

ITEM NO.25

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 838/2019

M.K. RANJITSINH & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

([TO BE TAKEN UP AT 03.00 P.M.]

(IA No. 1731/2021 - APPLICATION FOR PERMISSION IA No. 100410/2022 - APPLICATION FOR PERMISSION IA No. 15949/2023 - APPLICATION FOR SUBSTITUTION IA No. 85618/2020 - APPROPRIATE ORDERS/DIRECTIONS IA No. 141842/2021 - APPROPRIATE ORDERS/DIRECTIONS IA No. 224191/2023 - APPROPRIATE ORDERS/DIRECTIONS IA No. 99072/2023 - APPROPRIATE ORDERS/DIRECTIONS IA No. 126273/2020 - CLARIFICATION/DIRECTION IA No. 95438/2019 - CLARIFICATION/DIRECTION IA No. 1732/2021 - EXEMPTION FROM FILING AFFIDAVIT IA No. 95435/2019 - EXEMPTION FROM FILING O.T. IA No. 185929/2022 - EXEMPTION FROM FILING O.T. IA No.100378/2022 - EXTENSION OF TIME IA No. 142870/2021 - INTERVENTION/IMPLEADMENT IA No. 100370/2022 - INTERVENTION/IMPLEADMENT IA No. 7924/2021 - INTERVENTION/IMPLEADMENT IA No.157733/2021 - INTERVENTION/IMPLEADMENT IA No. 149293/2021 - MODIFICATION IA No. 142880/2021 - MODIFICATION OF COURT ORDER IA No. 6537/2022 - MODIFICATION OF COURT ORDER IA No. 160225/2021 - MODIFICATION OF COURT ORDER IA No. 175761/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES IA No. 142882/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES IA No.15066/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES IA No. 43441/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

C.A. No. 3570/2022 (XVII)

(IA No.67320/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.67324/2022-STAY APPLICATION and IA No.67319/2022-PERMISSION TO APPEAR AND ARGUE IN PERSON)

Date : 21-03-2024 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Shyam Divan, Sr. Adv.
Mr. Prashanto Chandra Sen, Sr. Adv.
Ms. Sonia Dube, Adv.
Ms. Kanchan Yadav, Adv.
Ms. Anshula L Bakhru, Adv.
Ms. Surbhi Anand, Adv.
Mr. Arpith Jacob Varaprasad, Adv.
Ms. Muskan Nagpal, Adv.
Mr. Tanishq Sharma, Adv.
Ms. Saumya Sharma, Adv.
M/S. Legal Options, AOR

Petitioner-in-person

For Respondent(s) Mr. R Venkataramani, AGI
Ms. Aishwarya Bhati, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Ms. Ruchi Kohli, Adv.
Mr. Ankur Talwar, Adv.
Mr. Shyam Gopal, Adv.
Ms. Chinmayee Chandra, Adv.
Ms. Swarupama Chaturvedi, Adv.
Mr. Chitvan Singhal, Adv.
Mr. Raman Yadav, Adv.
Mr. Kartikay Aggarwal, Adv.
Mr. Abhishek Kumar Pandey, Adv.
Ms. Ameya Vikrama Thanvi, Adv.
Mr. Mukesh Kumar Singh, Adv.

Mr. Shiv Mangal Sharma, A.A.G.
Ms. Nidhi Jaiswal, Adv.
Mr. Saurabh Rajpal, Adv.
Ms. Shalini Singh, Adv.
Mr. Sandeep Kumar Jha, AOR

Mr. Shiv Mangal Sharma, A.A.G.
Mr. Milind Kumar, AOR
Mr. Saurabh Rajpal, Adv.

Ms. Deepanwita Priyanka, AOR

Mr. Mahfooz Ahsan Nazki, AOR

Mr. Rahul Chitnis, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.
Mr. Aditya Krishna, Adv.
Ms. Preet S. Phanse, Adv.
Mr. Adarsh Dubey, Adv.

Ms. Swati Ghildiyal, AOR
Ms. Devyani Bhatt, Adv.

Mr. Saurabh Mishra, A.A.G.
Mr. Sunny Choudhary, AOR
Mr. Abhimanyu Singh Ga, Adv.
Mr. Shashank Shekhar, Adv.

Mr. Santosh Krishnan, AOR
Mr. Girish Chowdhary, Adv.
Ms. Sonam Anand, Adv.
Mr. Shaik Mohammed Haneef, Adv.
Ms. Deepshikha Sansanwal, Adv.

Mr. Somesh Chandra Jha, AOR
Mr. Shrey Saini, Adv.
Mr. Tarun Sharma, Adv.
Mr. Ezaj . M Qureshi, Adv.
Mr. Animesh Rajoriya, Adv.

