

PETITIONER:
BANWASI SEVA ASHRAM

Vs.

RESPONDENT:
STATE OF U.P.

DATE OF JUDGMENT 06/08/1991

BENCH:
MISRA, RANGNATH (CJ)
BENCH:
MISRA, RANGNATH (CJ)
KULDIP SINGH (J)

CITATION:
1991 SCR (3) 402 1992 SCC (1) 117
JT 1991 (6) 99 1991 SCALE (2) 261

ACT:

Forest Act, 1927: Section 20--Declaration of certain areas as reserve forest--Claim of inhabitants of the areas--Appointment of Commissioners--Revival of Committee set up to monitor the work--Deposit of money for the work--Interim orders/directions issued.

HEADNOTE:

Under Section 20 of the Forest Act, 1927 certain areas were declared as reserve forest. On behalf of the inhabitants of the areas, the petitioner filed the present Writ Petition challenging their eviction from the said areas. From time to time this Court had been passing interim orders and directions.

This Court also appointed Commissioners for the purpose of preparation of land records, identification of forest land and the final action to be taken under the Forest Act. Reviewing the progress made so far and passing interim directions, this Court,

HELD: 1. The exercise involved in the process of preparing the records, identification of forest land and final action under the Forest Act, is undoubtedly massive but that by itself would not justify a protracted proceeding. [403E]

2. Mr. R.P. Pandey, one of the Commissioners has been staying at Allahabad and he does not find it convenient to shift to the site. The matter has reached a stage where presence of all the officers and the Commissioners at the site has become almost indispensable. Not much of his services can be utilised if he is allowed to stay at Allahabad. It would, therefore, be necessary to substitute him by appointing some other judicial officer as Commissioner. In his place, Shri Prem Singh, retired District Judge would be appointed as one of the Commissioners. The Registry shall take steps to intimate him of the assignment at his Varanasi address. [403G-H; 404A-B]

3. With regard to the direction for depositing Rs.20 lakhs it is modified as Rs.5 lakhs in view of the assurance that more funds can come on requisition without loss of time. [404D]

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4. The Chief Secretary may revive the Committee set up to monitor the work. [404E-F]

5. The Executive Chairman of U.P. State Legal Aid and Advice Board would continue to supervise the work and send monthly reports to the Court. [404F-G]

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition (CRL.) No. 1061 of 1982.

(Under Article 32 of the Constitution of India).

M.A. Krishna Moorthy, A.S. Pundir, Din Dayal Sharma, Ms. Sangeeta Aggarwal, C.V. Subba Rao and Gopal Subramaniam for the appearing parties.

The following Order of the Court was delivered:

Pursuant to our order of May 10, 1991, this matter was called on 11th July, 1991, when parties and both the Commissioners were heard. The report from the Executive Chairman of the U.P. State Legal Aid and Advice Board has been received and looked into.

The proceeding has been pending in this Court for almost nine years. In spite of all possible orders and directions made from time to time no substantial progress has yet been made. The land records have got to be prepared; the forest land has to be identified and final action under the Forest Act has to be taken. The exercise involved in this process is undoubtedly massive but that by itself would not justify a protracted proceeding.

When we made our order in May, 1991, we had a feeling that before the rains started there would be substantial progress. The rainy season has come though rains are belated. In these two months, however, there has been no progress.

Mr. R.P. Pandey, one of the Commissioners has been staying at Allahabad and he does not find it convenient to shift to the site. As we indicated earlier, the matter has reached a stage where presence of all the officers and the Commissioners at the site has become almost indispensable. Mr. Pandey has informed the Court that he would find it difficult to shift to the site. We do not think much of his services can be utilised if he is allowed to stay at Allahabad. It would, therefore, be
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necessary to substitute him by appointing some other judicial officer as Commissioner. Mr. Pandey had done good work during the period he was supervising the process. We would suggest to the Secretary to the Commission appointed by us to make a report to us as to in what way Mr. Pandey can be compensated for the work done. In place of Mr. R.P. Pandey we direct Shri Prem Singh, retired District Judge of the State to be appointed as one of the Commissioners. The Registry shall take steps to intimate him of the assignment at his Varanasi address.

At the hearing of the matter, on 11th July grievance was made that several directions out of the order of 10th May, 1991 had not been complied with. Mr. Yogeshwar Prasad, Senior Advocate for the State of Uttar Pradesh assured us in Court that immediate steps would be taken to comply with all the directions excepting the requirement of depositing of Rs.20 lakhs with the Secretary of the Commission. We have considered his stand in regard to the direction for depositing Rs.20 lakhs and are prepared to modify the amount of Rs.20 lakhs to Rs.5 lakhs in view of the assurance that more of funds can come on requisition without loss of time. That amount may be kept in deposit with the Secretary in the imprest account within two weeks hence. The State of Uttar

Pradesh shall file an affidavit that all the directions made on 10th May as modified now have been complied with within three weeks from today in the Registry of this Court.

Some time back, the Chief Secretary had set up a small Committee at Lucknow for monitoring the work. We suggest to the Chief Secretary that he may revive the Committee which on account of the intervening disturbances of law and order followed by the general elections had perhaps been abandoned so that coordinated activity may be possible.

We request Mr. Justice Loomba, Executive Chairman of U.P. State Legal Aid and Advice Board to continue to supervise the work which he has been doing already so that the monitoring at the spot can 'appropriately be cross-checked'. He is requested to send monthly reports to the Court. The matter may be placed again five weeks hence.

G .N.

Petition disposed of
with interim directions.

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