

Madras High Court
M.K. Janardhanam vs The District Collector on 26 July, 2002
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26/07/2002

CORAM

THE HON'BLE MR. JUSTICE K. SAMPATH

Contempt Application No.561 of 2001

in

W.P.No.985 of 2000

M.K. Janardhanam

S/o M.R. Krishnaswamy Naidu,

Old No.90, New No.60,

K.R. Koil Street,

West Mambalam,

Chennai - 600 033. ... Applicant

-Vs-

1. The District Collector,

Tiruvallur District at

Tiruvallur.

2. The Revenue Divisional Officer,

Ponneri.

3. The Tahsildar of Ponneri,

Ponneri.

4. The Assistant Director of Mines,

Tiruvallur. ... Respondents

!For Applicant: ... Mr.A. Venkatesan

For Respondents: ... Mr.N.R. Chandran,

Advocate General

for Mr.P. Gunaraj, Spl. Government Pleader.

Advocate Commissioner: Mr.K. Ashok Chakravarthi

:ORDER

This is a petition under Section 12 of the Contempt of Courts Act, 1971 to punish respondents 1 to 4 in the contempt application for wilful disobedience of orders of this Court dated 8-2-2000 in W.P.No.985 /2000 on the following allegations:

The main writ petition is for a mandamus directing respondents 1 to 4 to perform their statutory duty and obligations to stop illicit, illegal and unauthorised quarrying of sand and savudu from the riverbed and river bank of Kusasthalai River and the adjacent patta lands in Jagannathapuram and Inam Agaram villages, Ponneri Taluk, Tiruvallur District.

2. Respondents 1 to 4 have filed a common counter affidavit sworn to by the first respondent herein. The sixth respondent, a private individual has also filed his counter. The petitioner has filed a reply affidavit.

3. Pending the writ petition, the petitioner sought the appointment of an Advocate commissioner to inspect the river-bed, river bank, check dam, embankments, etc. and to file a detailed report about the illegal activity going on perpetually. This Court appointed an Advocate Commissioner and the Advocate Commissioner has also filed a detailed report along with some photographs.

4. In the said report, he has stated as follows:

The petitioner identified the check-dam on the River Kusasthalai and the same was identified with reference to the field measurement sketch furnished by the Village Administrative Officer. The agricultural fields identified by the petitioner and confirmed by the Village Administrative Officer with reference to F.M. Book are lying north to the said river bed and bank. From the check-dam he proceeded towards west. He found innumerable lorry tyre marks on the sand track. Such tyre marks are so innumerable that one could conclude that a number of lorries were passing and re-passing for a number of days, though no truck or lorry was found in the places of his inspection. A protective embankment provided by the Government was damaged by the removal of sand, savudu and clay. Gravel stones were found displaced and scattered. He took photographs of the said embankment, which is to the north of River Kusasthalai. From the top of the embankment earth has been excavated to a depth of 13.6 metres. He proceeded further east of check dam towards a burial ground. The earth excavated at that place was 50 metres wide and the depth is 8 metres. Erosion was found to be to a length of 216.6 metres in Field S.No.432 called odai poramboke and in Field S.No.434 to a length of 93.8 metres and 120.8 metres to a depth of 11 metres on an average. There were several pits in the river bed further east of the check dam. In Field S.No.436, there is a big pit with some water in an area of about 100 metres x 55 metres to a depth of 15 metres. The petitioner pointed out an excavation of sand, which had been piled up for being transported. In Field S.No.429 close to the patta land, which is stated to be river poramboke, earth has been excavated to a depth of 12.5 metres throughout a length of 40 metres and a width of 29.4 metres. The petitioner told the Advocate Commissioner that due to indiscriminate quarrying of earth from the adjacent river bed and river bank as also patta land, there was erosion in his own private lands and he had to level the land by using bulldozers. The Commissioner himself found that earth in the above field had been eroded from its boundaries up to the natural embankment of the river to a length of 36 metres, width of 86 metres and depth of 8.2 metres. Excavated earth was found lying in Field S.Nos.13/13 and 437 to a length of 32 metres, width of 40 metres and depth of 9 metres. There were clear traces of lorries having plied in the fields as there were visible tyre marks on all the fields up to the area of quarrying till the river bed. Close to Field S.Nos.311 /9, 3, 4 and 11 and 437 there was a burial ground, where earth was found to be removed to a length of 60

