

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

PUBLIC INTEREST LITIGATION (L) NO. 28846 OF 2022

Anil Pandya

...Petitioner

vs.

State of Maharashtra Through
The Secretary and 5 Ors.

...Respondents

Mr. S. S. Patwardhan a/w Mr. S. R. Nargolkar, Mr. Sudyumn Nargolkar
and Mr. Arjun Kadam i/b Ketan Joshi for the Petitioner

Ms. P. H. Kantharia, GP with Mr. Hemant Haryan, AGP for R.Nos.1 to 5

Mr. Adarsh Reddy, Director, SGNP (Additional Charge) present in court

Ms. Revati A Kulkarni, Deputy Director of SGNP present in court

Mr. Sanjay Kamble, Assistant Conservator of Forest SGNP present in court

Mr. Sudhir Korgaonkar, PSI, Kasturba Marg Police Station, Borivali (E)
present in court

**CORAM : PRASANNA B. VARALE AND
S. M. MODAK, JJ.**

DATE : 08th SEPTEMBER, 2022

P. C. :-

1. The Petition was mentioned by claiming an extreme urgency at 10.30 a.m.. As such the same is taken on the Production board at 2.30 p.m..
2. The Petitioner is one of the Member of the NGO namely, Mumbai March and it is submitted that Petitioner's NGO is active in the work of conservation, particularly rivers. The Petitioner's NGO also assisted certain activities which are referred in the Petition namely Cleaning of Dahisar

river, River March on Mumbai river. There is also reference of participation of the present NGO in technical workshop conducted jointly by Maharashtra Nature Park, NEERI.

3. It is also submitted that since the last few years the Petitioner's NGO is making conscious efforts of public awareness in so far as the immersion of Shri Ganesha Idols are concerned. It is submitted that the Petitioner's NGO encourages the people to use artificial ponds for immersion of idols so as to avoid any ecological or environmental damage.

4. It is also stated that certain idols are up to 15 feet height and it is difficult to these idols to immerse in the natural water resources. It is further submitted that initially there was park namely Krishnagiri National Park which were in existence in pre-independence era. In the year 1969, the park was expanded and the adjoining forest property have been included in the park area. The area was known as Borivali National Park. For quite some time in the year 1981, it was named as Sanjay Gandhi National Park. As the area is declared as a National Park, the non forest activities are not permitted. Reference is made to provisions of the Wildlife Protection Act, 1972. There is also reference made to the other forest and fauna, particularly certain rare species such as Tectona, Albizzia, Terminalia, Holarrhena etc..

5. It is submitted before this Court that so as to protect National Park

human intervention and activities are minimized by appropriate measures. It is then submitted that considering the issue of causing damage by Plaster of Paris idols, certain directions were issued by the Hon'ble Apex Court as well as by the National Environment Tribunal through various judgments. The common thread in the judgment is to prevent the immersion of Shri Ganesha Idols in the natural water resources. Then there is also policy decision of CPCB dated 12/05/2020, whereby immersion of any plaster of paris idols are prohibited. Then reference is made to an Order passed by the Nagpur Bench of this Court in Suo Moto PIL No. 3 of 2021. Copy of the Orders dated 31/08/2021 at Exh. 'D' (page no. 71), 13/07/2022 at Exh. 'E' (page no. 74) and 29/08/2022 at Exh. 'H' (page no. 80) are placed on record.

6. The Petitioner has also placed on record the certain photographs to submit before this Court that in pursuit of awareness activities and prohibition of immersion of idols in natural water resources, the artificial ponds are installed at various places. The photos are placed on record at Exh. 'I' collectively.

7. It is submitted by the learned counsel for the Petitioner that the Petitioner were surprised to read a news items published in the newspaper under the caption :

"बाप्पाचे विसर्जन संजय गांधी राष्ट्रीय उद्यानात होणार"

Copy of the news items is placed on record at Exh. 'J' page no. 85.

8. It is further submitted by the learned counsel for the Petitioner that reading of this news items list the impression by common man that permission is granted by the forest authorities of the Sanjay Gandhi National Park to immerse the idols on 09/09/2022 in Sanjay Gandhi National Park. The very part reads thus :-

"या गणेश मूर्तीचे विसर्जन 9 सप्टेंबर 2022 रोजी संजय गांधी राष्ट्रीय उद्यानात करण्याची परवानगी मागितली होती, या मागणीला यश येऊन बाप्पाचे विसर्जन संजय -गांधी राष्ट्रीय उद्यानात होणार आहे याची सर्व नागरिकांनी नोंद घ्यावी"

9. Learned counsel for the Petitioner further submitted that looking to the incriminating danger and apprehension the Petitioner has approached this Court with the following prayers:

(a) A writ of Mandamus or any other suitable writ, order or direction be issued thereby directing the Respondent Nos. 1-6 to restrain any activities regarding immersion of idols within the area of Sanjay Gandhi National Park, and/or, in the river flowing through the Sanjay Gandhi National Park.