Mr. M.g. Ramchandran, Sr. Adv.
Ms. Hemantika Wahi, AOR
Ms. Jesal Wahi, Adv.
Ms. Ranjitha Ramchandran, Adv.

Mr. Dr. Manish Singhvi, Sr. Adv.
Mr. Rohit K. Singh, AOR

Mr. Ranji Thomas, Sr. Adv.
Mr. V. N. Raghupathy, AOR

Mr. A. Karthik, AOR

M/S. Vkc Law Offices, AOR
Mr. Varun K Chopra, Adv.

Mr. Mehul Sharma, Adv.

Ms. Arti Singh, AOR
Mr. Aakashdeep Singh Roda, Adv.
Ms. Pooja Singh, Adv.
Mr. B P Singh, Adv.

Mr. Devendra Singh, AOR

Mrs. Priya Puri, AOR
Mrs. Arundhati Katju, Adv.
Mrs. Smriti Sinha, Adv.
Mr. Sharad Kumar Puri, Adv.
Mr. Vishwa Deepak Singh, Adv.
Mrs. Pinki Aggarwal, Adv.
Ms. Parul Shrama, Adv.

Mr. Ankur Sood, AOR
Mr. Gaurav Singh, Adv.
Mr. Varun Agarwal, Adv.

Mr. Vishrov Mukerjee, Adv.
Mr. Pukhrambam Ramesh Kumar, AOR
Mr. Girik Bhalla, Adv.
Mr. Damodar Solanki, Adv.
Mr. Karun Sharma, Adv.
Ms. Rajkumari Divyasana, Adv.

Mr. S. S. Shroff, AOR

Mr. Mahesh Agarwal, Adv.
Mr. Arshit Anand, Adv.
Ms. Kamakshi Sehgal, Adv.
Mr. E. C. Agrawala, AOR

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 On 19 April 2021, this Court delivered judgment in IA No 85618 of 2020 in Writ Petition (Civil) No 838 of 2019. the jurisdiction of this Court has been invoked for protecting the Great Indian Bustard (GIB) and Lesser Florican, both of whom are on the verge of extinction. While the attrition of the existing population of these

endangered species has been partly attributed to overhead transmission line, it is equally significant to note that there are other factors bearing upon the dwindling numbers and low rate of addition to the existing population of the species. In the order passed by this Court, the restrictions were imposed on the setting up of overhead transmission lines in a large swath of territories.

2 In the operative directions that were issued by this Court, it was observed :

“14. In the light of the contentions urged on this aspect of the matter, we are conscious that the laying of the underground power line more particularly of highvoltage though not evaluation on impossible, case to case would basis require technical and omnibus a conclusion cannot be reached laying down a uniform method and directions cannot be issued unmindful of the fact situation. Though that be the position the consensus shall be that all low voltage powerlines to be laid in the priority and potential habitats of GIB shall in all cases be laid underground in future. In respect of low voltage overhead powerlines existing presently in the priority and potential habitats of GIB, the same shall be converted into underground powerlines. In respect of high-voltage powerlines in the priority and potential habitats of GIB, more particularly the powerlines referred in the prayer column of I.A. No.85618/2020 and indicated in the operative portion of this order shall be converted into underground power line.”

3 This Court accordingly appointed a committee for assessing the feasibility of laying high voltage underground power lines. In paragraph 18, this Court directed that in all cases where overhead power lines exist as on date in the priority and potential GIB areas, steps shall be taken to install diverters pending consideration of the conversion of overhead cables into underground power lines. Moreover, it was directed that in all cases, where it is found feasible to convert the overhead cables to underground power lines, they shall be undertaken and completed within a period of one year.

- 4 The order passed by this Court has been implemented by the Committee by granting case specific sanctions to projects where undergrounding was found not to be possible.
- 5 The Union of India has now filed an additional affidavit. In the course of its affidavit, the Union of India has submitted :
- (i) The direction by this Court for laying high voltage or as the case may be low voltage lines underground is practically impossible to implement;
 - (ii) The Union Government has a commitment at the international level to reduce India's Carbon footprint and that recourse to a renewable sources of energy including solar installations provide the key to the implementation of these commitments;
 - (iii) The Union of India is taking comprehensive steps for the conservation and protection of the endangered species of the GIB; and
 - (iv) A blanket direction of the nature that has been imposed by this Court, besides not being feasible to implement, would also not result in achieving the purpose of the conservation of the GIB.
- 6 During the course of the hearing, reference has been made to several reports which were prepared by the Wild Life Institute of India, identifying 13,663 square kilometers described as priority area; 18,680 square kilometers as potential areas; and 6654 square kilometers as additional important areas. These areas are distributed between the States of Rajasthan and Gujarat. A broad tabulation

is reproduced below :

| AREAS | State of Rajasthan | State of Gujarat | Total |
|------------------------------|---------------------------|-------------------------|----------------|
| Priority Areas | 13,163 sq. kms. | 500 sq. kms. | 13,663 sq. kms |
| Potential Areas | 78,580 sq. kms | 2,100 sq. kms. | 80,680 sq. kms |
| Additionally Important Areas | 5977 sq. kms. | 677 sq. kms. | 6654 sq. kms. |

