

12/03/2021
Item No.6 (t)
Court No.1.
AB/S DE

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Through Video Conference

W. P. A. 8514 of 2020

Kalam Pailan

Vs

The State of West Bengal & Others

Mr. Debajyoti Deb,
Ms. Rupsha Bhowmik ...for the Petitioner.

Mr. Jishnu Chowdhury ...for the State.

Government lands including those with the Irrigation Department lies circumscribing the three areas, namely, Sundarban Biosphere Area, Sundarban Tiger Reserve and the adjoining Reserve Forest.

2. We have heard learned Advocate Rupsha Bhowmik for the petitioner and Advocate Jishnu Chowdhury on behalf of the State Government today on the basis of report placed on record by the District Magistrate, South 24 Parganas and connected papers.

3. We have given our anxious consideration to the contents of the report and its annexures. It discloses gross onslaught on to the ecological and environmental fabric and the animal life in the area, which is referred to as Sundarban and its adjoining areas, which operate as life support systems to that ecological unit. The learned Government Advocate submits that Sundarban Biosphere Area is an area of

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4000 sq. km., Sundarban Tiger Reserve holds 2500 sq. km. and the adjoining Reserve Forest is of 600 sq. km.

4. The aforementioned ecologically and environmentally fragile area is not only being encroached upon but also being deprived of its ability to sustain itself as a unit of ecological and environmental balance mechanism. The biosphere imbalance will directly impact the plant and animal life, which means the life of the flora, fauna and different units of the animal kingdom, which would be either on the land or in the waters or may be capable of utilizing the waters and the lands for their existence in the manner in which they have the freedom to move in that area. The classification of the animal kingdom into vertebrates and invertebrates and their further classification to different other categories including the crustaceans, fishes, reptiles, mammals and what not, in terms of their existence, have to be protected by insulating that critically challenged area from being disturbed by any mode of human intervention. No manner of dealing with any part of the aforesaid lands can be permitted except at the peril of the eligibility of that part of land to sustain itself as a biosphere with requisite ecological and environmental support systems through the neighbouring areas. We are clear in our mind that the Sundarban area cannot be utilized or permitted to be accessed except for its

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preservation, management, protection and custody by and under the control of its custodians in law ; and, to extremely limited purpose to which human access could be permitted under controlled conditions that would be imposed by those in custody of that area.

5. To secure the best interest of that area, which is an ecologically fragile biosphere, in our assessment on the basis of the records before us, we hold that it is necessary to direct that there shall be no activity whatsoever by human intervention in any part of the three parcels, which are noted above as the Sundarban Biosphere Area, Tiger Reserve and the Reserve Forest. Strict measures by way of restrictions imposed through a judicial order by this Court in exercise of authority under Article 226 of the Constitution of India is absolutely essential as of now, to ensure the protection of that environmentally sensitive and ecologically fragile area and the animal and plant life and other aspects relating to that area.

6. For the aforesaid reasons, all activities in the aforesaid area, namely, Sundarban Biosphere Area, Sundarban Tiger Reserve and the adjoining Reserve Forest referred to above are hereby prohibited except to the extent such activity may be permitted by the Additional Principal Chief Conservator of Forests & Director, Sunderban Biosphere Reserve, being the 4th respondent, or such authority under his control, who

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may be nominated by the Chief Conservator of Forests. Subject to such permission, the interdiction imposed hereby shall be strictly enforced by the District Magistrate/District Magistrates concerned having jurisdiction over those areas and the Superintendent / Superintendents of Police having jurisdiction over those areas. The District Magistrates and the Superintendents of Police will energize the offices and officers under their control through appropriate instructions and requisite advisories to ensure that this order is given effect to in letter and spirit. We put this system in operation for a period of six months from now, unless modified. Within that period the State Government will address the issue as to whether all the areas, to which reference is made in this order, could be brought under one umbrella even in terms of administration so that executive control and police control can be effectively and smoothly enforced over the entire area.

7. Learned Counsel appearing for the State will ensure that this order is appropriately communicated to all concerned. Let this order be also forthwith published in the State Government website and by other modes whereby this information will percolate to any person who may be adversely affected by the contents of this order. It will be open to any such person to seek intervention in due course. The

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Government will ensure that an abridged contents of this order, as may be prepared by the learned Counsel appearing for the State in this case, is also published in vernacular newspaper having wide circulation in the State of West Bengal at the expense of the State. The 4th Respondent (Additional Principal Chief Conservator of Forests & Director, Sunderban Biosphere Reserve) shall, with requisite inputs, as may be necessary, from Respondent Nos.1 to 3 and 4 to 8, file an Action Taken Report (A.T.R.) in furtherance of this order on or before 24th March, 2021 without fail.

Let this matter appear on 25th March, 2021 for further hearing, unless sought to be listed earlier.

(Thottathil B. Radhakrishnan, C.J.)

(Aniruddha Roy, J.)

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