



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 6162/2022

In Re Tal Chappar Sanctuary, Sujangarh (Churu).

----Petitioner

Versus

1. The Principal Secretary, Govt. Of Raj., Jaipur, Jaipur.
2. The Secretary, Ministry Of Forest, Government Of Rajasthan, Jaipur.
3. The Secretary, Department Of Revenue, Government Of Rajasthan, Jaipur
4. The Secretary, Department Of Mines, Government Of Rajasthan, Jaipur.
5. The District Collector, Churu.

----Respondents

For Petitioner(s)	:	Mr. Rituraj Singh Rathore, Amicus Curiae, through VC Mr. R.N. Mehrotra, Retired Chief Wild Life Warden, through VC
For Respondent(s)	:	Mr. Sandeep Shah, Senior Advocate-cum-AAG, assisted by Mr. Abhimanyu Singh Mr. Sunil Beniwal, AAG Mr. D.K. Godara, through VC Mr. Manish Patel, through VC Mr. Moti Singh

**HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE KULDEEP MATHUR**

Order

REPORTABLE

31/08/2022

Lord Krishna said in Shri Bhagwat Geeta :

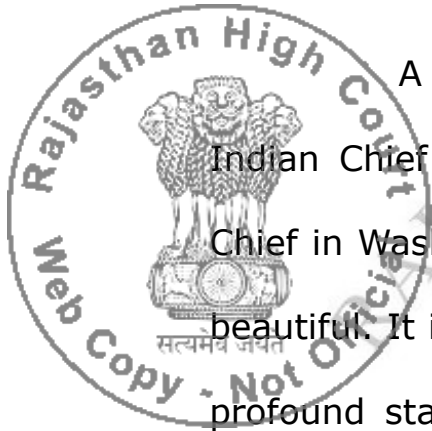
अन्नाद्भवन्ति भूतानि पर्जन्यादन्नसम्भवः ।

यज्ञाद्भवति पर्जन्यो यज्ञः कर्मसमुद्भवः ॥

(Bhagwat Geeta Chapter 3 Verse 14)



All living beings subsist on food, and food is produced by rains. Rains come from the performance of Yagna or sacrifice, and Yajna or sacrifice is born out of actions that are filled with responsibility towards environment, ecology and society as a whole.



A hundred and thirty-two years ago, in 1854, 'the wise Indian Chief of Seattle' replied to the offer of 'the great White Chief in Washington' to buy their land. The reply is profound. It is beautiful. It is timeless. It contains the wisdom of the ages. It is a profound statement on environment. We are tempted to quote the whole of it:

"How can you buy or sell the sky, the warmth of the land? The idea is strange to us.

"If we do not own the freshness of the air and the sparkle of the water, how can you buy them?"

"Every part of the earth is sacred to my people. Every shining pine needle, every sandy shore, every mist in the dark woods, every clearing and humming insect is holy in the memory and experience of my people. The Sap which courses through the trees carries the memories of the red man.

"The white man's dead forget the country of their birth when they go to walk among the stars. Our dead never forget this beautiful earth, for it is the mother of the red man. We are part of the earth and it is part of us. The perfumed flowers are our sisters; the horse, the great eagle, these are our brothers. The rocky crests,



the juices in the meadows, the body heat of the pony, and man-all belong to the same family.

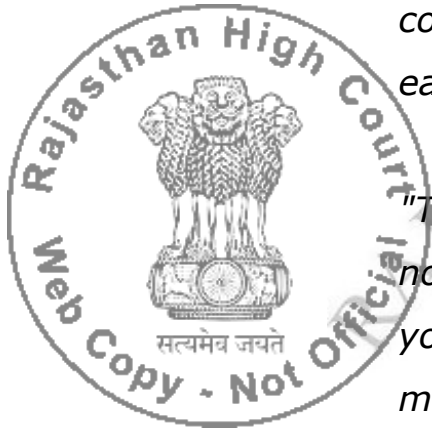
"So, when the Great Chief in Washington sends word that he wishes to buy our land, he asks much of us. The Great Chief sends word he will reserve us a place so that we can live comfortably to ourselves. He will be our father and we will be his children. So we will consider your offer to buy our land. But it will not be easy. For this land is sacred to us.

"This shining water moves in the streams and rivers is not just water but the blood of our ancestors. If we sell you land, you must remember that it is sacred, and you must teach your children that it is sacred and that each ghostly reflection in the clear water of the lakes tells of events and memories in the life of my people. The water's murmur is the voice of my father's father.

"The rivers are our brothers, they quench our thirst. The rivers carry our canoes, and food our children. If we sell you our land, you must remember, and teach your children, that the rivers are our brothers, and yours and you must henceforth give the kindness you would give any brother.

"We know that the white man does not understand our ways. One portion of, land is the same to him as the next, for he is a stranger who comes in the night and takes from the land whatever he needs. The earth is not his brother but his enemy, and when he has conquered it, he moves on. He leaves his father's graves behind, and he does not care.

"He kidnaps the earth from his children. His father's grave and his children's birth right are forgotten. He treats his mother, the earth, and his brother, the sky,





as things to be bought, plundered, sold like sheep or bright beads. His appetite will devour the earth and leave behind only a desert.

"I do not know. Our ways are different from your ways. The sight of your cities pains the eyes of the red man. But perhaps it is because the red man is a savage and does not understand.



