

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

PIL NO. 24 OF 2017

Court on its own motion

... Petitioner

-vs-

The State of Manipur through Chief Secretary & 3 ors.

... Respondents

BEFORE

HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR

HON'BLE MR. JUSTICE N. KOTISWAR SINGH

For the petitioner : Mr. Kh. Samarjit, Id. Advocate (Amicus Curiae) Mr. Julius Riamei, Id. Advocate (Amicus Curiae)

For the respondents : Mr. N. Kumarjit, A.G. Manipur Mr. P. Tamphamani, Id. Advocate

Date of order : 24-07-2018

Dehors the formation of the State Wetlands Authority, the State of Manipur has formed Loktak Development Authority (LDA), headed by the Chief Minister. The LDA is already taking up certain aspects of development of Loktak lake/wetland.

[11] The authority shall prepare the document in terms of Rule 7 (1) (a) to (g). This will be helpful for notifying wetlands and also for preservation, conservation and development activities."

However, in the reply filed by the Director, Environment, Government of Manipur dated 18.6.2018 there is an annexure which makes it clear that the details as sought for by the Court has to be collected and submitted.

We, therefore, direct the respondents represented by the learned Advocate General to submit the details on the next hearing date without fail.

At this juncture, Mr. Samarjit, learned Amicus Curiae points out that he has material to show that in breach of the State Wetland Conservation and Management Rules, 2017, the State Wetlands Authority and the Technical Committee have not taken action in stopping encroachment on wetlands which is the main purpose for which the authority was constituted.

To cite an example, the learned counsel stated that he would place on affidavit with relevant documents to show that some authority, is engaged in construction of a road from Thanga Salam to Chingthi which runs across the Loktak Lake.

An issue is raised by the learned Amicus Curiae as to whether the Director, Environment, Government of Manipur and the Member Secretary, Manipur State Wetlands Authority are aware of such a breach by another department without getting clearance of the Wetlands Authority.

If the allegation as projected by the learned counsel, Mr. Samarjit, is found to be true, it is a serious violation which the State Wetlands Authority should look into immediately, if not already done.

However, since an affidavit with documents is not filed so far, we permit the learned Amicus Curiae to submit the documents along with the affidavit and copy be marked to learned Advocate General, so that action can be taken against the erring officials if the allegation is found to be true.

By way of abundant caution, we direct the Director, Environment, and the Director, State Wetlands Authority to call for a report from the Loktak Development Authority as well as from the Chief Engineer, MSRRDA (Manipur State Rural Road Development Agency) as to whether any such road is being constructed from Thanga Salam to Chingthi across the Loktak Lake.

While permitting the learned Amicus Curiae to file the affidavit, we direct the Advocate General to inform the Wetland Authority to take action on the direction issued by this Court so that any illegality is not committed by any authority or by any private party.

List the matter on 28.8.2018.

Furnish a copy of this order to the learned Advocate

General. Sd/- N. KOTISWAR SINGH Sd/- RAMALINGAM SUDHAKAR JUDGE CHIEF JUSTICE

True Copy :

Reeta Laishram (REETA LAISHRAM) 26/9/2018 Compared by: H. Hengjeet Singh Supdt. Judl-III

Endt.No.HCM/PIL/24/2017/17376 Date : 26-7-2018

Copy to : 1. Mr. N. Kumarjit, Id. AG. ... for information & necessary action.

M.C. Nandini ASSISTANT REGISTRAR-I High Court of Manipur Imphal

ORDER

The State Government has filed an affidavit.

This matter has been taken up on the direction of the

Hon'ble Supreme Court for monitoring the protection of the Loktak Lake which is one of the Ramsar sites. We also feel that it would be appropriate to appoint an Amicus Curiae to assist this Court.

In this connection, Mr. Kh. Samarjit, learned counsel and Mr. Julius Riamei, learned counsel have volunteered to act as Amicus Curiae. Accordingly, we appoint Mr. Kh. Samarjit and Mr. Julius Riamei, learned counsels to act as Amicus Curiae in this petition and we hope that the State Government will make payment of the necessary honorarium for the two Amicus Curiae.