(b) A writ of Mandamus or any other suitable writ, order or direction be issued thereby directing the Respondent Nos. 1-6 to prohibit any and all non forest activities that are likely to be carried out on 9th September, 2022 in the premises of Sanjay Gandhi

National Park.

(c) A writ of Mandamus or any other suitable writ, order or direction be issued thereby restraining the Respondent Nos. 1-6 from permitting the immersion of any idols in the premises of Sanjay Gandhi National Park.

(d) A writ of Mandamus or any other suitable writ, order or direction be issued thereby directing the Respondent Nos. 4-6 be issued thereby directing the Respondent Nos. 4-6 to prevent any person carrying any musical instruments such as drums, cymbals, loudspeakers, firecrackers and/or any noise making material/equipment into the premises of the Sanjay Gandhi National Park.

10. Learned counsel for the Petitioner was permitted to serve an intimation to the learned Government Pleader alongwith the copy of the Petition. Learned Government Pleader Smt. Kantharia was fair enough to attend this Court at 2.30 p.m. so as to assist this Court. Smt. Kantharia submitted before this Court that news items is published by some private person. She further submitted that the authorities of the Forest Department are vigilant enough so as to prevent activities causing damage to ecology, environment and the wild life. Smt. Kantharia also invited our

attention to the communication dated 12/08/2022, Assistant Commissioner, R-Central Division, Chandavarkar Road, Borivali, Mumbai. By this communication, it is informed to the Assistant Commissioner that the authorities of the Forest Department are granting permission to install an artificial pond in the parking area next to the main entrance gate of Sanjay Gandhi National Park. It is also specifically informed that the office of the Assistant Commissioner is expected to take all required steps to follow the various guidelines issued by the State Government as well to maintain law and Order situation. It seems that this communication was in response to a communication addressed by Assistant Commissioner dated 10/08/2022.

11. Then there is another earlier communication dated 24/08/2016, it is very important to note that by this communication it is informed to Deputy Commissioner, Zone 7, R South Kandivali that there are three crocodiles in the natural water body situated in the National Park and it is very unsafe to undertake any activity of immersion of idols. The communication further states that the possibility of attack by the crocodile cannot be ruled out and if such occasion arises the possibility of endangering human life also cannot be ruled out. The communication further informs the Deputy Commissioner that this issue is to be addressed seriously and the citizens are to be informed not to undertake any activity

of immersion of the idols in the Sanjay Gandhi National Park. Then there is another communication of the year 2018 i.e. 14/08/2018 addressed to the Assistant Commissioner, R-Central. The need of public awareness is reiterated and it is specifically informed to the Assistant Commissioner that arrangements be made for installing artificial ponds outside area of the Sanjay Gandhi National Park.

12. Considering all these communications above referred, now we see no reason either to entertain the Petition on a apprehension of the news items or to any further directions. At this stage, we may only state that let the State Government follow its policy in letter and spirit and strengthen the activity of preventing any damage to the ecology, environment and wild life and if needed considering the peculiar situation when there will be large flow in the activity of visarjan or immersion of idols, the State Government may deploy an additional force. So as to prevent the damage to wild life in case if an attempt is made to mislead the public at large by making certain untrue statements, the State Government shall also take appropriate steps to prevent such mischief by taking recourse to the provisions of law. With these observations Petition is dismissed.

13. Learned Government Pleader is permitted to prepare a proper compilation of the communication referred to in the Order and submit it to Court Officer. On submitting such compilation, the Court Officer to accept

the compilation and mark 'X' for identification.

14. We further direct that the Forest Department of the State Government shall take all appropriate steps to prevent any activities in the area of the Sanjay Gandhi National Park for immersion of the idols and if any such attempt is made by committing the breach of provisions of law or flouting circulars issued by the State Government or Forest Department the Forest authorities are at liberty to take appropriate steps against the violators. If request is made from the Forest Department to the Police department for assistance of additional police force or deployment of the police force, the Superior authority of the Police authority to consider that request and take appropriate decision by yourself.

16. Authenticated copy to the learned counsel for the Petitioner as well as learned APP for the Respondent-State.

[S. M. MODAK, J.]

[PRASANNA B. VARALE,J.]