metres by 50 metres extending to a width of 54.5 metres and to a depth of 14 metres in Jagannathapuram Village. The petitioner pointed out several track marks, which appear to be new and fresh with a cotton wick lamp and steel plates lying on the track with marking 'SVB' welded over it evidencing excavation of earth only a few hours prior to the Commissioner's visit presumably on the night of 28-1-2000. Thereafter, towards the west and north, the petitioner and the Village Administrative Officer identified a field as Field S.Nos.311/9, 3, 4 and 311/11 and 437. There was a burial ground in those fields. The Commissioner also found that earth had been removed two lengths of 60 metres and 50 metres each to a width of 54.4 metres and to a depth of 13 metres in 'L' shape. Similar excavation of sand had been found in S.Nos.311/9, 3 and 4 and detailed measurements taken by him have been given in his proceedings. There was indiscriminate quarrying of sand, savudu and clay. There was a clear track intended for the movement of lorries in the centre of the river bed leading from western side to the eastern side up to the check dam.

5. On 8-2-2000 this Court directed the respondents to ensure that the illegal quarrying was stopped forthwith. According to the applicant, for a few days after 8-2-2000 the illegal activity appeared to have subsided, but commenced once again. He sent telegraphic complaints to respondents 1 to 4 on various dates between 9-3-2000 and 24-4-2001 informing them that in spite of warning by this Court and specific orders dated 8-2-2000, the illegal quarrying was going on, in full swing and in utter contempt of the orders of this Court. He had also given the names of the individuals, who were indulging in such acts of illegal quarrying and also the lorry numbers in which illicitly quarried sand was being transported. Respondents 1 to 4 did not take any action. He sent an Advocate's letter on 3.8.2001 calling upon respondents 1 to 4 to obey the orders of this Court, as otherwise, he would be obliged to initiate contempt proceedings. There was no compliance of the request. There was not even a reply to the telegram and the Advocate's letter. On 11-8-2001 the petitioner lodged a complaint in Sholavaram Police Station requesting the police to take necessary criminal proceedings against the persons indulging in the offence of theft of sand. The police informed the petitioner that it was for respondents 1 to 4, who were to take action in the matter. Quarrying of sand was being done under the Karanodai Bridge on the GNT Road, which had been newly laid after the old bridge had fallen down due to enormous illicit quarrying of sand previously. In these circumstances, the contempt petition has been filed.

6. The first respondent has filed a counter sworn on 3-10-2001 and filed into Court on 1-2-2002 to the following effect:

Pursuant to the directions by this Court action had been taken to curtail illicit quarrying not only in Jagannathapuram Village, but also in the entire Tiruvallur District by appointing Deputy Collectors with a team of certain specified Revenue Officials working under the control of the District Collector to patrol certain sensitive areas prone to illicit quarrying and illegal transportation of minerals. Necessary proceedings have been issued to the Subordinate Officers not only to conduct surprise raids in the sensitive areas, but also in other areas, seize the vehicles engaged in unlawful quarrying and take action against them as per rules by proceedings dated 23-3-2000. The Revenue Divisional Officers, Tahsildars, Revenue Inspectors and other Subordinate Officers have also been instructed to carry on with the above duty and send their reports periodically until further orders. Immediate action was taken to arrest the illicit quarrying. By letter dated 27-3-2000, the deponent's predecessors had sent a detailed report to the Additional Advocate General regarding the action taken to arrest illicit quarrying as well as the video coverage of the area near Kusasthalai River at Jagannathapuram Village. The report mentioned about the seizure of 37 vehicles between 15-3-2000 and 5-4-2000 and the action taken in that regard. Between 1-4-2000 and 18.9.2001 624 vehicles were seized and a penalty of Rs.1,51,22,317/- was imposed. Meanwhile, the petitioner's Counsel had sent a letter to the first respondent that respondents 5 and 6 in the writ petition, viz. Raghava Reddy and Sridhar had started illicit quarrying of sand and savudu by utilising tractors and lorries in the above area and in its vicinity violating the directions issued by this Court. The Revenue Divisional Officer, Ponneri, was requested to inspect the area and send his detailed report with his notes of inspection in R.C.932/99/Q-1, dated 16-8-2001. He sent his report in his D.O. Letter No.8706/99/A-1, dated 10.9.2001 along with his notes of inspection dated 5-9-2001. The Revenue Divisional Officer in his report stated that his surprise inspection along with the Tahsildar, Ponneri, of the area near Kusasthalai River at Jagannathapuram Village revealed that bunds of the