"There is no quite place in the white man's cities. No place to hear the unfurling of leaves in spring or the rustle of an insect's wings. But perhaps it is because I am a savage and do not understand. The clatter only seems to insult the ears. And what is there in life if a man cannot hear the lonely cry of the whippoorwill or the arguments of the frogs around a pond at night? I am a red man and do not understand. The Indian prefers the soft sound of the wind darting over the face of a pond, and the small of the wind itself, cleansed by a mid-day rain, or scented with the pinon pine.

The air is precious to the red man, for all things share the same breath-the beast, the tree, the man, they all share the same breath. The white man does not seem to notice the air he breathes. Like a man dying for many days, he is numb to the stench. But if we sell you our land, you must remember that the air is precious to us, that the air shares its spirit with all the life it supports. The wind that gave our grandfather his first breath also receives the last sigh. And if we sell you our land, you must keep it apart and sacred as a place where even the white man can go to taste the wind that is sweetened by the meadows flowers.

"So we will consider your offer to buy our land. If we decide to accept, I will make one condition. The White man must treat the beasts of this land as his brothers.



"I am a savage and I do not understand any other way. I have seen a thousand rotting buffaloes on the prairie, left by the white man who shot them from a passing train. I am a savage and I do not understand how the smoking iron horse can be more important than the buffalo that we kill only to stay alive.

"What is man without the beasts? If all the beasts were gone, man would die from a great loneliness of spirit. For whatever happens to the beasts soon happens to man. All things are connected.

"You must teach your children that the ground beneath their feet is the ashes of our grandfathers. So that they will respect the land. Tell your children that the earth is rich with the lives of our kin. Teach your children what we have taught our children, that the earth is sun mother. Whatever befalls the earth befalls the sons of the earth. If men spit upon the ground, they spit upon themselves.

"This we know: The earth does not belong to man; man belongs to the earth. This we know: All things are connected-like the blood which unites one family. All things are connected.

"Whatever befalls the earth befalls the sons of the earth. Man did not weave the web of life: he is merely a strand in it. Whatever he does to the web he does to himself.

"Even the white man, whose God walks and talks with him as friend to friend, cannot be exempt from the common destiny. We may be brothers after all. We shall see. One thing we know, which the white man may one day discover- our God is the same God. You





may think now that Page 3 of 9 you own Him as you wish to own our land; but you cannot. He is the God of man, and His compassion is equal for the red man and the white. This earth is precious to Him, and to harm the earth is to heap contempt on its Creator. The white too shall pass; perhaps sooner than all other tribes. Contaminate your bed and you will one night suffocate in your own waste.



"But in your perishing you will shine brightly, fired by the strength of the God who brought you to this land and for some special purpose gave you dominion over this land and over the red man. That destiny is a mystery to us, for we do not understand when the wild buffalo are all slaughtered, the wild horses are tamed, the secret corners of the forest heavy with scent of many man and the view of the ripe hills blotted by talking wires. Where is the thicket? Gone. Where is the eagle? Gone. The end of living and the beginning of survival."

It is this profound wisdom of Lord Krishna and the sublime words spoken by the wise Indian Chief, which galvanized this court to take note of the highly disturbing report published in the Dainik Bhaskar newspaper, Jodhpur Edition of 23.04.2022 indicating that the State Government was proposing to reduce the Eco-Sensitive Zone of the Tal Chappar Sanctuary to 3 km under the pressure of mine owners and stone crusher operators.

This court took cognizance of this newspaper report on 25.04.2022 and under directions of Hon'ble the Chief Justice, the instant suo moto PIL writ petition came to be registered. It may be stated that Rajasthan is home to as many as 29 National Parks and Wildlife Sanctuaries, from which a pittance of two are located



in the Western part of Rajasthan, which is commonly known as Maru Pradesh (Desert area). Of these two, the Desert Wildlife Sanctuary at Barmar and Jaisalmer districts covers the lion's share, i.e. 3162 sq. km., and the other which is under consideration in this suo moto public interest litigation, i.e. the Tal Chappar Wildlife Sanctuary, Churu is restricted to a meager 7.19 sq. km. The sanctuary is host to around 4000 blackbucks (deer) and other wildlife as Chinkara, Jungle Cat, Desert Fox, Wild Boar, Indian Desert Jird, Large Grey Mongoose, Indian Hare, over 40 species of Raptors, more than 300 species of resident and migratory birds including Common Crane, Demoiselle Crane, White Stork, White-browed Bushchat, etc.

The Principal Secretary, Government of Rajasthan, Jaipur, the Secretary, Ministry of Forest, Government of Rajasthan, the Secretary, Department of Revenue, Government of Rajasthan, the Secretary, Department of Mines, Government of India and the District Collector, Churu were notified. Dr. Sachin Acharya, Senior Advocate, and Shri Rituraj Singh Rathore, Advocate, who have shown keen interest in forest conservation related issues, were appointed as Amicus Curiae to assist the court in the matter.

By order dated 18.07.2022, upon the input given by learned Amicus Curiae Shri Rituraj Singh, retired Chief Wildlife Warden, Rajasthan Shri R.N. Mehrotra was appointed as an expert to assist the court in this matter. Shri Mehrotra appeared and addressed the court on 08.08.2022. He presented written submissions, which have been taken on record.

