

W.P(MD)No.26466 of 2022

R.MAHADEVAN,J.
and
J.SATHYA NARAYANA PRASAD,J.

ORDER

(Order of the Court was made by R.MAHADEVAN, J.)

The writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 07.10.2022 and consequently to direct the respondents to take action against those who have set up illegal artificial private waterfalls and demolish them and restore the original flow of the stream, river and rivulet in the fragile western ghats ecosystem.

2. Mr.R.Baskaran, learned Additional Advocate General assisted by Mr.S.Shanmugavel, learned Additional Government Pleader, takes notice for the respondents.

3. Learned counsel appearing for the petitioner submitted that there are several waterfalls situated around the western ghats. While the

waterfalls are flowing naturally from the hill and open to public as a tourist spot, some of the individuals who own lands adjacent thereto, have created private or man-made or artificial waterfalls inside their resorts/estates/properties by diverting the natural flow of waterfalls, without getting permission from the appropriate authorities, only for the purpose of making their resorts/estates/properties as tourist attraction, to gain huge profit. The District administration has not taken note of such emergence of these artificial waterfalls. Initially, they were restricted to select few, but now, they have been turned into a business. The natural waterfalls emerge after thousands of years of natural wear, tear, erosion and geographical changes. They are gift of nature. The source of water to these falls is from deep inside the mountain ranges. Several streams, rivers, rivulets join together and finally make waterfalls. Though only few are open to the public, there are several waterfalls which are situated deep inside the forests and require arduous trekking, wherein, the water is clear and pristine and free from any pollution as it originates inside the mountain ranges and remain untouched. Moreover, they flow through several medicinal plants and herbs situated inside the forests which gives the water with therapeutic quality. These streams are source of water for several flora and fauna which remain dependent on them and at places where these

streams create waterfalls, the public enjoy bathing in them not only for pleasure, but also for its medicinal and pristine nature.

4. Learned counsel for the petitioner further submitted that certain private resorts/estates/properties' owners divert the natural flow of the stream and river for their own personal gain. Already human intervention with nature is wrecking havoc by causing rise in temperature and global warming, due to which, the monsoon has become erratic. Number of flood like situation has risen and there are also sudden drought in certain areas. The natural system cannot be modified at the whims and fancies of the humans. One of the important reasons for global increase in temperature is the reduction of cover of the forests. As per the UNESCO, "Western Ghats is internationally recognized as a region of immense global importance for the conservation of the biological diversity, besides containing areas of high geological, cultural and aesthetic values". However, human activities have caused immense damage and has reduced the forest cover significantly. As per UNESCO, at least, 325 globally threatened (IUCN Red Data List) species occur in the Western Ghats. The globally threatened flora and fauna in the Western Ghats are represented by 229 plant species, 31 mammal species, 15 bird species, 43 amphibian species, 5 reptile

species and 1 fish species. Of the total 325 globally threatened species in the Western Ghats, 129 are classified as Vulnerable, 145 as Endangered and 51 as Critically Endangered. The present diversion of stream, rivers and rivulets to create artificial waterfalls is another anthropogenic act which is causing serious environmental damage. Already vulnerable species are being pushed to extinction and if it continues, the endangered and critically endangered species will vanish from the face of the earth. However, in utter disregard to the nature and in violation of all the environmental norms, these artificial waterfalls are being made. Neither permission is sought from the authorities concerned nor there are provisions for the same. But, despite these restraints, the construction and establishment of these artificial waterfalls has become rampant. All the artificial waterfalls are created by illegal diversion of the natural flow of rivers and streams. Such artificial waterfalls are situated inside the reserve and protected forest areas which prohibited for access to the general public.

5. He further submitted that the waterfalls are beauty of nature and numerous flora and fauna are dependent on the flow of the stream and river. The entire river ecosystem will be affected because of the illegal diversion of natural flow of waterfalls. Consequently, the fishes, the plants,

the animals, the birds which all dependant of it will face threat. Already, the forest ecosystem is fragile because of the human interference in various ways. Now such artificial waterfalls put more strain on the already depleting ecosystem and therefore, it cannot be allowed to continue. The Supreme Courts and the High Courts in umpteen number of judgments have issued directions for protection of the environment. Because of the intervention of the Courts, the mining activity in the Western Ghats has been stopped. Now, these artificial waterfalls is causing severe environmental threat and degradation and it has to be immediately stopped. In name of resorts, the private land owners have created artificial waterfalls within their lands by diverting the flow of the natural waterfalls to attract huge number of tourists. Though many journalists and social activists have raised voice against the issue of diversion of natural flow of waterfalls and wild streams for creating artificial falls inside the private resorts/estates/properties and its effect in the farm operations, till date, the situation remains the same and no action has been taken against such private persons who created such artificial waterfalls.

6. Learned counsel further submitted that apart from the residents and land owners residing in Tenkasi District, people from other States have

also invested in these artificial waterfalls with business motive. The local residents like, Auto drivers and jeep owners alone have the complete knowledge about such private waterfalls which are present inside the private resorts/estates and private properties.

7. Heard both sides.

8. The crux of the contentions of the petitioner is that the private resorts/estates/land owners are diverting the natural flow of waterfalls into their private estates/properties in order to create artificial waterfalls thereby making their private properties as tourist attraction to gain huge profits. According to the petitioner, such illegal diversion affects the entire river ecosystem and it will have a great impact on the environment. The learned counsel for the petitioner has invited our attention to the list of private resorts who have indulged in such illegal diversion of natural flow of waterfalls and photographs and also the Website details with regard to such illegal diversion, filed in the form of typedset of papers along with the writ petition.

9. We are of the view that the natural waterfalls which emerge after thousands of years of natural wear, tear, erosion and geomorphological changes, cannot be permitted to be cut and diverted by illegal means to the private resorts/estates/properties by the private persons.

(i) Thus, we direct the respondents 3 to 7/District Collectors to take immediate steps to form a committee in the Districts concerned so as to curtail illegal diversion of the natural flow of waterfalls by the private resorts/estates/properties' owners and claiming the same as artificial falls for their commercial activities.

(ii) Such committee be formed forthwith and necessary inspection be conducted by such committee over the private resorts/estates/properties situated all over the Tamil Nadu with the assistance of District Forest Officers concerned.

(iii) The said committee shall find out the private resorts/estates/properties who illegally diverted the flow of natural waterfalls into their properties and created artificial waterfalls and necessary action be immediately taken to seal those private resorts/estates/properties until further orders.

(iv) Apart from that, criminal proceedings shall also be initiated against such private resorts/estates/properties' owners. The District

Collectors are also directed to initiate departmental action against the officers concerned who colluded with such private resorts/estates/properties' owners for such illegal diversion.

(v) A detailed action taken report be filed before this Court on 01.12.2022.

10. Post the writ petition on 01.12.2022.

[R.M.D.,J.] & [J.S.N.P.,J.]
23.11.2022

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