



Research Paper

Public Interest Litigation: Case Study of Sariska National Park

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Abstract

This case deals with mining, which was going on illegally in Sariska National Park. Public Interest Litigation (PIL) was filed against the illegal activities (mining) by Tarun Bharat Sangh (TBS) through its Secretary Rajinder Singh, in 1991. By filing the petition, TBS interrogated the development drive of the state which was creating imbalances within nature affecting the land, water availability, food, fodder, and livestock. The case exposed the dubious intentions of the state which on the one hand was trying to portray that it was protecting the environment by passing various environmental laws and on the other hand was sanctioning activities that were going against its professed claims.

This study has made use of primary and secondary sources. For the introduction (the Context), the author has made use of the pamphlets of TBS, and personal communications with Rajinder Singh, and TBS workers. For the Sariska Case, the author has made use of the writ petition document and the annexures provided in the writ petition.

Section I provides the context of the litigation. It gives an introduction to the Alwar region, Sariska National Park, and Tarun Bharat Sangh. Section II deals with the writ petition. It presents- the case filed by the petitioner TBS; the interlocutory judgment by the Supreme Court, the establishment of a committee by the Supreme Court to examine the veracity of the statements made in the writ petition; the counter-arguments and appeals made by the respondents; the establishment of other committees to examine the appeals made by the respondents; Section III, is titled as the story goes on...

Key Words: Mining, Environmental degradation, Water scarcity, Tarun Bharat Sangh, Writ Petition.

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I. Introduction

The Context of the writ petition¹

Sariska National Park case deals with mining, which was going on illegal basis. Sariska Sanctuary lies in the ancient Aravali ecosystem of Alwar District, Rajasthan. The State of Rajasthan is the second largest state in the country covering an area of 4.271 million hectares. It is one of the driest regions in the country. A little more than 10% of the land is suitable for agriculture. The total surface water resource is only about 1% of the total surface water resources of the country. The water resources in the state are not only scarce but are highly uneven in distribution, they are confined to the south and southeastern region of the state. All the rivers of the state are rainfed. Groundwater plays important role in agriculture and drinking water supply, in the region. Before the case was filed the water level had been going further down in the Alwar region which warranted Tarun Bharat Sangh, an NGO working in the region to investigate the issue.

Alwar

Alwar lies in the northeastern part of state of Rajasthan. Topographically, it can be divided into two zones-i) hilly areas, comprising Thanagazi, Rajgarh, Bansuri and parts of Mandawar, Behror, and Alwar- Sadar

¹ This study has made use of primary and secondary sources. For the introduction (the Context), the author has depended upon the pamphlets of TBS, personal communications with Rajinder Singh and TBS workers. For the Sariska Case, author has made use of the writ petition document and the annexures provided in the writ petition. See the Pamphlets by Tarun Bharat Sangh- Dialogue on Sariska, Promotion of Community Self-Reliance, Rejuvenating the Ruparel River, Story of a Rivulet Aravari, The Waterman's Journey, Rasjtriya Jal Yatra

Tehsils, and ii) areas that look like plains but with little hills like terraces or plateaus. Alwar is a semi-arid region, where the water level had been going down for the past many decades particularly due to low seasonal rainfall and increasing deforestation.

Alwar has a forest type, which is the best in the entire Rajasthan and it covers about 10 – 15 % of the total landmass in the district. Forests found here are deciduous in nature trees generally look like shrubs with low height small leaves and thorny branches. However, the biological diversity of the district was being badly affected particularly due to ongoing mining.

Two important communities Gujjars and Meena tribals dominate, Alwar. The Gujjars live on the hilly ranges and their main occupations are animal husbandry and the Meenas on the plains and do subsistence agriculture. The average landholding of those living in the village per household is between 1 and 1.5 hectares, while the number of cows and buffaloes ranges between 10 and 15 per household. Both Gujjars and Meenas are directly dependent on forests and forest products like grass, fuelwood, leaves, honey, etc.

One of the crucial needs in the semi-arid region of Alwar like many other arid and semi-arid villages in Rajasthan is water. The Aravalli range and its forests within which the Alwar region is situated trap water during the short monsoons and release the water during the dry months. Although water scarcity and deforestation have always been important issues in the area, traditional practices like Johads (traditional ponds) have played an important role in reviving water and fulfilling the water needs of people.

