

RESPONDENTS FROM IN ANY MANNER UNDERTAKING OR ALIENATING FOR THE PURPOSES OF COMMERCIAL AND DEVELOPMENTAL ACTIVITIES IN THE 5000 ACRE AREA IDENTIFIED AS THE GREATER HESARAGHATTA GRASSLANDS CONSERVATION RESERVE IN THE MAP (ANNEXURE-A) AS WELL AS BIODIVERSITY REPORT AND PROPOSAL PLACED BEFORE THE SECOND RESPONDENT (ANNEXURE-B). ISSUE A WRIT OF MANDAMUS OR ANY OTHER WRIT, ORDER, RULE OR DIRECTION TO THE FIRST AND SECOND RESPONDENTS TO RECONSIDER THE ISSUE OF DECLARING THE CONSERVATION RESERVE IN THE 5000 ACRE AREA IDENTIFIED AS THE GREATER HESARAGHATTA GRASSLANDS CONSERVATION RESERVE IN THE MAP (ANNEXURE-A) AS WELL AS BIODIVERSITY REPORT AND PROPOSAL PLACED BEFORE THE SECOND RESPONDENT (ANNEXURE-B) & ETC.

THESE W.Ps. COMING ON FOR PRELIMINARY HEARING, THIS DAY, **ACTING CHIEF JUSTICE** MADE THE FOLLOWING:

ORDER

The petitioners claim to be environmentalists. In these petitions, which have been filed as public interest litigations, the petitioners *inter alia* seek a writ of certiorari for quashment of decision dated 19.01.2021 taken by Karnataka State Board for Wildlife (hereinafter referred to as the 'Board' for short). The petitioners also seek a writ of mandamus

directing the Board to reconvene a meeting to reconsider the proposal to declare Hesaraghatta grasslands as Conservation Reserve under Section 36A of the Wild Life (Protection) Act, 1972 (hereinafter referred to as 'the Act' for short).

2. Brief facts leading to filing of this petition briefly stated are that Hesaraghatta region situate in Bangalore is of ecological significance and requires protection. The region forms a unique ecosystem and supports numerous species of flora and fauna, many of which are endangered.

3. The Chief Conservator of Forests, Bangalore Region filed a detailed report with the Board to consider and declare Hesaraghatta Grasslands as Greater Hesaraghatta Grasslands Conserve Reserve, as provided under Section 36A of the Act. Thereafter, the Chief conservator of Forests in his proposal stated

that Hesaraghatta Grasslands comprising 5010 acres is the only remaining grassland region in Bangalore and is home to several endangered species of wildlife. The Board convened its 15th meeting on 19.01.2021 which was presided over by the Chairman of the Board. Sri. S.R.Vishwanath, Member of Legislative Assembly of Yelahanka Constituency was also invited to the meeting as a special invitee. The said proposal was rejected by the Board by an order dated 19.01.2021. In the aforesaid factual background, this petition has been filed.

4. Learned counsels for the petitioners submitted that the proposal has been rejected by the Board in an arbitrary manner without considering the reports of several government and non-governmental organizations. It is further submitted that, the Board has neither furnished any explanation nor has assigned any detailed reasons for rejecting the

recommendation made by Chief Conservator of Forests. On the other hand, learned Additional Advocate General submitted that views expressed by Sri. S.R. Vishwanath in the meeting of the Board have been expressed in his capacity as representative of the public in general.

5. We have considered the submissions made on both sides and have perused the records. Section 36A of the Act deals with power of the State Government for declaration and management of conservation reserve. Section 36A(1) of the Act reads as under:

"36A. Declaration and management of a conservation reserve.—(1) The State Government may, after having consultations with the local communities, declare any area owned by the Government, particularly the areas adjacent to National Parks and sanctuaries and those areas which link one

protected area with another, as a conservation reserve for protecting landscapes, seascapes, flora and fauna and their habitat:

Provided that where the conservation reserve includes any land owned by the Central Government, its prior concurrence shall be obtained before making such declaration."

Thus, the power under Section 36A(1) for declaration and management of a conservation reserve has to be exercised for protecting landscapes, seascapes, flora and fauna and their habitat.

6. In the instant case, the relevant extract of the order dated 19.01.2021 reads as under:

"AGENDA - 19:

Proposal for declaring Hesaraghatta Grassland area as GREATER HESARGHATTA GRASSLAND PROTECTION RESERVED AREA".

The Member Secretary of the Board, proposed about the said proposal that, Hesarghatta lake

and surrounding area covered with various type of plants and animal-birds. This area situate in the edge of Bangalore limits and it is a well feeding grass land. The said area given shelter to various type of plants, animals, birds, insects and it has become shelter to various type of biomass. During cold season birds will come on migration from Himalaya and middle asia for progenitors to this area. In this place for arrangement of grassland environment in support of which there are 40 local natural plants, 133 types of birds also Cheetah appears now and then. Apart from that the Animal Husbandry and Fisheries Department given its consent to declare the said area as "Protected Area". Therefore it is just and proper that, the total 5010 acres of area may be declared as "GREATER HESARGHATTA GRASSLAND PROTECTION RESERVED AREA", which he explained.

Sri R.Vishwanath spoke that, the proposed grassland area comes under the limits of Animal Husbandry and Fisheries Department, Irrigation Department, Government Labs,

Bangalore Water Supply Corporation and other Government Departments.

Sri Siddarth Goyanka spoke that, the entire grassland of this area and lake areas wherein the biomass which appears in the interest of safeguard the same he opined to consider the said proposal, for which Dr. Shivaprakash given consent.

Sri R.Vishwanath spoke, during last year for road development/and formation electric line at that time the forest department caused obstruction. On account of which it was caused direct and indirect inconvenience to the general public of surrounding village. The programs sponsored by the Government and under which for few developmental activities to reserve the government it will become paucity of land, hence by considering the aforesaid points he requested to drop the said proposal.

By considering the foresaid points the Hon'ble Chief Minister after due verification, the

proposal of declaring "GREATER HESARGHATTA GRASSLAND PROTECTION RESERVED AREA", decided to drop the same.

The Board Member Sri Siddarth Goyanka in connection with the said agenda the decision taken by the Board to which he shown his unwillingness through letter (copy enclosed)."

7. Thus, from perusal of the aforesaid relevant extract of the order, in our opinion, the Board has passed the order in a cryptic and cavalier manner without adverting to the relevant criteria as prescribed in Section 36A of the Act. The impugned order reflects non-application of mind. Therefore, since it being cryptic and since it suffers from the vice of non-application of mind, the same cannot be sustained in the eye of law. It is accordingly quashed. The matter is remitted to the Board to take a decision afresh on the proposal submitted by Chief Conservator of

Forests for declaring Hesaraghatta Grassland as
Conservation Reserve.

Accordingly, the petitions are disposed of.

**Sd/-
ACTING CHIEF JUSTICE**

**Sd/-
JUDGE**

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