A copy of this order may be furnished to learned Advocate General. The pleadings of this case may be also furnished to the learned Amicus Curiae by the Registry of this Court.

The learned Amicus Curiae are also authorised to collect such necessary information from the Loktak Development Authority as may be deemed appropriate for assisting this Court in the proceeding.

List the matter on 5<sup>th</sup> February, 2018.

Sd/- KH. NOBIN SINGH Sd/- N. KOTISWAR SINGH JUDGE ACTING CHIEF JUSTICE

True Copy :

Reeta Laishram (REETA LAISHRAM) 19/12/2017 Compared by: Florence Kim Supdt. Judl-III

Endt.No.HCM/PIL/24/2017/57411-113 Date : 19-12-2017

Copy to : 1. Mr. N. Kumarjit, A.G. 2. Mr. Kh. Samarjit, Id. Advocate - enclosed copy of the pleadings 3. Mr. Julius Riamei, Id. Advocate - enclosed copy of the pleadings ... For information & necessary action.

M.C. Nandini ASSISTANT REGISTRAR-I High Court of Manipur Imphal

IN THE HIGH COURT OF MANIPUR

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... Respondents

BEFORE

HON'BLE THE CHIEF JUSTICE RAMALINGAM SUDHAKAR

THE HON'BLE MR. JUSTICE KH. NOBIN SINGH

For the petitioner : Mr. Kh. Samarjit, Id. Advocate (Amicus Curiae) Mr. Julius Riamei, Id. Advocate (Amicus Curiae)

For the respondents : Mr. N. Kumarjit, A.G. Manipur Mr. P. Tamphamani, Id. Advocate

Date of order : 24.05.2018

ORDER

H.C.J.

[1] We have heard the learned Advocate General for the State. At the request of the Court, Shri L.Bhagaton, Project Director of the Loktak Development Authority and Shri.Kh.Temba, Chief Engineer, PWD, Manipur was present in the Court. We have also heard the Amicus Curiae, Shri Samarjit and Mr.Julius Riamei.

[2] The issue raised in this PIL is pursuant to the order of the Hon'ble Apex Court in SLP No.230 of 2000. In terms of order dated 3.4.2017 the PIL has been listed before this Court to monitor the conservation/preservation and development of Loktak Lake/Wetland.

[3] Certain details were projected by the Project Director as to how he intends to proceed with the preservation/conservation and development of the Loktak Lake. The Chief Engineer, PWD, on his part informed that the Ministry of Road Transport and Highways is developing the road from Airport to Churachandpur. The distance of Loktak Lake/Wetland, from the National Highway is about 2.14 Kms., that is maintained by the State PWD. The Chief Engineer, pointed out that the existing road has been damaged and a part of it has sunk into the water. Therefore, the department needs not less than two crores of rupees to establish the four-lane, 2.14 Km. link-road to enable the tourists and others to access the beautiful Loktak Lake/Wetland.

[4] But before we proceed on the above issue relating to Loktak Lake/Wetland, as has been pointed out by the learned Amicus Curiae, the issues will have to be considered in terms of the Ministry of Environment, Forest and Climate Change, Notification dated 26.9.2017 notifying a new wet of rules called, Wetlands (Conservation and Management) Rules, 2017, published in the Gazette No.802 dated 26.9.2017. The scope of the Rules is as follows:

"7. Delegation of powers and functions to the State Governments and Union Territory Administrations.-

(1) The concerned Department of the State Government or Union Territory Administration shall, within a period of one year from the date of publication of these rules, prepare a Brief Document for each of the wetland identified for notification, providing:-

- (a) demarcation of wetland boundary supported by accurate digital maps with coordinates and validated by ground trothing; (b) demarcation of its zone of influence and land use and land cover thereof indicated in a digital map; (c) ecological character description; (d) account of pre-existing rights and privileges; (e) list of site specific activities to be regulated within the wetland and its zone of influence; (f) list of site specific activities to be regulated within the wetland and its zone of influence; (g) modalities for enforcement of regulation."