Sariska

Sariska covers an area of about 866 sq. km in Thanagazi, Rajgarh, and Alwar- Sadar Tehsils, in the Alwar district. The entire 866 sq. km Sariska area was declared a Sanctuary in 1972, under Wildlife Protection Act (1972). Out of 866 sq. km, 302 sq. km is the buffer zone and 498 sq. km is the core area. Out of the total core area 273.8 sq. km is referred to as the National Park. In 1972, Sariska was declared a Tiger Reserve and a National Park in 1982, under Wildlife Protection Act (1972). There are 52 villages in the Sariska Sanctuary, people in these villages are absolutely dependent upon forests and their main occupation is rearing animals.

Tarun Bharat Sangh

Tarun Bharat Sangh, a non-governmental organization, has been functioning in Alwar, since 1985. It is situated between two villages Bheekampura and Kishori. It was established by young boys studying at the University of Rajasthan, Jaipur, in 1975, in the wake of a fire in the suburbs. After the fire incident, the members of TBS moved to Kishori, Bheekampura, (Thanagazi) (Alwar) in 1985, with a view to serve the poor and downtrodden. They undertook a survey of the region between 1985-87 and began to realize that drought was the major problem faced by the people in the region, which resulted in a scarcity of water and fodder and forced people to sell their cattle and migrate to cities like Delhi, Jaipur, where they were forced to live in the slums. The TBS, therefore, decided to concentrate its energies on the revival of traditional water conservation strategies.

Johads, the traditional water conservation techniques, which were popular in the region once upon a time had been abandoned due to low rainfall, deforestation, siltation, and other damages and the modernization process initiated by the state and the central government. Johads are simple mud and rubble barriers built along the contour of the slope to arrest rainwater. These structures have high embankments on 3 sides and the fourth side is left open for entry of rainwater. The height of the Johad is determined by the site and water flow. The construction of a Johad is a labour-intensive exercise, which involves laying off a rubble foundation that is covered and pitched with soil. The water collected in the Johad during the monsoon season is directly used for irrigation, drinking, and other domestic purposes. The advantage of this structure apart from arresting and storing is that it improves the moisture level at the subsoil in the field, particularly in down streams, which in return recharges groundwater and wells.

Johad which had been a rich heritage of water conservation in the whole of Rajasthan had been abandoned by the people which reinforced deforestation, soil erosion, and water scarcity and people had given themselves to these conditions and indifferent administration. After knowing about the sad demise of Johads, the TBS workers felt that time had come to use the wisdom, skill, and knowledge of the local people to take care of the water needs of the people in the region. Therefore, the TBS workers engaged themselves in a constant dialogue with the villagers, and began to remind people of Johads and stressed upon them, to begin with, the construction of traditional water reservoirs. The job was not all that easy for the TBS workers, as on one hand community participation and involvement of the people were important on the other hand migration drastically had reduced the number of young men and women who could contribute to the building of Johads and there were others who were skeptical about getting involved in fresh construction work. In spite of these difficulties, they approached the village elders who could recollect the memories of the existence of Johads and organized several discussions in the villages about reviving traditional water conservation structures.

Gopalpura, a poor drought prone village, comprising 57 families was selected in 1986 and a small earthen dam was constructed with traditional knowledge and people's participation to retain rainwater which would facilitate irrigation and percolate to recharge wells downstream as well stop top fertile soil from erosion. This had the desired effects, rainwater gathered and percolated gradually in the wells leading to an increase in the crop yields. The state administration which was initially reluctant in supporting people's initiative and doubted the soundness of the approach came forward and provided funds and assistance in other forms. The beneficial effects of the Johads were self-evident to the people and the state government and since then there was no looking back.

The success of water conservation experiment in Gopalpura and subsequently in other places showed that traditional repertoires, practices, and rights could also fit into the modern system based upon modern rights and practices. The success of traditional water conservation experiments shows the importance of community participation, involvement, and taking responsibility which is also key features of democracy. The success of water conservation experiment in Gopalpura and subsequently in other villages was due to people's combined efforts.

In the process of building and rebuilding Johads TBS workers and people began to realize that mining in the region was reducing water level in the wells, and they were gradually becoming dry. Mining involves clearing of forests and digging of pits from 30 to 40 meters deep, deeper than wells. People began to recognize that due to mining, water was flowing from the wells into the pits. Consequently mining not only affected the water availability in the region but also agriculture and rearing of animals, and the lives of the people. Until 1960s there was no mining in Alwar region and Rajasthan, Mining started in the late 1960's

The issue of mining in general brought the issue of mining in the Sariska Sanctuary, where it is illegal because Sariska is a sanctuary, tiger reserve, and a national park. Sariska is said to be rich in soapstone, copper, marble and other valuable minerals. Mining was going on in the buffer and the core zone of Sariska Sanctuary. In Khoh, Baldevgarh, Tulwridi, Kalwadi, Bairvadhongri, Siravav, Vairava marble mining was being carried out. In, Koh and Dariba copper mining. All these areas are situated in the Sariska Sanctuary.