Arguments on subject matter of writ petition were advanced by the learned Amicus Curiae Shri Rituraj Singh, Shri Sandeep Shah, learned Senior Advocate-cum-AAG, assisted by



Shri Abhimanyu Singh, representing the Forest Department and Shri Sunil Beniwal, learned AAG, representing the Revenue Department and the expert Shri Mehrotra.

At this stage, it may be mentioned that certain applications for impleadment were filed in the matter, but since we are not proposing to pass any order infringing upon the rights of any private land owner/institution etc., we are not inclined to permit impleadment of any of the applicants as party in this writ petition.

During the course of hearing of the writ petition, the expert Shri Mehrotra submitted that a lopsided distribution of the Wildlife Sanctuaries and National Parks in the eastern and western parts of Rajasthan is a matter of serious concern and appropriate steps need to be taken for sustainable development in the Western Region, so that the existing pristine forest areas suitable to the desert environment are conserved and additional ones are created. He urged that appropriate steps in this regard are imperative and need of the hour so that the typical desert fauna flora and wildlife can thrive and the bio-diversity of the area can be maintained and nurtured. He submitted that if this forest area is not preserved and further augmented, many exotic desert species will be lost and may become extinct. The gist of written submissions presented by Shri Mehrotra is reproduced hereinbelow for further reference:-

Tal Chappar Forest Type is Tropical Thorn Forest and Grasslands



Mammals: - Blackbuck, Chinkara, Jungle Cat, Desert Fox, Wild Boar, Indian Desert Jird, Large Grey Mongoose, Indian Hare

Notable Bird Life: - Over 40 Species of Raptors, Common Crane, Demoiselle Crane, White Stork, White-browed Bushchat, etc. (More than 300 species of resident and migratory birds)



Watershed: - Soil is primarily Saline with poor soil depth. Sub surface Salinity is high. The area between sanctuary & western hillocks of Gopalpura village constitutes the watershed area for the sanctuary. The whole sanctuary area used to be flooded during the heavy rains. As the Govt. of Rajasthan has allotted several bighas of land in the watershed area to the villagers for agriculture purposes and the salt production activities in catchment area have blocked the rainwater inflow into the sanctuary to a great extent. Salt is being extracted in the vicinity of nearby villages where high saline underground water is available in open wells.

Blackbuck Population: - Approximately 4000 9. Legal

Status: - Declared Wildlife Sanctuary 23.08.1998

Habitat Types: - Seasonal aquatic habitat, Sandy

Habitat, Rocky Habitat and Grassland, Water Holes 8



Impact Zone: - Sanctuary has no buffer. A tar road divides sanctuary into 2 blocks. The road should be eliminated and within 1 block of 719 hectares, a core should be demarcated.

Problems: - Hyper Aridity, Stray Dogs, Grazing pressure, invasion of Prosopis juliflora, salt mines that have diverted the main flow of rain water draining into the sanctuary as well as open wells in the salt pans. Present area of the sanctuary is insufficient for a large Blackbuck population



Acquisition of 1 bigha 4 biswa land between sanctuary office and the Chhappar Bikaner state highway (land under litigation)

Shifting of Blackbuck to alternative habitats:- An alternative/ satellite habitat can be created in Jaswantgarh forest block (District Nagaur). 367.82 hectares of forest land is available there with the rest of the land belonging to gram panchayat/ revenue department. The distance between Tal Chappar Wildlife Sanctuary and Jaswantgarh is approximately 11.5 kms.

Notifying appropriate Eco sensitive zone as per recent order of Honbl. Supreme court dated 03.06.2022.

While making oral submissions, Shri Mehrotra pointed out that the Sanctuary and the surrounding areas are home to



large colonies of the only herbivorous lizard in the animal kingdom, i.e. Spiny-tailed Lizard, which forms the prey base of migratory and resident raptors including Laggar Falcon, Peregrine Falcon, Tawny Eagle, Steppe Eagle, Eastern Imperial Eagle, Whitetailed Eagle, Long-legged Buzzard, Common Buzzard etc. He further submitted that before the extensive urbanization of the area, it was host to desert foxes and similar burrowing animals, but with the expanse of population and unplanned and rampant construction activities, population of these exotic species seems to have been destroyed or might have relocated to other areas suitable for their survival. He further submitted that adjacent to the Churu District, another forest block by the name of Jaswantgarh is located in the Nagaur District, which is at a short distance from the Tal Chappar Wildlife Sanctuary. The excess population of blackbucks in the Tal Chappar Sanctuary, which is facing severe shortage of territory and grazing resources in the limited area of 7.19 sq. km. can be shifted to the Jaswantgarh forest area. He further submitted that large chunks of Government Revenue lands are lying unutilized adjacent to the Jaswantgarh forest area and thus, the Forest and Revenue authorities can be directed to convert these Revenue lands to forest category and amalgamate the same with Jaswantgarh forest block so that a parallel sanctuary can be created for providing additional grazing area to the excess blackbuck population in the Tal Chappar Wildlife Sanctuary or else these beautiful animals may perish due to lack of territory and shortage of grazing resources.

Noting these submissions of Shri Mehrotra, we requested Shri Sunil Beniwal, learned AAG, to keep the District Collector, Churu and District Collector, Nagaur present in the court.



Both the officers appeared in the court on 26.08.2022 and made oral submissions. Both the learned District Collectors showed keen interest in addressing the issues, which have been taken up by this court in this PIL writ petition. This court is informed that the Jaswantgarh forest block is at an approximate distance of 11.5 kms. (aerial) from the boundary of the Tal Chappar Wildlife Sanctuary. Currently, it is a small patch of forest land admeasuring 1739.03 bighas in Khasra No.329/1 in District Nagaur. The District Collector, Nagaur Shri Piyush Samariya submitted that significant chunk of revenue land is available adjoining the forest block Jaswantgarh and that there would be no difficulty either legal or practical to include these revenue lands in the forest block Jaswantgarh. The District Collector, Churu Shri Sidharth Sihag submitted that the road which passes through the Tal Chappar Wildlife Sanctuary measures about 2.7 kms. And poses serious risk to the wildlife in the Sanctuary. It was earlier denotified, but was renotified on 30.09.2019. He submitted that proper alternate road adjoining the sanctuary is available to cater to the need of all concerned.

A consolidated reply has been filed on behalf of the Department of Forest and Department of Mines.

Regarding the issue of mining leases, it has been stated in the reply that :-

"4. That, presently, there are no approved mining leases in the area upto 5 Kms of the Tal Chhappar Wildlife Sanctuary. As far as Churu District is concerned, a total of 217 mining leases are approved. Out of these, 66 mining leases fall at a distance of 5 km to 10 km from the boundary of the Wildlife



Sanctuary. 49 leases out of these 66 mining leases are masonry stone mining leases and 17 are marble mining leases. They occupy an area of 90.1033 hectares within a radius of 5 to 10 kms of the Sanctuary. It is pertinent to mention here that out of 66 mining leases falling within a radius of 5 to 10 kms of the Sanctuary, 40 mining lease are not in operation due to expiry of the consent to operate and the period of consent to operate in the remaining 26 mining lease is valid till June 2023.



5. That in this area, the mineral masonry stone is available in abundance in its periphery. The world famous Dunkar Marble is also found in this area. Recently, for the purpose of e-auction of the minor mineral masonry stone, about 24 plots were prepared. Out of which, 7 leases are on the state-owned land with a total area of 10.61 hectares. It is however, pertinent to mention here that the above mentioned 7 plots, do not fall under the eco-sensitive zone category, as per the Gazette Notification dated 14.09.2021. As far as remaining leases upon Khatedari land is concerned, Environmental Clearance has not yet been received."

As per the reply, in the draft notification prepared as per the earlier proposal sent to the central Government, the limit of ESZ were proposed keeping in mind, the then population of the Black Bucks which has increased in the area in last 7 years. It is stated that presently the movement of the Black Bucks is also outside the proposed ESZ and it seems appropriate to amend it in view of the natural movement of Black buck at present.

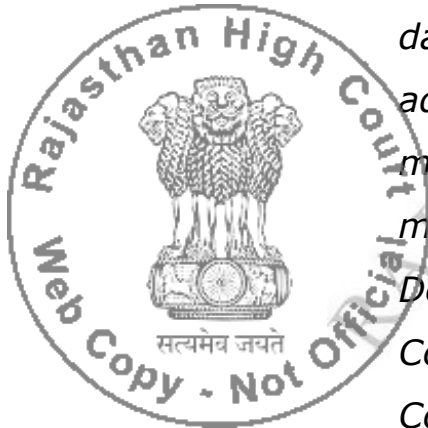
Regarding the Jaswantgarh Forest Block, it is stated in the reply that :



"ISSUE OF CORRIDOR FROM TAL CHHAPPAR WILDLIFE SANCTUARY TO JASWANTGARH FOREST AREA

10. That the Jaswantgarh Forest Area is a small patch of forest land of 1739.03.Bigha in Khasra no. 329/1. That in 2017, to consider the issue of relocation of Black Bucks from the Tal Chhapar Sanctuary to the Jaswantgarh Forest area in District Nagaur, in meeting dated 06.08.2017, decision was taken to hand over administrative control of Khasra no. 329/1, 329 ad measuring 830.13 Bigha and Khasra no.361 ad-measuring 1392.18 Bigha were handed over from Deputy Conservator of Forest, Nagaur to Assistant Conservator of Forest, Churu under the Deputy Conservator of Forest, Churu. The order dated 19.07.2017 was issued by the PCCF, Rajasthan for the said purpose. It has been clearly observed in said letter that upon the said khasra there is a huge number of Juliflora existing. As far as Khasra no. 329 and 361/1 are concerned, the same have not been handed over to the Department of Forest.

11. That the relocation of the Black Buck from Tal Chhapar to forest area of Jaswantgarh faces difficulty due to a number of reasons. Firstly, the area falling between the Tal Chhapar Sanctuary and Jaswantgarh Forest area is held by the Revenue Department of the State and the forest department cannot exercise control over it, unless the same is handed over to the Forest Department. Secondly, the forest area of Jaswantgarh is open from all sides and due to the presence of dirty water of Jaswantgarh Village and movement of stray animals and wild dogs, displacement of the Blackbucks in the unclassified forest area Khasra No. 329/1 is difficult. Thirdly, in that



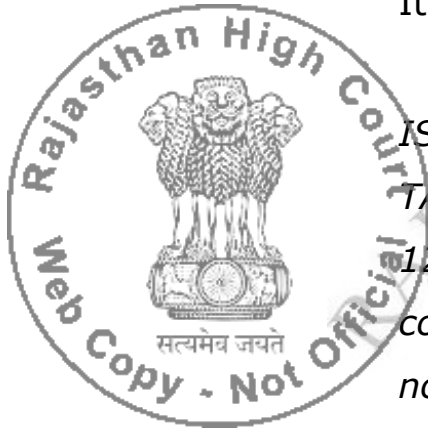


area Juliflora is in abundance, which will have to be cut down in order to prepare grassland for the Black Bucks, since the Black Buck show movement in grasslands only. Additionally, the presence of Railway line as well as Road is another reason restricting the relocation of the Black Bucks nearby to Jaswantgarh area."

