

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) BENCH, PUNE
MISC APPLICATION No. 13(THC)/2013(WZ)**

CORAM:

**Hon'ble Shri Justice V.R. Kingaonkar
(Judicial Member)**

**Hon'ble Dr. Ajay A.Deshpande
(Expert Member)**

B E T W E E N:

- 1. SACHIN S/O SAKHARAM POTRE,**
Age-33 yrs. Occ: Social Worker
R/o Karjat, Tq. Karjat
Dist. Ahmednagar.
- 2. RAHUL S/O BALWANT JAMDAR**
Age 25 yrs, Occ: Education.
R/o Ruigavhan, Tq. Karjat.
Dist. Ahmednagar.
- 3. RAJU S/O BAPU GOTRE DHOTRE**
Age 26 yrs, Occ: Agri.
R/o Karjat, Tq. Karjat
Dist. Ahmednagar.
- 4. SHASHIKANT S/O YAMAJI BHAILUME**
Age 21 yrs, Occ: Labourer
R/o Karjat, Tq. Karjat
Dist. Ahmednagar.

....Applicants

A N D

- 1. THE STATE OF MAHARASHTRA,**
Through Secretary,
Revenue Department
Through Secretary
Environment & Forest Department,

Mantralaya, Mumbai-32
Maharashtra.

2. **THE CHIEF WILD LIFE WARDEN & CHIEF CONSERVATOR OF FORESTS (W & L),**
Dr.Babasaheb AMbedkar Bhavan
4th & 5th Floor, MECL Building,
Nagpur.
3. **THE CONSERVATOR OF FOREST (WILD LIFE)**
Pune, survey No.9, "Van-vasahat"
Wanodi, Near Salunke Vihar, Pune.
4. **THE DEPUTY CONSERVATOR OF FOREST**
Ahmednagar, Dist. Ahmednagar.
5. **THE COLLECTOR**
Ahmednagar.
6. **THE FOREST OFFICER**
Karjat, Dist. Ahmednagar.
7. **THE TAHASILDAR**
Karjat, Dist. Ahmednagar.

.....Respondents

Counsel for Applicant:
Mr. Deepak V.Khadalkar

Counsel for Respondent(s):

Mr. Wagh B.V. (Clerk) for Respondent No.7.

Date : March 25th 2014

P.B.

ORAL ORDER

1. Originally, Applicant – Sachin and others have filed the Writ Petition No.4343 of 2008 in the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad. They sought following reliefs:

B. Hold and declare that the impugned Notification dated 27.9.1979 issued by respondent No.1 thereby reserving the entire Karjat Taluka, District Ahmednagar for Great Indian Bustard Sanctuary, is unconstitutional, illegal, arbitrary, violative of Article 14,19(1)(g) and 21 of Constitution of India, hence liable to be quashed and set aside.

C. Issue a writ of mandamus or any other appropriate writ, order, or direction in the nature of writ of mandamus thereby directing the respondent No.1 to de-reserve Karjat, Taluka, Dist. Ahmednagar from the limits of the Great Indian Bustard Sanctuary and for that purpose issue necessary orders.”

F. The Respondent No.1 to take steps to de-reserve Karjat Taluka Dist. Ahmednagar from the limits of the Great Indian Bustard Sanctuary and for that purpose issue necessary orders.

2. None has appeared for the parties today. Obviously, we are at a loss to hear the parties and understand the stance adopted by them in the context of present Application. By order dated October 1, 2013, the Hon'ble

High Court Bench at Aurangabad, transferred the Writ Petition No.4343 of 2008, to this Tribunal in view of “**Bhopal Gas Pideet Mahila Udhog Sanghatna Vs Union of India**” (2012) 8, SCC 326.”

3. Perusal of the pleadings in the Writ Petition, go to show that the entire grievance of the Petitioners relate to declaration of certain area as “Reserved Sanctuary for Great Indian Bustard” . The challenge is to the validity of Notification issued by the State of Maharashtra, in the context of such declaration. We may reproduce Section 14 of the National Green Tribunal Act, 2010, for ready reference, in order to amplify scope of jurisdiction available to the Tribunal.

“Section 14: Tribunal to settle disputes: –

1. *The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.*
2. *The Tribunal shall hear the disputes arising from the Questions referred to in sub-section (1) and settle such disputes and pass order thereon.*

3. xxx xxx xxx xxx xxx

(Emphasis supplied by us)

4. A bare reading of Section 14, quoted above, will make it clear that jurisdiction available to this Tribunal, is in respect of only the enactments, which are stated in Schedule-I, appended to the NGT Act. Those seven (7) enactments mentioned in the Schedule-I, do not cover the Wildlife (Protection) Act, 1972. It is explicit, therefore, that question pertaining to Sanctuary of Great Indian Bustard, falls outside jurisdiction of this Tribunal. In other words, this Tribunal cannot examine whether a particular Sanctuary can be declared or cannot be declared as 'reserved' for a particular species of wildlife. Under these circumstances, we cannot examine legality of the Notification in question. It goes without saying that the Writ Petition transferred to this Tribunal, will have to be remitted to the Hon'ble High Court, for want of jurisdiction to the Tribunal.

5. In the result, the Writ Petition is remitted to the Hon'ble High Court Bench at Aurangabad. The Application is, accordingly, disposed of. The Registrar to immediately take necessary action for transmitting the Record and Proceedings to the Hon'ble High Court Bench at Aurangabad. Application is disposed of.

.....,JM
(Justice V. R. Kingaonkar)

....., EM
(Dr. Ajay.A. Deshpande)