river had been raised to a height of 20 feet with mud/earth and as such there is no possibility of any vehicle entering the river area to quarry illicit sand. He had also stated that his local enquiry in the village also revealed that there was no illicit quarrying of sand in the specified area. The Counsel for the writ petitioner in his telegram received by the first respondent on 25-9-2001 had informed that large numbers of tractors and lorries were being engaged in illicit quarrying and requested to stop it and thereby obey the High Court's order. The first respondent had already taken action to arrest illicit quarrying and the Revenue Divisional Officer, Ponneri, had also reported that there were no illicit quarrying as alleged by the writ petitioner. The first respondent had also instructed the Tahsildar, Ponneri, and the Revenue Divisional Officer, Ponneri, to have a close vigil by patrolling the above said area and to take suitable action to arrest the illicit quarrying and illegal transportation of sand. He had also instructed the Assistant Director, Mines, to conduct surprise raids in the above mentioned area and submit his report. The patrolling duty would continue and suitable action would be taken against the persons indulging in the unlawful

act. If for any reason this Court should hold that there was any disobedience to the orders of this Court, the first respondent is tendering his unconditional apology.

7. After the counter was filed, at the hearing in the contempt application, the learned Counsel for the writ petitioner produced several snap shots, which showed that the authorities had not been successful in checking the illicit activity. Though some snap shots were also produced by the learned Special Government Pleader showing that no illicit activity was going on in the area, on 15.3.2002 I passed an order directing the Advocate Commissioner to visit the area once again and to see as to what had happened since his last visit in January/February, 2000 and file his further report. I further directed the Advocate Commissioner to submit his report with necessary facts and figures and also sketches and photographs. After that, the Advocate Commissioner filed a further report along with documents and snaps.

8. The Advocate commissioner filed a report on 11.4.2002 along with snap shots and sketches. It is stated in the report as follows:

He inspected the places on 6-4-2002 along with Thiru Chellaiah, Surveying Engineer, and a Surveyor. During his visit, apart from the petitioner and respondents 2 to 4, a number of officials of Revenue Department, Mr.A. Venkatesan, Counsel for the petitioner, Thiru Gunaraj, Special Government Pleader for Mines and Minerals, were also present and in their presence, he had taken detailed measurements. He also took photographs of the river embankments commencing from check dam on the eastern side up to Jagannathapuram Village limits on the western side. The photographs and the detailed measurements taken clearly showed that there had been continuous indiscriminate quarrying of sand between his first inspection on 29-1-2000 and the current inspection on 6.4.2002. There had been indiscriminate and large scale quarrying of sand, savudu and clay in different places pointed out by him in his detailed measurement, which showed that unauthorised quarrying of sand had been continuing unabated. The officials who were present throughout, expressed surprise at the quantum of quarrying operations and the deep pits like mine shafts throughout the length and breadth of Kusasthalai River bed from the check dam on the eastern side up to the end of Jagannathapuram Village limits on the west. The quarrying of sand was most pronounced on the southern bank of Kusasthalai River bed between two points. The Officials took the Advocate Commissioner to a place about 1-1/2 kms. from Jagannathapuram Village and showed him the 25 feet height bund which had been constructed. The bund was beyond the check dam on the eastern side. There was no bund between the check dam on the east and Jagannathapuram Village limits on the west and therefore, notwithstanding the raising of the bund, there could be easy access on the southern side of the river bank, besides access on the northern side as well. The Advocate Commissioner has noted in detail the traces of access for the movement of lorries, tractors, earth-movers, etc. gaining entry into the river bed and excavating several lorry loads of sand from the depth of various pits noted by him and of which he has taken measurements. The photographs taken by him will show that several thousands of lorry loads of sand, savudu and clay should have been excavated between his previous visit and the current visit. The Advocate Commissioner also visited the southern river bank on the south-western side of the river bed in Jagannathapuram Village limits abutting Sothuperumbedu Village.