- 7 During the course of the hearing and by its previous orders, this Court has underscored the importance of taking pro-active measures to protect the GIB. There is no dispute in regard to the fact that the GIB is seriously endangered as a species. At the same time, it has emerged during the course of the hearing that there is no dispute in regard to the fact that the GIB is seriously endangered as a species. At the same time, it has emerged in the course of the hearing that there is no adequate basis to impose a general prohibition in regard to the installation of transmission lines in an area as wide as over 88,000 square kilometers. While the priority area of 13,663 square kilometers would seem to have basis, we are of the view that it will be appropriate if an expert committee is appointed so as to balance both the need for the preservation of the GIB which is non-negotiable and need for sustainable development, more particularly, in the context of meeting the international commitments of the country towards promoting renewable sources of energy.
- 8 We are accordingly of the view that the order passed by this Court on 19 April 2021 need to be suitably modulated. A blanket direction for undergrounding high voltage and low voltage power lines of the nature that was directed by this Court would need recalibration. Such task is best left to domain experts instead

of a prior adjudication by the Court.

- 9 During the course of the hearing, we had requested both Mr. shyam Divan, senior counsel appearing on behalf of the petitioners and Mr R venkataramani, Attorney General for India, Mr. Tushar Mehta, Solicitor General of India and Ms Aishwarya Bhati, Additional Solicitor General to propose the names of experts for constitution of the Committee to perform the overall task which the Court is inclined to assign to it.
- 10 Having received their suggestions and upon evaluating them, we constitute an Expert Committee, the composition of which will be as follows :
- (i) Director, Wildlife Institute of India, Dehradun;
 - (ii) Dr Hari Shankar Singh, Member, National Board for Wildlife;
 - (iii) Dr Niranjan Kumar Vasu, Ex-Principal Chief Conservator of Forest;
 - (iv) Mr B Majumdar, former Chief Wildlife Warden and Principal Chief Conservator of Forest, Maharashtra;
 - (v) Dr Devesh Gadhavi, Deputy Director, The Corbett Foundation.
 - (vi) Shri Lalit Bohra, Joint Secretary (Green Energy Corridor), Ministry of New and Renewable Energy;
 - (vii) The Joint Secretary in the Ministry of Environment, forests and Climate Change.
- 11 Since the work of the Committee, as assigned below, would also traverse the area of the setting up of transmission lines to facilitate solar power generation, we direct that the Committee shall consist of the two special invitees :

- (i) Shri Ashok Kumar Rajpur, Member Power Systems, Central Electricity Authority; and
 - (ii) Mr. PC Garg, Chief Operating Officer, Central Transmission Utility of India Ltd.
- 12 The remit of the Committee which has been appointed by the Court shall encompass the following :
- (i) Determining the scope, feasibility and extent of overhead and underground electric lines in the area identified as priority area in the reports of the Wild Life Institute of India in the States of Rajasthan and Gujarat;
 - (ii) The need for adopting conservation and protection measures for the GIB as well as other fauna specific to the topography and desert features;
 - (iii) Identification of the measures to be adopted in the priority areas to ensure the long time survival of the GIB;
 - (iv) Identification of suitable alternatives in the context of sustainable development in the matter of laying long future power lines which should balance the protection of the conservation and protection of the GIB together with the arrangement of power lines in a manner that would facilitate the fulfillment of the international commitments made by India for developing renewable sources of energy.
- 13 The injunction which has been imposed in the order dated 19 April 2021 in respect of the area described as the potential area shall accordingly stand

- relaxed subject to the condition that the Expert Committee appointed by this Court may lay down suitable parameters covering both the priority and potential areas.
- 14 The Committee shall be at liberty to impose any additional measures both in regard to the priority and potential areas, if it considers appropriate including considering the efficacy and suitability of installing bird diverters on existing and future power lines.
- 15 In the event that the Committee considers it appropriate and necessary to do so, it would be at liberty to recommend to this Court any further measure that are required to enhance the protection of the GIB including the addition of suitable areas apart from the priority areas which have been set out above.
- 16 We request the Committee to complete its task and submit a report to this Court through the Union Government on or before 31 July 2024.
- 17 This Court records its appreciation to the work which was done by the Committee which was appointed in terms of the order dated 19 April 2021.
- 18 List in the second week of August 2024.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR