

Court No. - 2

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 110 of 2022

Petitioner :- Inner Wheel Club D.O.D Thru. President Pooja Jain And Ors.

Respondent :- State Of U.P. Thru. Prin. Secy. Forest Dept. And Ors.

Counsel for Petitioner :- Shailendra Kumar Misra, Anurag Narain Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Devendra Kumar Upadhyaya, J.

Hon'ble Subhash Vidyarthi, J.

Pursuant to our earlier order dated 05.03.2022, a report has been submitted by means of an affidavit, which has been sworn in by the Conservator of Forest (Endangered Projects). The said affidavit/report is taken on record.

In our earlier order dated 05.03.2022, we had required the learned State Counsel to seek instructions from the Department of Tourism on the issue as to whether there is any plan to develop Sandi wetland area as a tourist spot or as to whether an attempt has already been made to develop it as such.

In response to the said query, learned State Counsel has produced a letter of Regional Tourist Officer, Lucknow & Kanpur Mandal, Lucknow, dated 11.04.2022, which is taken on record. In the said letter, which is addressed to the learned Chief Standing Counsel, it has been stated that upkeep of the lake and bird sanctuary is being done by the Forest Department and no project is in contemplation either for upkeep or for repair of the lake in the Tourism Department.

The reply contained in the letter dated 11.04.2022 appears to have completely ignored the query made by this Court, vide order dated 05.03.2022 so far as the Tourism Department is concerned.

We have been informed that earlier sometimes ago a Motel was constructed either by the Tourism Department or U.P. State Tourism Development Corporation. However, the said Motel could never become functional and at the moment the properties attached with the Motel such as doors and windows are being stolen. When we required from the Tourism Department to instruct the State Government on the issue as to whether there is any plan to develop the area as a tourist spot,

we did not ever mean that Tourism Department will have any plan either for upkeep or maintenance or repair of the lake. The lake as a Ramsar wetland site is already existing and the Tourism Department is not expected to indulge in any kind of expenditure for upkeep or repair of the lake. However, for making a lake as a tourist spot certain amenities may be provided by the Tourism Department or U.P. State Tourism Development Corporation. It is in this background that query was made by us in our earlier order dated 05.03.2022 from the Tourism Department.

We may make it clear that the instant petition is not to be taken as an adversarial litigation between the petitioners and the State Government or its instrumentalities/authorities. The endeavour of all involved in the present petition is to prevent the wetland area from being eroded and damaged and further to maintain and preserve the ecosystem and biodiversity at the Bird Sanctuary.

In the aforesaid view of the matter, we require the learned counsel for the petitioners to file response to the affidavit/report submitted by the respondents.

Sri Abu Arsad Khan, Wild Life Warden posted at Bird Sanctuary informs that the lake at the moment is suffering from scarcity of water for the reason that for the last few monsoons, adequate rainfall has not been recorded.

On being asked as to whether water to the Bird Sanctuary can be provided by any means other than the rain water, we have been informed by the Wild Life Warden present today that an effort has been made to bring some water to the Bird Sanctuary from Garra river which flows nearby, by using a lift canal. He, however, further informs that even the lift canal could not be operational to its fullest capacity on account of several problems noticed because of the inadequate voltage of the electricity supply.

All the aforesaid issues, in our considered opinion, could be taken care of by the District Magistrate who being the administrative head of the District can sort out such day-to-day difficulties and problems being faced by the officials of Forest Department on account of non-supply of adequate electricity or any other related problems. The District Magistrate, Hardoi is, thus, directed to coordinate between different departments at the District level to sort out day-to-day problems being faced by the officials of Forest Department so that officers of the Forest Department can devote themselves with the fullest possible zeal for maintaining the lake. It will be the duty of the District

Magistrate to coordinate amongst the officials of different departments to achieve the said object.

Learned State Counsel is directed to seek instructions from the Tourism Department afresh in the light of our earlier order dated 05.03.2022 as also in respect of the present situation of the Motel said to have been built earlier.

The District Forest Officer, Hardoi is present in deference to our earlier order. He, however, states that the Bird Sanctuary and the lake do not lie under his jurisdiction; rather it is well within the supervision of the Conservator of Forest (Endangered Projects).

Accordingly, when the case is next listed, the District Forest Officer need not be present, however, we require the presence of the Conservator of Forest (Endangered Projects) for assistance of the Court.

List this case on 09.05.2022.

Learned State Counsel shall communicate this order to the District Magistrate, Hardoi.

Order Date :- 12.4.2022
Sanjay