It is further stated in the reply that :-

ISSUE OF INCLUSION OF GOPALPURA HILLS IN ESZ OF TAL CHAPPAR WILDLIFE SANCTUARY:

12. That as far as movement of Black buck is concerned, presently, due to the paved walls on the northern boundary of the Tal Chhappar Wildlife Sanctuary, usually there is no movement of the black buck in the Northern Direction. Whereas, in the east, west and south directions the movement of the deer has been seen beyond boundary of the wild life sanctuary. The movement of these species have also been found outside the sanctuary in the Local Farms/ Salt areas/Gaushala area. These species are mostly found in the plain surfaces, where there is abundance of grass and not in hilly area. The Gopalpura Hills are located approximately 7.5km to 10 km from the boundary of Tal Chhappar Sanctuary. The abadi area of the Gopalpura Village, salt production area, various roads and soil mining areas are located between the Gopalpura Hills and Tal Chhappar Wildlife Sanctuary. Hence, the Black Bucks do not cross these obstacles to reach the Gopalpura Hills and thus, there is no movement of Black Buck to the Gopalpura Hills requiring inclusion of same in ESZ area. Further, there is no recent finding that the Tal Chhappar area is watershed area for the water flowing from the Gopalpura Hills. Rather, as per local source of information, the rainwater flowing from Gopalpura hills





has not reached the Tal Chappar sanctuary area post 1970. The source of water for Tal Chhappar Sanctuary is rainwater and also the Department is ensuring regular supply of water in the water holes within the sanctuary.

15. That in proximity to the boundary of the Tal Chhappar Sanctuary, there are leases for salt manufacturing being run by various leaseholders allotted by the District Industrial Centre. However, currently quite a few of them are not engaged in salt production, or there is minimum production. Hence, efforts are being made to get those areas of leases under the Forest Department and for said purpose vide letter dated 23.06.2022 certain information was sought from the District Industrial Centre.

16. That keeping in view the ecological imperatives and the ground realities of the protected area, the Mining Department has already stated that there is no active mining lease in operation till 5 km."

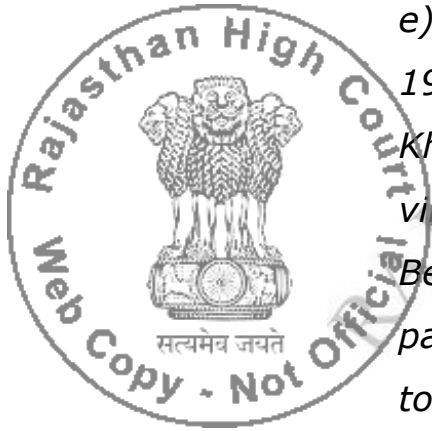
Reply/Additional Affidavit has been filed on behalf of the Department of Revenue, Government of Rajasthan. Regarding the issue of increasing the area of the Tal Chappar Wildlife Sanctuary, the relevant portion of the reply is reproduced hereinbelow :-

"d) That, as per the report of Additional District Collector, Sujangarh dated 19/08/2022, the Revenue Department does not possess any public/Government land in the vicinity of Talchhaper sanctuary. Certain public land which is situated in vicinity of sanctuary, the Department of Industries has issued as many as 47 salt mines; out of which 25 salt mines have allotted by



the State Government and 06 salt mines have been converted from Agricultural use. Out of said mines 16 such leases have been already cancelled (out of which 10 had been allotted by the State Government and 06 mines were converted from Agricultural use). At present total 24 mines are operational and 07 mines are non-operational.

e) That, as per the report of Tehsildar, Sujangarh dated 19/08/2022, a meeting was convened for setting apart Khatedari land from adjacent villages Survas and village Beed Chapar in which 6 khatedars from village Beed Chapar and 12 khatedars from village Survas participated and one Khatedar from each village agreed to surrendering land in lieu of compensation."



A consolidated view of the replies filed on behalf of three departments, i.e. Department of Forest, Department of Mines and Department of Revenue, would lead to irrefutable and undisputed conclusion that there is a dire need of increasing the area of the Tal Chappar Wildlife Sanctuary because with the laudable conservation efforts of the Forest Department and the bounty provided by nature, the population of the Blackbucks has increased significantly. Because of the excess population, Blackbucks are straying into the nearby areas, which poses a risk to the animals and so also, could lead to conflict with agriculturists/human population and also increases the possibility of poaching. The possibility of creating a corridor between the Tal Chappar Sanctuary and Jaswantgarh Forest Block, for the present, seems difficult because of the Railway line, which passes between the two areas. However, the concerned departments can make concerted efforts so as to create a corridor in form of underpass



etc. so that the Blackbucks and other animals can move freely between the two areas. If the corridor is not created, measures to relocate the excess population of Blackbucks to the Jaswantgarh Forest Block can definitely be resorted to. For this purpose, the area of the Jaswantgarh Forest Block would have to be increased by appropriating the adjoining Revenue lands. The District Collector, Nagaur has shown a positive intent on this possibility. Simultaneous to the action of increasing the forest area, the authorities concerned will have to take steps for removing Juliflora bushes from the entire forest block and to create a grassland which is the suitable habitat of the Blackbucks. Furthermore, steps also need to be taken to plant local species of trees, fruiting and others, so that aviatory population can also be attracted to these areas.