There also he found pits to a depth of 10 metres on an average to an extent of 117 metres by 73 metres. He also took photographs of the river bed on the east of the recently laid granite bridge, which would show that even recently quarrying of sand had taken place as would be seen from the photographs. The villagers had also complained to him about the indiscriminate quarrying taking place between sun-set and sunrise during week days and throughout day and night on holidays and that they had been proclaiming that they had been making ex-gratia payments to the Tahsildar every week. Such a complaint was made in the presence of Government Pleader, Revenue Divisional Officer, Tahsildar, Revenue Inspector, etc. The measurements taken by the Engineer made part of the report and the photographs would clearly show the volume of sand and savudu removed from the river bed clandestinely between the period of his first inspection and the current inspection. The Advocate Commissioner concludes his report by saying that the respondents and the officials informed him that any action that would be taken by them would seriously result in endangering their very life.

9. After going through the report, I felt that this is a matter where the assistance of the Advocate General should be obtained and accordingly, I requested the Advocate General to peruse the records and express his view in the matter. The learned Advocate General agreed with me that this matter has very serious connotations and cannot be allowed to drift. He assured me that all possible steps would be taken to ensure that illegal quarrying of sand in the area is checked.

10. I suggested to the Advocate General to evolve a formula by which the matter can be resolved not only with regard to Kusasthalai River, but also in respect of all the rivers in the State where illicit sand quarrying is done.

11. The Collector has filed an affidavit stating as follows:

The departments and officials concerned have taken effective steps to curb illicit quarrying. The Executive Engineer, Public Works Department, Kusasthalai River, has sent necessary proposals to the Superintending Engineer, P.W.D., to ban the river area for quarrying near Jagannathapuram and Inam Agaram Villages. In the letter, he has further requested the Superintending Engineer to write letters to the police to take action against the illicit miners subsequent to ban orders in the river area. Since the offence involved in the illicit quarrying is criminal in nature, civil officials cannot deal more effectively than the police. Hence, the police was requested to take action against the offenders of illicit quarrying under Section 379 of the Indian Penal Code, treating the offence as theft and causing damages to public properties. The Tahsildar has informed teams of Revenue Officials consisting of Village Administrative Officer and Village Assistants to patrol the area and they have been on duty day and night. About 10 vehicles were seized for illicit quarrying for the period 1.5 .2002 to 28-5-2002. Apart from that, each day 10 to 15 vehicles have been prevented from entering the river to quarry sand. The Deputy Superintendent of Police, Ponneri, has posted Police Officials for patrolling duty in the area. Criminal cases were filed under Section 379 I.P.C. in Crime Nos.369/2002 and 372/2000 on 2-5-2002 and 4-2-2002 in E-8 Sholavaram Police Station and Ellappan and Ramesh both accused were arrested and remanded and the said cases are under investigation.

Again, patrolling duty is not a permanent measure to ban illicit quarrying since the Revenue and Mining Officials have to discharge various other duties. Illicit quarrying can be effectively stopped only when the officials who are controlling or maintaining the Government poramboke lands are also vested with the powers to seize the vehicles involved in illicit mining of minerals from the lands under their control. For instance, Assistant Executive Engineer or the Executive Engineer of PWD can be vested with such powers in respect of the rivers under their control. Unless the departmental officials concerned take action to protect the land under their control and superintendence, it will not be possible to stop illicit mining. A proposal to this effect will be sent to the Government through the Commissioner of Geology and Mining. Steps are being continued and the area is being closely watched by the Revenue and Police Officials.

