CPC. Apart from this, learned ASG placed reliance on an order of National Green Tribunal in the case of **Ashish Kothari vs. MOEF & CC Ors.** reported in **MANU/GT/0023/2026** as decided by the National Green Tribunal, Eastern Zone Branch, Kolkata.

29. A plain reading of the Order of the Tribunal shows that a particular project was subject matter before Tribunal. The said order has no thread relation with the present matter. Paragraph 6 of the order of Tribunal shows that stage one clearance dated 27th February, 2022 for diversion of 130.75 Sq. Kilometer of Forest Land in Grate Nicobar Island became subject matter of challenge. Thus, the said order of Tribunal is of no assistance to the Respondent. Apart from this, the said order is passed by Tribunal in a petition filed by a separate petitioner in relation to a different subject. Thus, principle of *res judicata* is not attracted. We wonder how issues estoppel or principle of estoppel can be pressed into service on the basis of the said order of the Tribunal. In view of foregoing discussion, we are unable to hold that the present petitions are not maintainable.

Resultantly, objection of maintainability is overruled.

30. Since pleadings are complete, list these matters for final hearing along with WPA (P) No.12 of 2024 under the same heading.

31. Urgent photostat certified copy of this order, if applied for, be given to the parties subject to compliance of all necessary formalities.

(Sujoy Paul, C.J.)

(Partha Sarathi Sen, J.)