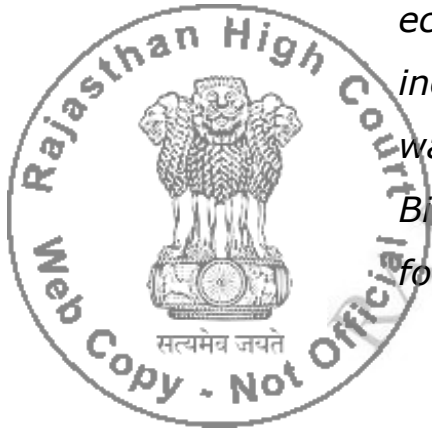
Power of the court to give direction on the issues, of which cognizance has been taken in this suo moto petition, is no longer *res integra* in light of the Supreme Court judgment in the case of **Hospitality Association of Mudumalai Vs. In Defence of Environment and Animals & Ors. etc. [(2020) 10 SCC 589]**, wherein it has been observed as below :-

35. Legal intervention in preservation of these corridors has been necessitated because wildlife corridors are threatened by various social, economic and anthropogenic factors, as noted above. Commercial activities such as running of private resorts and construction of new buildings with barbed and electric fences within elephant corridors pose a serious threat of fragmentation and destruction of habitats. The long-term survival of the species depends on maintaining viable habitats and connecting corridors which maintain



variance in the species' gene pool and avoid other risks associated with habitat fragmentation and isolation of species.

36. Overtime, several environmental legislations including the Indian Forest Act, 1927 and the Wildlife Act have been enacted to provide for the protection of forests and wild animals, with a view to ensuring ecological balance and preserving natural habitats including such corridors. The object of the Wildlife Act was interpreted emphatically by this Court in *State of Bihar v. Murad Ali Khan : 1988 (4) SCC 655* in the following terms:

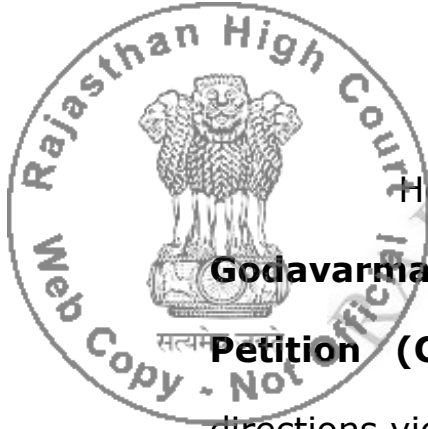


8.... The policy and object of the Wild Life laws have a long history and are the result of an increasing awareness of the compelling need to restore the serious ecological-imbalance introduced by the depredations inflicted on nature by man. The state to which the ecological imbalances and the consequent environmental damage have reached is so alarming that unless immediate, determined and effective steps were taken, the damage might become irreversible. The preservation of the fauna and flora some species of which are getting extinct at an alarming rate, has been a great and urgent necessity for the survival of humanity and these laws reflect a last-ditch battle for the restoration, in part at least, a grave situation emerging from a long history of callous insensitiveness to the enormity of the risks to mankind that go with the deterioration of environment. XXX XXX XXX

10.... Environmentalists' conception of the ecological balance in nature is based on the fundamental concept that nature is "a series of



complex biotic communities of which a man is an inter-dependant part" and that it should not be given to a part to trespass and diminish the whole. The largest single factor in the depletion of the wealth of animal life in nature has been the "civilized man" operating directly through excessive commercial hunting or, more disastrously, indirectly through invading or destroying natural habitats."



Hon'ble the Supreme Court in the case of **In Re : T.N. Godavarman Thirumulpad Vs. Union of India & Ors. [Writ Petition (Civil) No. 202/1995]** has issued the following directions vide order dated 03.06.2022 :-

44. We accordingly direct:

(a) *Each protected forest, that is national park or wildlife sanctuary must have an ESZ of minimum one kilometre measured from the demarcated boundary of such protected forest in which the activities proscribed and prescribed in the Guidelines of 9th February 2011 shall be strictly adhered to. For Jamua Ramgarh wildlife sanctuary, it shall be 500 metres so far as subsisting activities are concerned.*

(b) *In the event, however, the ESZ is already prescribed as per law that goes beyond one kilometre buffer zone, the wider margin as ESZ shall prevail. If such wider buffer zone beyond one kilometre is proposed under any statutory instrument for a particular national park or wildlife sanctuary awaiting final decision in that regard, then till such final decision is taken, the ESZ covering the area beyond one kilometre as proposed shall be maintained.*



(c) The Principal Chief Conservator of Forests as also the Home Secretary of each State and Union Territory shall remain responsible for proper compliance of the said Guidelines as regards nature of use within the ESZ of all national parks and sanctuaries within a particular State or Union Territory. The Principal Chief Conservator of Forests for each State and Union Territory shall also arrange to make a list of subsisting structures and other relevant details within the respective ESZs forthwith and a report shall be furnished before this Court by the Principal Chief Conservator of Forests of each State and Union Territory within a period of three months. For this purpose, such authority shall be entitled to take assistance of any governmental agency for satellite imaging or photography using drones.