12. We are informed that in Atharva Veda, a verse occurs, meaning as follows:

"Oh Mother Earth â On this multi-colour Indra Gupta Prithvi let me enjoy, never ending happiness and gain ever lasting glory without fear of defeat."

13. Our ancients worshipped the five elements of nature, viz.earth, air, water, fire and sky both in reality and symbolically. Our scriptures are replete with information on the relationship between man and

nature and the former's eternal indebtedness to the latter. We are told that earth is the paradise of man which has been blessed with nature's bounties. During ancient times there was emphasis on the care for the natural resources.

14. All religions in our country have environmental overtones for the observance of an ecological code of conduct and are united in their attitude towards nature. They enjoin us to respect nature and its creations which is complementary to secularism.

15. The enjoyment of life and its attainment and its fulfillment guaranteed by Article 21 of the Constitution embraces the protection and preservation of nature's gifts without which life cannot be enjoyed and environmental degradation violates the fundamental right to life.

16. Stockholm Declaration of United Nations on Human Environment evidences this human anxiety:-

"The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystem, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate. Nature conservation including wildlife must therefore receive importance in planning for economic development."

17. In STATE OF TAMIL NADU VS. M/S HIND STONE (AIR 1981 SC 711) it has been observed as follows:

"Rivers, forests, minerals and such other resources constitute a nation's natural wealth. These resources are not to be frittered away and exhausted by any one generation. Every generation owes a duty to all succeeding generations to develop and conserve the natural resources of the nation in the best possible way. It is in the interest of mankind. It is in the interest of the nation."

18. A decade ago there was a big Earth Summit in Rio de Janeiro. A publication from UNESCO offered the following vision of the future.

"Every generation should leave water, air and soil resources as pure and unpolluted as when it came to earth. Each generation should leave undiminished all the species of minerals it found existing on earth."

19. In a disturbing article "Sandstorm under water" in `The Hindu' dated 14-7-2002, very serious warning has been sounded that the turbulence created by dredging for sand at sea in Kerala could damage the fragile ecosystem along the coast. There also appeared a sub article about ravaged rivers. Though it is about Kerala rivers, it is as much relevant elsewhere and in particular in Tamil Nadu. The article depicts a very harrowing picture of the dangers of clandestine exploitation of river sand. In my view what is happening is not clandestine exploitation, but a bold unabashed robbery of nature's wealth.

20. Sand mining has an adverse and destructive impact. Its disastrous effect is unimaginable. It has "crippled the riverine ecology and depleted the ground water table resulting in a nascent desertification process". It has affected the stability of river banks leading to loss of whole chunks of land and making large areas flood prone. Drain channels to lakes, ponds, tanks irrigation are blocked since there is no more water. The river bed goes down far below the receive canals. It has been identified as the main reason for the water crisis. The potable nature of available drinking water is affected as the sweet water aquifers (recharger

and purifier) are destroyed by quarrying. It has increased the base flow of ground water to the rivers. It also causes sea water intrusion further than usual upstream through back waters and river mouths. As enough sand does not reach the river mouths to make natural barriers along the coast, sea water and sand enter the back waters and rivers. This ultimately leads to saline intrusion into ground water. It has also seriously affected the structural stability of several bridges. River bridges and railway tracks are severely damaged by sand mining in violation of rules and lease deeds. Flooding of agricultural lands due to break in linkage between discharge/channels and river basins. There is destruction of Agriculture/Mangrove Eco System. Houses and buildings collapse due to erosion. The groundwater table goes down in all the river basins affecting agriculture severely. The sand mining permitted in private lands adjacent to river beds enables private owners to encroach the river bed illegally. Public roads are also seriously damaged. Direct irrigation to about 22000 acres of lands is affected in Vaigai and Cauvery basins. Drinking water has turned saline. Accidents occur due to heavy lorry traffic. The noise and dust thrown up by the lorries carrying quarried sand affect the people's health.