Rules and upload the same on a dedicated web portal developed by the Central Government for the said purpose; the inventory to be updated every ten years;

(e) develop a comprehensive list of activities to be regulated and permitted within the notified wetlands and their zone of influence;

(f) recommend additions, if any, to the list of prohibited activities for specific wetlands;

(g) define strategies for conservation and wide use of wetlands within their jurisdiction; wise use being a principle for managing these eco systems which incorporates sustainable uses (such as capture fisheries at subsistence level or harvest of aquatic plants) as being compatible with conservation, if eco system functions (such as water storage, ground water recharge, flood buffering) and values (such as recreation and cultural) are maintained or enhanced;

(h) review integrated management plan for each of the notified wetlands (including trans-boundary wetlands in coordination with Central Government), and within these plans consider continuation and support to traditional uses of wetlands which are harmonized with ecological character;

(i) in cases wherein lands, within boundary of notified wetlands or wetlands complex have private tenancy rights, recommend mechanisms for maintenance of ecological character through promotional activities;

(j) identify mechanisms for convergence of implementation of the management plan with the existing State/Union Territory level development plans and programmes;

(k) ensure enforcement of these rules and other relevant Acts, rules and regulations and on halfyearly basis (June and December of each calendar year) inform the concerned State Government or Union Territory Administration or Central Government on the status of such notified wetlands through a reporting mechanism;

(l) coordinate implementation of integrated management plans based on wise use principle through various line departments and other concerned agencies;

(m) function as nodal authority for all wetland specific authorities within the State or Union Territory Administration;

(n) issue necessary directions for conservation and sustainable management of wetlands to the respective impeding agencies;

(o) undertake measures for enhancing awareness within stakeholders and local communities on values and functions of wetlands; and

(p) Advise on any other matter suo-motu, or as referred by the State Government/Union Territory Administration."

[8] Rule 5(6) provides (a) State Wetlands Authority to form a Technical Committee to review brief documents, management plans and advise on any technical matter referred by the Wetland Authority; and (b) a grievance committee consisting of four members to provide a mechanism for hearing and forwarding grievances raised by public to the authority.

Rule 5(7) provides the period of meeting of the Technical Committee and Grievance Committee.

[9] In view of the above, we direct the Chief Secretary of the State Government, who is at Sl.No.2 in Rule 5(1) of the Rules to inform the Court whether the Committee has been formed in terms of the Wetlands (Conservation and Management) Rules, 2017. Such a response should be filed immediately on or before 5.6.2018.

[10] Rule 7 provides that the Department of the State Government to prepare a brief document of the wetlands on various items, as follows:

- "(a) demarcation of wetland boundary supported by accurate digital maps with coordinates and validated by ground trothing; (b) demarcation of its zone of influence and land use and land cover thereof indicated in a digital map; (c) ecological character description; (d) account of pre-existing rights and privileges; (e) list of site-specific activities to be permitted within the wetland and its zone of influence; (f) list of site specific activities to be regulated within the wetland and its zone of influence; and (g) modalities for enforcement of regulation;"

Dehors the formation of the State Wetlands Authority, the State of Manipur has formed Loktak Development Authority (LDA), headed by the Chief Minister. The LDA is already taking up certain aspects of development of Loktak lake/wetland.

[11] The authority shall prepare the document in terms of Rule 7 (1) (a) to (g). This will be helpful for notifying wetlands and also for preservation, conservation and development activities.

[12] The learned Advbcate General states that pursuant to the notification, in the State of Manipur, State Wetlands Authority has been constituted. The Director, Department of Environment and Ecology for the State of Manipur is the Member Secretary.

[13] In order to effectively monitor the Wetlands and to take up the work of Preservation, Conservation and Development, we are inclined to implead the Manipur State Wetlands Authority represented by the Director, Department of Environment and Ecology as respondent in this writ petition. The learned Advocate General, will represent the said Authority.

[14] The newly impleaded Director, Department of Environment and Ecology shall file an affidavit showing details of all the Wetlands declared by the State of Manipur consequent to the 2017 Rules, the steps taken for preservation, conservation and development of the Wetlands in the State of Manipur and all other relevant details. Special emphasis shall be given in so far as the Loktak Lake/Wetlands and the wetlands adjacent to it as well. This is because the development of Loktak Lake/Wetland is a great importance to the State of Manipur particularly for tourism.