(d) Mining within the national parks and wildlife sanctuaries shall not be permitted.

(e) In the event any activity is already being undertaken within the one kilometre or extended buffer zone (ESZ), as the case may be, of any wildlife sanctuary or national park which does not come within the ambit of prohibited activities as per the 9th February 2011 Guidelines, such activities may continue with permission of the Principal Chief Conservator of Forests of each State or Union Territory and the person responsible for such activities in such a situation shall obtain necessary permission within a period of six months. Such permission shall be given once the Principal Chief Conservator of Forests is satisfied that the activities concerned do not come within the prohibited list and were continuing prior to passing of this order in a legitimate manner. No new permanent structure shall be permitted to come up for whatsoever purpose within the ESZ.





(f) *The minimum width of the ESZ may be diluted in overwhelming public interest but for that purpose the State or Union Territory concerned shall approach the CEC and MoEF&CC and both these bodies shall give their respective opinions/recommendations before this Court. On that basis, this Court shall pass appropriate order.*



(g) *In the event the CEC, MoEF&CC, the Standing Committee of National Board of Wildlife or any other body of persons or individual having special interest in environmental issues consider it necessary for maintaining a wider or larger ESZ in respect of any national park or wildlife sanctuary, such body or individual shall approach the CEC. In such a situation the CEC shall be at liberty to examine the need of a wider ESZ in respect of any national park or wildlife sanctuary in consultation with all the stakeholders including the State or Union Territory concerned, MoEF&CC as also the Standing Committee of National Board of Wildlife and then approach this Court with its recommendations.*

(h) *In respect of sanctuaries or national parks for which the proposal of a State or Union Territory has not been given, the 10 kilometres buffer zone as ESZ, as indicated in the order passed by this Court on 4th December 2006 in the case of Goa Foundation (supra) and also contained in the Guidelines of 9th February 2011 shall be implemented. Within that area, the entire set of restrictions concerning an ESZ shall operate till a final decision in that regard is arrived at.*

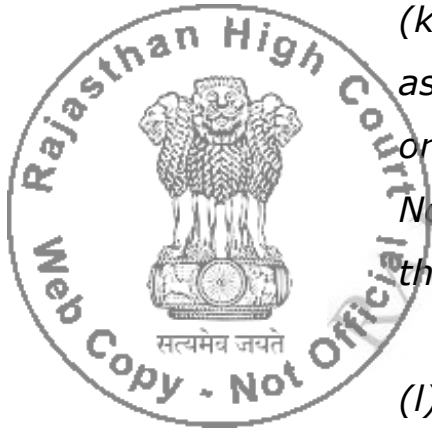
(i) *I.A. No. 1412 of 2005 and I.A.No.117831 of 2019 do not relate to the issues involved in I.A. No.1000 of*



2003. These applications may be placed before the appropriate Bench to be heard independently.

(j) For the same reason, I.A. No.1992 of 2007 shall also be dealt with independently by the appropriate Bench and no order is being passed concerning this application at this stage.

(k) The application of the State of Rajasthan registered as I.A. No.3880 of 2015 relates to clarification of an order passed in the case of Goa Foundation (W.P.(C) No.460 of 2004). Let this application be placed before the Bench taking up the case of Goa Foundation.



(l) I.A.No.96949 of 2019 and I.A.No.65571 of 2021 are disposed of with directions that the MoEF&CC as also CEC shall proceed to take a decision in regard to the draft proposal for ESZ made by the State of Maharashtra to the extent of 03.89 kilometres and the MoEF&CC shall take final decision on that basis within a period of three months, if said decision has not already been taken.

(m) Prayers for impleadment of the applicants in I.A. Nos. 984 of 2003, 1026 of 2004, 1123 of 2004, 1197 of 2004 and 1251 of 2004 are allowed. Necessary amendments may be carried out in these regards.

(n) For the reasons already given, however, prayers of the applicants in I.A. Nos.982 of 2003, 1027 of 2004, 1124 of 2004, 1198 of 2004, 1210 of 2004, 1250 of 2004 and 1512 of 2006 are rejected.

(o) The CEC shall quantify the compensation to be recovered from each miner indulging in mining activities within the Jamua Ramgarh sanctuary in violation of any statutory provision or order of this



Court. Specific recommendations for compensatory afforestation, reclamation, clearing overburden dumping as also compensation in monetary units for degradation of forest resources shall also be made. A further set of recommendations concerning confiscation of earth moving equipments and other machineries lying within or in the periphery of the said sanctuary shall be made by the CEC. Recommendations shall be made within a period of four months before this Court in the form of an application. This Court shall consider passing appropriate order upon going through such application. The exercise concerning such reparation, including quantifying compensation shall be undertaken upon giving the mining operator, State and MoEF&CC opportunity of hearing.



(p) In the event there is any subsisting order of any High Court or any Court subordinate to such High Court covering any of the issues dealt with by this Court in this order, this order shall prevail over any such order which may be contrary to these directions.

(q) We have already observed that there are certain overlapping issues involved in this writ petition and the cases of Goa Foundation (Writ Petition (C) No.460 of 2004) and (Writ Petition (C) No.435 of 2012). We request the Hon'ble the Chief Justice of India to consider having the present writ petition i.e. In Re: T.N. Godavarman Thirumulpad v. Union of India & Ors., W.P.(C) No.460 of 2004 (Goa Foundation v. Union of India) as also W.P. (C) No.435 of 2012 (Goa Foundation v. Union of India & Ors.) be heard together before the same Bench. The registry may place this order before the Hon'ble the Chief Justice of India.



Shri Sandeep Shah, learned Senior Advocate-cum-AAG, submitted for the consideration of the court that the Ministry of Environment, Forest and Climate Change, Government of India has issued draft Gazette Notification No. 3409/2021 on 14.09.2021 for declaration of Eco sensitive zone (Annex.R/1/7) around the Tal Chappar Sanctuary. The Notification also enjoins upon the State Government to take measures for the protection of natural water bodies, natural heritage, man-made heritage, noise pollution, etc. to take measures for giving effect to the provisions of the notification. Additionally, the notification has identified various activities which should be prohibited or in alternative be regulated within the Eco-sensitive Zone. Objections/suggestions to the same have also been invited. A public hearing for the same was called on 28.04.2022 before the District Collector, Churu, in which objections/suggestions were invited from all stakeholders. The Minutes of the meeting were prepared on 08.06.2022 (Annex.R/1/8). After cognizance had been taken by this Court in the present petition, it was considered appropriate to not to issue any further directions in this regard. However, vide order dated 17.08.2022, it was clarified that the earlier orders were not to be considered as hindrance in proceedings pertaining to declaration of Eco-Sensitive Zone (ESZ) around the Tal Chappar Wildlife Sanctuary.

Shri Shah further pointed out that the Hon'ble Apex Court has recently, vide order dated 03.06.2022 passed in **Writ Petition (Civil) No. 202/1995: In re : T.N. Godavaram vs Union of India**, laid down mandatory guidelines for determining Eco-sensitive Zones and that the ESZ of Tal Chappar Sanctuary shall be finalized expeditiously in compliance of these directions.



We are informed that objections upon the notification dated 14.09.2021 have been received and shall be accounted for before forwarding the details to the competent authorities of the Central Government. We, therefore, direct that the proceedings for hearing the objections shall be completed expeditiously and the record shall be forwarded to the Central Government at the earliest so as to facilitate issuance of the final notification for declaring the Eco-sensitive Zone around the Tal Chappar Wildlife Sanctuary.

In view of the discussion made above and the prevailing factual and legal position, we hereby direct that :-

(1) There shall be a complete prohibition on any endeavour to reduce the area of the Tal Chappar Wildlife Sanctuary.

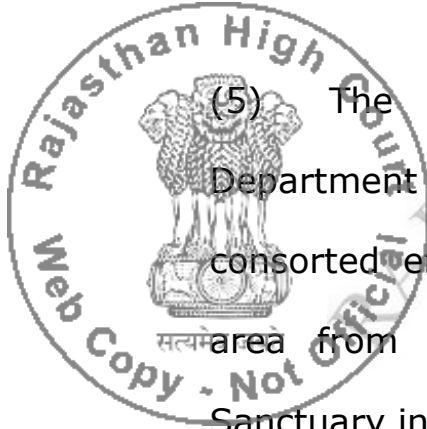
(2) The proceedings for hearing and deciding the objections/suggestions of all stakeholders in terms of the draft gazette notification No.3409/2021 dated 14.09.2021 shall be completed expeditiously.

(3) The concerned authorities of the State Government shall complete the requisite formalities and forward the proposal for declaration of the Eco-Sensitive Zone surrounding the Tal Chappar Wildlife Sanctuary to the competent authorities at the earliest.

(4) The road admeasuring about 2.7 km (State Highway No.20 Nokha to Sikar) passing through the Tal Chappar Wildlife Sanctuary had been denotified vide order dated 24.01.2018. Subsequently, for no valid reason, the same was renotified vide



order dated 30.09.2019. We hereby strike down the said order with immediate effect. This road shall forthwith be denotified. This direction is being given keeping in view the fact that alternative road already exists bordering the forest area and such a direction is absolutely essential to preserve the protected forest area and the wildlife thriving therein.



(5) The officials of the Forest Department, the Revenue Department and the District Industries Center shall make concerted efforts to include and merge the maximum possible area from the salt pans adjoining the Tal Chappar Wildlife Sanctuary into the forest area.

(6) The District Collector, Nagaur shall, with the concurrence of the concerned officers of the State Government initiate legal proceedings for conversion of maximum possible Government revenue land around Jaswantgarh forest block into forest category. The converted land shall be merged in the existing forest block Jaswantgarh.

(7) While taking steps to convert the Revenue lands surrounding the Jaswantgarh forest block into forest category, a simultaneous exercise shall be started for removal of Prosopis Juliflora bushes from the entire area and at the same time, extensive plantation of grass suitable for grazing of Blackbucks and bushes and native trees including fruit bearing trees like Jamun, Ber etc. shall be started.



(8) It would be expedient in the interest of justice that the State Government forms an expert panel of five persons, of which, two shall be from the Forest Department (serving or retired) to supervise and monitor these operations.

The suo moto writ petition is disposed of with these directions.

Compliance report of the above directions shall be submitted for the court's perusal by the next date of hearing.

List on 29.11.2022.

(KULDEEP MATHUR),J

(SANDEEP MEHTA),J

52-Pramod/-