21. It takes millions of years for natural denudation of hard rock into sand. The current rate of extraction is far more than what nature is capable of replenishing. Alternative materials have to be found to replace river sand in construction activities. Excessive deepening of the river bed due to sand removal also accentuates soil erosion. Reduction in sediment supply from the rivers due to indiscriminate extraction will deplete the quantum of beach sand which in turn contributes to increased erosion along the coast line.

22. There is large scale illicit, irregular and illegal sand mining in the river beds of Tamiraparani, Vaigai, Amaravathi, Palar, Araniyar, Kusasthalai, etc. The Hindu report says that rivers are being plundered by a powerful mafia controlling the sand mining business. The illegal trade is driven by the unholy nexus between contractors, politicians, trade union leaders, panchayat and revenue officials and corrupt policemen, making a mockery of the regulations imposed by the Government. Contractors who quote marginal amounts for auction rights go on to make a killing, extracting many times the permitted amount of sand as enforcement agencies turn a blind eye.

23. Local political leaders anchor the whole operation acting as the conduit for the huge bribes fuelling the well oiled network. Many of the kingpins evade the long arm of the law by alternating between other illegal operations in the forest and liquor business.

24. Government is deprived of huge amounts by way of royalty.

25. There is no proper legal provision enacted by the Government to take action on illegal sand mining. Very often policies are dictated by short term considerations such as elections or partisan pressure. The rules are not scrupulously followed in the matter of grant of permit for sand quarrying. Government officials who are supposed to check illegal sand quarrying join hands with sand smugglers.

26. Articles 48-A and 51-A emphasize protection and improvement of the natural environment including forests, lakes, rivers, wildlife and other living creatures. The phrase used is 'protect and improve' which implies that the phrase appears to contemplate affirmative governmental action to improve the quality of the environment and not just to preserve the environment in its degraded form. Section 3 of the Environment (Protection) Act, 1986 contains parliamentary mandate to improve the environmental quality. The Courts are increasingly relying on these directive principles as complementary to fundamental rights."

27. "The State is a trustee of all natural resources and is under a legal duty to protect them and that the resources are meant for public use and cannot be converted into private ownership." - M.C. MEHTA VS. KAMAL NATH (J.T. 1996(1) Supreme Court 467)

28. People's Watch- Tamil Nadu is doing yeoman service in this field. There was a public hearing on the impact of sand mining under its aegis on 19-2-2002 at Chennai. It appears that there was very active public

participation. I had the benefit of perusing the proceedings and I have incorporated the valuable materials I gathered from the said proceedings in this judgment.

29. SHANMUGAM, J. in W.P.Nos.10632/98 etc. by order dated 14-7-1999 directed the State Government to immediately take the following measures:

"(1) To clearly define the river bank and fix permanent marks so as to enable the clear determination of the river bank on either side in reference to all the rivers in Tamil Nadu where quarrying sand is permitted or at least the portions over which quarrying is permitted.

(2) To specify the normal sand bed level for the respective rivers and after such demarcation, to mark the level with some permanent benchmark on the river bank for the purpose of quarrying.

(3) To ban the removal or extraction of sand from such rivers where the present sand bed level is below the required level as fixed by the State.

(4) To form a river management committee or an action committee by the District Collector or the Tahsildar with the co-operation of voluntary agencies so as to ensure that sand is being collected in strict compliance with the restriction laid down by the authorities and the rules and the lease deeds. The wastes and impurities especially those from the septic tanks should not be permitted to open into the rivers.

(5) The encroachments are to be prohibited and existing encroachments are to be evicted summarily from the river beds.

(6) The Forest Department is to give special priority in conservation of forests at the origination point of the rivers."

30. It appears that it was only a cry in wilderness. Nothing appears to have been done. On the contrary things have gone from bad to worse. The Hindu reported about the battles between the District administration and the sand mafia. The report referred to the collapse of Karanodai Highway Bridge on Chennai-Calcutta Highway and how the Lakshmipuram Anicut across Araniar, on the northern outskirts of the city was washed away some years ago because its structure got weakened as a result of sand extraction around the Anicut. As on that day it required Rs.3 or 4 crores to build a fresh Anicut.