[15] We call upon the Director, Member Secretary, to coordinate with the Project Officer, LDA, who is also a member of the State Wetlands Authority and provide all the details to the Court in terms of Rule 7 of the 2017 Rules, on the next hearing date.

[16] The Chief Engineer, PWD assures that the department will take temporary measures for maintaining the road so as to enable the

authorities to visit the Loktak Lake for the purpose of implementation of the various measures to preserve, conserve and develop the Loktak lake/Wetland.

[17] The Chief Engineer, further states that he will submit a project for developing a full-fledged road under the North East State Infrastructure Development fund.

We will examine the scope of the project after it is submitted by the Chief Engineer, PWD.

[18] List the matter on 18.6.2018 for preliminary report by the Member Secretary, State Wetlands Authority. Preliminary report by the Project Director, LDA and also by the Chief Engineer, PWD.

Copy of this order may be furnished to the learned Amicus Curiae, learned Advocate General, Member Secretary, State Wetlands Authority, the Project Director, LDA and the Chief Engineer, PWD.

This order will be uploaded on the net.

Sd/- KH. NOBIN SINGH Sd/- RAMALINGAM SUDHAKAR JUDGE CHIEF JUSTICE

True Copy :

Reeta Laishram (REETA LAISHRAM) 29/5/2018 Compared by: H. Hengjeet Singh Supdt. Judl-III

Endt.No.HCM/PIL/24/2017/11157-64 Date : 29-5-2018

Copy to : 1. Mr. N. Kumarjit, Id. AG. 2. Mr. Kh. Samarjit, Id. Advocate (Amicus Curiae). 3. Mr. Julius Riamei, Id. Advocate (Amicus Curiae). 4. The Member Secretary, State Wetlands Authority. 5. The Project Director, Loktak Development Authority. 6. The Chief Engineer, PWD. ... for information & necessary action.

M.C. Nandini ASSISTANT REGISTRAR-I High Court of Manipur Imphal

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HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR

HON'BLE MR. JUSTICE N. KOTISWAR SINGH

For the petitioner : Mr. Samarjit, Id. Amicus Curiae.

For the respondents : Mr. N. Kumarjit, Id. A.G. Mr. Suresh, Id. ASG.

Date of order : 28-8-2018.

ORDER

R.S.C.J.

Heard Mr. Samarjit, learned Amicus Curiae for the petitioner, Mr. N. Kumarjit, learned A.G., and Mr. Suresh, learned ASG for the respondents.

This case relates to conservation, preservation and restoration of wetlands, more particularly, Loktak wtlands.

When the matter was taken up, Shri Samarjit, learned Amicus Curiae states that the Member Secretary, Wetlands Authority, has filed a detailed report and seeks some time to go through the same.

The learned Amicus Curiae will file his response to the report on or before 17-9-2018.

Registry is directed to give a copy of the petition, copies of all the orders passed by this Court to Mr. Suresh, learned ASG within two days from today so as to enable him to get instruction.

The learned Advocate General states that to ensure peoples participation in the preservation of environment and ecology in the State of Manipur, he will ensure that the various orders passed by this Court in this Public Interest Litigation will be reported in all the local newspapers.

Registry to furnish copies of this order to learned A.G.

List on 17-9-2018.

Sd/- N. KOTISWAR SINGH Sd/- RAMALINGAM SUDHAKAR JUDGE CHIEF JUSTICE

True Copy :

Reeta Laishram (REETA LAISHRAM) 3/9/2018 Compared by: H. Hengjeet Singh Supdt. Judl-III

Endt.No.HCM/PIL/24/2017/19597-98 Date : 31-8-2018

Copy to : 1. Mr. N. Kumarjit, Id. A.G. 2. Mr. Suresh, Id. ASG (enclosed petition copy and copies of all the orders). ... for information & necessary action.

M.C. Nandini ASSISTANT REGISTRAR-I High Court of Manipur Imphal

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THE HON'BLE MR. JUSTICE KH. NOBIN SINGH

For the petitioner : Mr. Kh. Samarjit, Id. Advocate (Amicus Curiae) Mr. Julius Riamei, Id. Advocate (Amicus Curiae)

For the respondents : Mr. N. Kumarjit, A.G. Manipur

Date of order : 13-12-2017