31. The enormity of the problem suffocates us. The apathetic and lukewarm approach of the powers that be baffles and pains us. Gide Andre lamented `Everything has been said already but nobody is listening. We must always begin again.' Scores of Judges have said before. Their directions have not been implemented. It is a sordid commentary on the state of affairs. Still I am issuing directions to the Government in the fond hope that they will be implemented and something good may come about. These are in addition to what has been directed to be done by P. SHANMUGHAM, J. in W.P.Nos.10632/92 etc. batch already referred to.

1. The Government shall constitute a high level committee consisting of scientists, geologists and environmentalists within one month from today. The said committee shall tour the State, conduct a scientific survey with reference to sand quarrying in rivers and river beds and submit a report with particular reference to the damage caused on account of indiscriminate and illegal quarrying and spelt out suitable remedial steps to stamp out the malady, within six months thereafter.

2. On receipt of the report from the committee, the Government shall act in conformity with the guidelines and take all necessary further steps to arrest the exploitation and to protect and improve the situation and restore status quo ante. The Government shall pass suitable regulatory legislation in this regard. The action on the part of the Government after the receipt of the report should not brook any delay. It should act fast.

In the meantime there should be a total ban on sand quarrying anywhere near motor or rail bridges & the distance between the bridges and the quarrying area should be not less than 500 metres.

The distance between the riverbank and the mining area should be not less than 10 to 15 metres. The depth of the sand pits should not exceed 1 to 1-1/2metres.

While granting licence the local public should be taken into confidence. They should be allowed to air their views and raise their objections.

Wherever there has been violation of the terms of the grant, stringent action should be taken against the erring parties. Prosecution under Section 379 of the Indian Penal Code for theft and causing damage to public property should be launched. Severe penalties should be imposed. They should also be made to pay heavy compensation.

There should be a special river protection force mobilised for patrolling and policing the river areas and apprehending the culprits indulging in illicit quarrying. Such a force should be composed of high calibre personnel and should not fall a prey to enticements.

The officials responsible should be vested with the power to seize the vehicles involved in illicit quarrying and transport of sand. The Executive Engineer or the Assistant Executive Engineer can be vested with such powers.

The Courts at the District level may be empowered to entertain complaints of sand mining, to direct investigation, appoint commissions to inspect and report and on being satisfied direct suspension of operations.

The above are broad suggestions. There can be additions and elucidations to make the object more effective and result oriented.

No stone should be left unturned to annihilate the pernicious practice of exploitation of natural resources jeopardising the long term interest of the people.

32. Under Articles 48-A and 51-A(g) it is the fundamental duty of every one of the citizens of this country to protect and improve the natural environment including forests, lakes, rivers, all other water resources and wild life and to have compassion for living creatures. The petitioner should be complimented for discharging his constitutional obligation by bringing to the notice of this Court at the risk of his personal safety the unimaginable aggression on natural resources by unscrupulous elements. He has also spent substantially on Counsel, Advocate commissioner, Surveyor, photographer, transport, etc. It is but proper that he should have a recompense.

33. The Advocate Commissioner has also done a commendable job. He is entitled to be remunerated adequately. He has so far been paid Rs.18,500/-. I direct the petitioner to pay a further sum of Rs.10,000 /- as additional remuneration, within two weeks from today.

34. I directed the petitioner to submit a statement of expenses. I find that a total sum of Rs. 22,258/- has been spent by him. I have the least hesitation in directing the Government to reimburse the petitioner in a sum of Rs.32,258/- which includes the sum of Rs.10,000/- directed to be paid to the Advocate Commissioner by this order. The Government shall pay Rs.32,258/- to the petitioner within four weeks from today towards the costs in the contempt petition. The contempt petition is ordered accordingly.

35. The above order is practically a consent order. The learned Advocate General very well appreciated the concern expressed by the Court and in fact shared the view that something very drastic was warranted in the

circumstances. I wish to place on record the valuable assistance rendered by the Advocate General Mr.N.R. Chandran and the Special Government Pleader Mr. Gunaraj in taking a serious view of the situation and promising to take all remedial measures at the level of the Government.

Index: Yes

Internet: Yes

IGP