The TBS, workers began to realize that the wide spread open cast mining in the Sariska Sanctuary and other parts of Alwar district was disturbing the aquifers, springs and water holding capacity of the Aravalli range. The use of dynamite was damaging and devastating the hills. The activities of the mine owners were not only destroying the hills and the natural water system but also the forests and endangering the lives of the wild animals. An ecological imbalance was setting in, affecting whole lots of things.

TBS workers and people living in the villages, affected by mining in Sariska, began to express their grievances to the forest department, which did not pay much attention to the problems of the people. Gradually, they began to take the matter in to their hands, and began to mobilise others against mining. However, workers working on the mine sites didnot support the voice raised by people against mining, they continued to work on the mines. Those opposing mining operations would often block the roads in order to stop the movement of vehicles carrying marbles.

II. The Petitioner and the issues involved

The critical needs of the region, common property resources and development concerns made the Secretary of the TBS, Rajinder Singh to file a writ petition, in the Supreme Court against illegal mining which was going on in the Sariska National Park.² It is a 30 page document, 11 annexures have been attached with the writ petition to support the claims. Case has been filed against some individuals from Union and State government departments in capacity of holding the chair when mining leases were sanctioned. Sanctioning of mining leases according to the petitioner was in clear violation of the Union and State government statutory environmental laws passed by the respective governments.

The case was filed against-**Secretary, The Ministry of Environment and Forests** (The Union Government of India), his prior approval is necessary for the use of any forest land for a non forest activity; he is also responsible for the overall functioning of National Park and for the protection of wild life under Wildlife Act 1972; **Secretary, The Department of Mines**, (The Union of India), he has the responsibility to approve mining plan for starting any mining activity; **Chief Wild life Warden**, The Department of Environment and Wildlife, (Rajasthan), he is responsible for the protection of wildlife under Wildlife Protection Act 1972; **Secretary, The Department of Mines, and Geology** (Rajasthan) he is responsible for granting and renewing mining leases, under Mines and Minerals Act; **The Director, Project Tiger**, (Ministry of Environment, Forest and Wild life), has overall supervision and responsibility of Project Tiger; **The Field Director Sariska Tiger**

² Writ Petition, 509, Tarun Bharat Sangh v. Union Of India, filed in the Supreme Court, 1991

(Rajasthan), he is exclusively responsible for the protection of wildlife and their habitat in Sariska Tiger Reserve.

The petitioner in this case held that Sariska constitutes a **reserved forest (1951)** under section 5 of the Rajasthan Wild Animals and Birds Protection Act 1951; a **Sanctuary** under Wild life Protection Act 1972 (GOI); a **Tiger Reserve** (1978) declared by the Ministry of Environment and Forests,(GOI) ; a **National Park** (1982), under section 35 of the Wild Life Protection Act 1972; a **Protected Forest** under the Rajasthan Forest Act, 1953, all these statutory regulations and provisions prohibit mining activity. The Forest Conservation Act (1980), also prohibits use of any forestland for non -forest purpose except with the prior permission of the central government. The petitioner, Rajinder Singh held that all these statutory regulations independently and collectively ban mining activities in the Sariska National Park.³

He also held that mining activity was causing major threat to the environment- it was disturbing the aquifers, springs and water holding capacity of the Arrivals range; it was destroying the forests and endangering the lives of the wild animals and stone powder emanating during mining operations deposit on the cultivable soil, rendering the land uncultivable.⁴

The petitioner society held that mining operation was being carried out in 495 sites, most of the mines involved blasting, chiseling, and drilling. The mine owners after clearing the vegetation blasted the rocks to take out marble and the rubble was dumped in the nearby forests. After the extracting minerals the mine owners shifted to other areas leaving the site as a wasteland.⁵

Tarun Bharat Sangh alleged that by granting leases the Secretary Department of Mines and Geology (Rajasthan), violated - the Rajasthan Forest Act, 1953 (which prohibits quarrying of stone, burning of charcoal, removal of any forest produce, breaking up or clearing for cultivation; Section 2(ii) and section 2 (iv) of the Forest Conservation act 1980, which prohibits the use of forest land for any non-forest purpose and prohibits clearing of trees without the prior approval of the central government, respectively ; Rajasthan Minor and Mineral Rules, 1986, which says that no mining lease shall be granted or renewed without clearance from the Central Government; the Wild Life Protection Act 1972, since Sariska National Park is a Sanctuary , all the rules regarding entry into a sanctuary apply here. By quoting these statutory laws passed by the union and the state government, the petitioner maintained that by granting mining leases the Secretary Department of Mines and Geology (Government of Rajasthan) violated provisions of several acts.⁶

The petitioner society maintained that the Secretary of TBS made several representations to the Field Director of Sariska Tiger Reserve, and to the state government, to stop illegal mining in the area but they did not bother to check the developments and allowed these activities to go on. Sensing that there was a threat to mining Secretary, Zila Khans Udyog Sangh started influencing the state government to transfer the Protected Forest land where mining was going on to the Revenue department, so that mining could go on without any obstruction.⁷

The petitioner also held that the Secretary, of Ministry of Environment and Forests New Delhi, had wide powers under section 30 of the Environment and Protection Act (1986) to take all measures for the protection of environment and preventing, controlling and abating environmental pollution, but he failed to notice and check environmental pollution caused by mining. He said that he had also written to the then Minister of Environment and Forests to stop illegal mining which was going on in Sariska National Park.

The petitioner held that he filed the writ petition because there was 'no other alternate, efficacious and expeditious method of obtaining remedy than invoking the jurisdiction of the court under article 32 of the constitution of India.' He invoked Article 21 because people living in the area were being denied right to life and mining was threatening the wildlife and their habitat, polluting surface water and other drinking water sources, air and cultivable land. The agricultural land surrounding these areas was becoming uncultivable because of stone deposits, Singh held that if these activities continue in the long run the area would face severe drought.

Networking

Rajinder Singh, networked with newspaper journalists, some associations and organisations which systematically exposed what was going on in Sarsiaka National Park. Series of articles appeared in local and some national newspapers highlighting the issue of mining in Sariska National Park. Aman Singh in 'Protect

³ Ibid, pg.8

⁴ Ibid, pg.9

⁵ Ibid, pg.9

⁶ Ibid, pg. 10

⁷ Ibid, pg. 20

Sariska or Support Illegal Mining' in 'Arnaad'⁸ a daily wrote that, in Sariska, only marble mining is going on, where as in areas adjacent to Sariska open cast mining is prevalent. After the allotment of land for mining, the mine owners clear the forest, by felling all trees, which are then sent to cities. After the clearing of trees hill rocks are blasted with gunpowder to break the rocks, thereafter pits 30 to 40 meter deep are dug to extract marble. As a result of these activities wild life, forest and agriculture in land adjacent to Sariska have been badly affected.

Rajesh Tiwari in 'Excavate Sariska Forest', in '*Chauthi Duniya*'⁹ criticised the former director of Sariska Tiger Sanctuary for issuing no objection certificates for granting mining leases in gross violation of the forest laws. He also maintained that no objection certificates were issued for Bairadongri and Kalawada, situated in the core zone of Sariska in a day and within hours enquiry was conducted by forester and area forest officer, and NOC was issued.

Rajesh Ravi in 'Mining Puts The Existence Of Wild Animals Of Sariska In Danger', in Jan Satta¹⁰ held that the former director of Sariska Tiger Reserve had taken large amounts of bribe to grant mining leases to influential business men and please political leaders. Kamal Kishore Jain in 'Vanishing Forests and Dwindling Tiger Population – Natural Beauty of Sariska Forest in Peril.' in Dinman Times,¹¹ held that more than 400 marble mines are situated in and around Sariska, and there is a free flow of people and vehicular traffic in the reserved forest area because of illegal mining. The blasting of rocks, has disturbed the activities of the people living in the villages in the reserved area and the wildlife.

In a report, Wilson John and Rajiv Chandra, in 'The Hindustan Times'¹² stated that Sariska Tiger Reserve, the last unspoilt wilderness in the ancient Aravali ecosystem, is under threat due to rampant poaching, overgrazing and indiscriminate mining. There are 400 mines around the sanctuary and their numbers continue to increase every year. They also held that mining in the long run will result in the degradation of land, pollution of air, pollution of surface and under ground water and loss of flora and fauna. 'Danik Jagran', a daily reported that illegal mining is going on in the core zone area of the reserve project, mines in Tilwad, Siravar, Vairava, Dhoongri are situated in the core area. Apart from illegal mining timber and animal skin business is also thriving in the area in question.

The Indian Institute of Public Administration also carried out a survey of the Sariska National Park.¹³ According to the survey, the mining leases and no objection certificates were illegally sanctioned by the Department of Minerals without determining the status of land whether it was forest or Revenue land. According to IIPA, mines are supposed to have environmental plan but Sariska did not seem to have one. IIPA also held that mines are threat to the habitats of the wild animals as mining operations are done in a haphazard manner, the residue is dumped in areas adjacent to mining sites, which disturbs the wild life. It held that the mines have 'blocked the forest corridor connecting core zone I with core zone III, thereby impeding the movement of animals from one part of reserve to another.' The movement of trucks, through the park, on Sariska – Tehla road is also a potential cause of disturbance.

The Voluntary Health Association of India, a non governmental organisation based in Delhi, dealing with issues concerning health of the people also carried a study on the health hazards of industrial labour in mines, salt industry, chili cultivation industry and power loom industry in Sariska, Kotdhi, Jodhpur and Alwar respectively. The members of the VHAI undertook survey and interviewed 600 and more laborers in the above-mentioned industries. According to the study all the workers in the mines surveyed were working in the open area directly under the sun, there was no arrangement for shade to rest, workers worked for more than 8 hours in a day, earning an average income of RS. 400 per month, 29% of the labour complained about pain in the whole body, 64% of cough, 18% of fever and related problems, the labourers also complained about lungs related problems and all of them spent their own money for medical treatment and visited quacks for fever and other problems, and were not aware of the workman's Compensation Act in case of death due to accident. The VHAI, therefore came to the conclusion that there is 'an immediate need for a health check up of all labour especially of their lungs and breathing system.'¹⁴

Thus TBS Secretary and its workers carried a sustained campaign in the region to bring awareness in the minds of the people against mining.

⁸ Aman Singh, 'Protect Sariska or Support Illegal Mining, Arnaad, 5th December 1990 [TBS Library]

⁹ Rajesh Tiwari, 'Excavate Sariska Forest', Chauthi Duniya, 4th August 1990. [TBS Library]

¹⁰ Rajesh Ravi, 'Mining Put the Existence of Wild Animals of Sariska in Danger', JanSatta, 14th April, 1990.

¹¹ Kamal Kishore Jain, 'Vanishing Forests and Dwindling Tiger Population', Dinman Times, 30th Jan, 1991.

¹² John Wilson and Rajeev Chandra, The Hindustan Times, 13th May, 1990.

¹³ Indian Institute of Public Administration, Report 'Mining Operations'

¹⁴ Voluntary Health Association Of India, 'Health Hazards of Industrial Labour- A Study, March 1990

The Supreme Court order.

The Court in its first interlocutory order held that –‘it is indeed odd that the state government while professing to protect the environment by means of these notifications and declarations should, at the same time, permit degradation of the environment by authorising mining operations in the protected areas.’¹⁵ The court also maintained that - ‘this litigation should not be treated as the usual adversarial litigation. Petitioners are acting in aid of a purpose high on the national agenda. Petitioners concern for the environment, ecology and the wildlife should be shared by the government. No oblique motives are even suggested to the petitioner’s motivation in this litigation.’¹⁶ The Supreme Court expressed concern over the way the state government was functioning. The Court held that ‘the state governments claims for the environment appear to be fallacious, instead of really protecting the environment the state government merely pretends to do so’.

The Court, therefore banned all mining operations in the protected area from 31st December 1991.¹⁷ It held that there are certain minor problems with regard to the boundaries which had to be resolved, as the mining operations might be going on in areas adjacent to or partially in the protected areas where it was difficult to determine the boundaries at first sight as claimed by the mining operators. The Court therefore appointed a Committee to ensure the enforcement of the notifications and the orders of the court; to demarcate the boundaries of the protected areas particularly in relation to the areas over which mining leases had been granted and mining had been going on; recommend to the state government alternate mining areas for those mine operators whose lease had not expired and areas fell within the protected area and had been asked to leave the mining operations; assess the damage done to the environment, ecology and wildlife by mining activity in the protected area and make appropriate recommendations for restoring the land to its original form and reforestation.¹⁸

The Supreme Court gave a month’s time to the Committee to report on the above-mentioned issues. The Court also asked the Zila Khans Udyog Sangh to file before the committee within 2 weeks the names of all the mining licenses and the particulars of their grants, and also asked the Tarun Bharat Sangh to furnish a map of the area in which mining operations had been being carried over.

The Committee

The Committee appointed by the Supreme Court consisted of –M. L Jain Chairperson (former Chief Justice of the High Court of Delhi); V D Sharma, (The Chief Conservator of Forest and Wild life Warden of Jaipur); G D Sharma, (Additional Director of Mines); Dr. Anil Agarwal, (Environmentalist, Center for Science and Environment, New Delhi).¹⁹

The Committee members held several meetings in Alwar and outside Alwar. The issue, of boundary of the protected areas in relation to the mines, dominated in the meetings. The Forest & Wildlife department and the Revenue department disputed each other’s position and filed separate affidavits in the Supreme Court maintaining different positions. The Chief Conservator of Forest & Chief Wild life, Warden V. D. Sharma, maintained that that the boundary issue was determined by the Forest Officer of the Forest Department, and he maintained that mines fell within the protected areas. Anil Agarwal took the stand that whatever was shown by the Forest Department in the tracing maps should be accepted as the Protected Forest Area.²⁰ Dr Anil Aggarwal looked at the problem from a broader angle. He held that the question of boundary was not a very important matter, and neither it was a complex issue, which could not be resolved, the core issue was the issue of environment, conservation and mines. He maintained that the entire problem should be seen holistically and a broader perspective of environment and conservation should be adopted. The committee should assess the environment impact of mining in the areas as it was affecting agriculture, rearing of animals and consequently people and their lives. He maintained that even if the mines were outside the protected area and were affecting the water availability or the environment or in any other way on which people’s livelihood was dependent they should be closed down.

The Mining department and the Zila Khaniz Udyog Sangh on the other hand disputed the position adopted by the CCF & CWF V. D Sharma. The Additional Director, Mines & Geology, G. D Sharma, maintained that mines were not in the protected area as per the notification of 1975.

The Chairperson of the Committee M L Jain, speaking on his behalf sought certain clarifications from the Supreme Court after presenting his own account of Sariska. The clarification that he sought pertained to Sariska wasteland being declared as Protected Forest. The Committee Chairperson held that Forest

¹⁵ Ibid, pg. 6

¹⁶ Ibid, pg .8

¹⁷ Ibid, pg. 11

¹⁸ Ibid, pg.13

¹⁹ Ibid, pg. 10

²⁰ The Committee Report, 25th December 1991.

Conservation Act was applicable only to the forest areas and not to the waste areas, therefore there was no question of Forest Conservation Act being violated as mining was only being done on waste land and not on forest area.²¹ To this query the Court replied that - 'it would be appropriate for the Committee to proceed on the premise that even when both waste land and forest land are declared as Protected Forest, no distinction be made between waste-land and the forest land which have merged in the concept of protected forest.'²² The Court also clarified the meaning of the term Protected Forests, by saying that it referred to all the areas which enjoyed legal protection against activities that devastated the environment, including poaching, mining, felling of trees etc.²³

On the basis of the clarification given by the Supreme Court the committee came to the understanding that the protected forest area depicted by the forest department in tracing maps almost matched with the area covered by the 1975 notifications, which declared Sariska National Park a Protected area.²⁴ The committee then got the boundaries of the protected areas and the mines demarcated, with the help of the state officers. After studying the reports of the officers, the committee came to the conclusion that - 215 mines were located in the protected area and 47 mines fell partially inside the protected area. It stopped mining operations immediately in the 215 areas which were located in the protected area and in the 47 areas in those portions which partially fell in the protected area.²⁵

Along with these recommendations the committee chairperson also presented before the Supreme Court, Government of Rajasthan's proposal. The Rajasthan government had written to the committee that 262 mines were located in marginal and degraded forest and were least likely to adversely affect the environmental balance, therefore these mines be allowed to continue since mining of minerals was important for the development of state and its economy. The Supreme Court appointed a separate committee to examine the proposal of the Rajasthan government.

Although the final conclusions of the committee were in support of the petitioner society fighting the cause of the environment, Chairperson M L Jain's personal position was favorably disposed towards the mine owners. Mine owners were always to be present in large numbers in almost all the deliberations of the Committee meetings, but their presence was never mentioned in the minutes of the meetings. The petitioner Rajinder Singh complained about this number of times. Dr Anil Agarwal who resigned from the committee also mentioned in his dissenting report, the overwhelming presence of the mine operators during the meetings of the committee'.

Dr. Anil Agarwal, also complained of inordinate delays in the workings of the committee, in his dissenting note and that the meetings were held at very short notice. He pointed out that the question of boundary of protected area was not an important issue as it was being made by the Chairperson, and even if it was important it could have been resolved without any delay and problem but the Chairperson unusually took lot of time to resolve it, thus giving away lot of time to the mine owners. The petitioner Rajinder Singh also alleged that the Chairperson was delaying the matters and asking for extensions from the Supreme Court unnecessarily so that the mine owners could extract minerals as much as possible.²⁶

The Respondents

The respondents (mine owners and others) filed a number of counter affidavits and refuted the allegations and contentions contained in the writ petition. They held that the newspaper reports were not reliable some friendly reporters of petitioner published stories without visiting the sites.

The Secretary of Zila Khaniz Udyog Sangh, Alwar in a Counter affidavit to the writ petition maintained that the writ petition was based upon 'factual errors and incorrect submissions. He contested that Sariska was a sanctuary under the Wild Life Protection Act, 1972 and a tiger reserve under any notification or Gazette published by the state of Rajasthan. Notices issued by the Rajasthan government were preliminary notices and do not have the force of law. According to the Secretary of Zilla Khans Udyog Sangh the petitioner proceeded on misinterpretation of law declaring Sariska as a Sanctuary or a National Park under the Wild Life Protection Act 1972.²⁷ He maintained that mining activities had been going on but only after valid leases and permissions was obtained from the Mining Department and the Forest Department and that the relevant areas

²¹ Op.cit, pgs 5& 6

²² Supreme Court Order, 14th May 1992, pg. 4.

²³ Ibid, pg.2

²⁴ The Committee Report, 28th September, 1992, para 2

²⁵ Ibid, para 4

²⁶ Dissenting note of Dr Anil Aggarwal, 2nd Nov 1992, pg.3

²⁷ Counter Affidavit to the writ petition by the Secretary, Zilla Khanij Udyog Sangh, dated 16th April 1992, pg. 5

did not fall under the forest area. He also referred to the gross discrepancies in the maps and notifications which were accepted by the committee in its final report.²⁸

The Secretary also referred to the development needs of the state, he submitted that Rajasthan was known for its rich mineral resources and particularly Alwar, which was rich in marble and it was superior to the famous Makrana marble. Marble mining had tremendous export potential and it was being exported and it was giving stiff competition to the staliam marble both in the domestic and in the international market. The deposits of marble and other such minerals in the State of Rajasthan and Alwar had brought wealth not only to the State but also to the local inhabitants residing there. The marble mining also brought a revenue of about 7 crores, in the form of royalty, cess, sales tax octrai, and central exercise fee and was also a major source of livelihood to the local inhabitants as rocky lands could not offer any alternative source of livelihood in the form of agriculture. The industries that had developed in and around Alwar were related to mining like cutting, grinding, polishing, tiles, marble chips, pulvarsing units and handicrafts such as sculpture, transport industry, etc. and if mining was stopped then all the ancillary industries would be destroyed and more than 15000 workers would be rendered homeless. The Secretary also pointed out that the mine owners have taken huge loans from the banks and other financial institutions for these industries and if mining was stopped then all these industries would be destroyed. On the other hand, if the marble resources were exploited they would bring wealth on regular basis to the local area and the nation at large.²⁹

The Secretary also submitted that the rocky and barren land had its own advantages and disadvantages. On the one hand it could bring wealth by exploiting its mineral resources on the other hand it was incapable of providing livelihood (except by exploiting mineral resources) as it did not permit growth of vegetation, trees, plants and even shrubs. The exploitation of minerals on the other hand had resulted in improvement of soil condition.³⁰

The Secretary of Zila Khans Udyog Sangh also maintained that areas where mining was going on were ear marked for mining activity and did not fall within the Protected area. The said leases 'if revoked, merely because at the relevant time of the grant of leases the Forest Department of the Mining Department had not suitably demarcated the protected zones would result in grave and serious prejudice to the members of the answering respondents.' It also held that as far as the question of environment protection was concerned it could be carried on simultaneously with the promotion of the industry by adopting suitable measures.³¹ The revenue earned by running the mining industry could be ploughed back in improving the environment.

The Secretary further held that mining operations could be carried out only in areas where the minerals were available in plenty, they could not be shifted, therefore the Supreme Court should allow them to continue with the mining operations in the areas, and the State government was prepared to give an alternate site which can be afforested.

The Mining Engineer, Jaipur in the Department of Mines and Geology, Government of Rajasthan Alwar in response to the petition contended that all the mining leases given to various people had been granted after obtaining clearance from the forest department. He also maintained that because of the non-demarcation of the forest land and non- mutation in the revenue records there might have been some error in assessment of the land and held that proper directions may be issued to the Collector Alwar, Tehsildar and the forest department to carry out demarcation and mutation of the lands of the forest department, so as to know the clear position of land to the mines.

He pleaded the court that the 262 mines that had been found falling within the protected area be allowed to continue in the interest state's economy and the welfare of those employed in this operation. He also appealed to the court de-reserve minimum forest area for the purpose of mining in exchange for an equivalent area for afforestation. He asked for de-reservation of 5.02sq kms as protected area, and asked the Supreme Court to consider the options and give proper directions.³² This suggestion was supported by the Revenue Department of the Rajasthan government and it was sent to the Supreme Court through the Committee established by the Court, for its consideration.

The mine owners contended that they were extracting minerals by the latest Wire Saw technology or by manual work or small cranes without noise and pollution and that blasting was not done as claimed by the petitioner, as it may bring cracks in the marble. The mine owners also argued that the area in which their mines were situated was not a forest area, even in the surrounding areas there were no trees and greenery rather the

²⁸ Ibid, 0g.15

²⁹ Ibid, pgs. 15-18

³⁰ Ibid, pg. 19

³¹ Ibid, pg.22

³² Additional affidavit of the Mining Engineer on behalf of the Respondent state of Rajasthan to the Supreme Court, 3rd November 1992.

land was rocky, uncultivable and wasteland, therefore the question of deforestation and causing ecological imbalances did not arise.

They also maintained that the area where mining was happening is a waste land, Forest Conservation Act (1980) did not apply to the place where mining is going on. They also maintained that there could not be any afforestation. due to scientific and geological reasons, over the land on which the applicants were carrying on the mining activities and that the area was full of deposits of Dolomitic limestone, marble and since the area contained calcium and magnesium carbonates the growth of any trees or plants was not possible.

The mine operators their lobby and their bullying tactics.

The petitioner, Rajinder Singh in number of affidavits to the Supreme Court pointed out that mine owners were economically strong and powerful and the state mining department and revenue departments were granting fresh mining leases, despite the courts order of 11th October 199, which banned mining in the protected area.³³

Singh, complained that the powerful lobby of mine owners was trying to bully and harass him and his co activists. They wanted him to withdraw the writ petition. In an affidavit, filed on 27th November, 1991, in the Court, Singh held that he was invited by the committee members to accompany them to inspect the mining sites and the boundaries of the protected areas. He said that when he visited the place along with his co activists, a number of cars and jeeps were parked near the site. Seeing that the situation was tense he requested the chairman of the committee that the atmosphere was not congenial for any discussion or inspection of mines, but the Chairman of the Committee insisted that he remained present, he was asked by the collector to travel in one of his official cars. In the affidavit, Singh said that when their vehicle reached the mining site the mine owners who had gathered there in large numbers started using abusive language and shouting slogans against him and the TBS. At Dhaulian, another mob of the mine owners stopped the vehicle in which he was traveling, they physically beat him up, kicked him and tore his clothes and in the process the vehicle in which he was traveling was badly damaged. The Collector on seeing that the situation had got out of control ordered firing and the mob dispersed. Singh also said that mine owners threatened him that he would suffer the same fate as Shankarguna Nyogi a trade unionist, who had been murdered sometimes back.

In the light of this incident, the Court held that-

‘The Secretary of the petitioner organisation was manhandled and kicked and his clothes were tornIt is all easy for the contemner now to come forward with an apology. We are afraid the propensities of the conduct of the contemner, which reflects an increasing trend ought to be viewed seriously. Those who benefit from illegal transactions by exploitation and usurpation of public property find it hard to give up the easy sources of their opulence and are prepared to bend every energy and employ every means at their command to resist the law. They are not unduly concerned with the basic decency of civilized living. Contemner is a mine owner and has a vested interest in perpetuating the alleged illegal mining. The atmosphere of show force said to have been displayed by the mine owners at the spot at the time of the visit of the committee, if true is really disturbing. We will make this case one which will unmistakably tell those like-minded with the contemner that this kind of crime against the course of justice and processes of law does not pay and interference with the justice is playing with fire and that those who play with fire cannot complain of burnt fingers.’³⁴

The court took serious cognizance of the bullying and arm-twisting tactics adopted by the miners owners lobby and initiated criminal proceedings for criminal contempt against the contemner.

Other Committees and their recommendations

The Supreme Committee appointed 3 more committees to assess various aspects of the case- Expert, Appraisal, and Advisory Committee.

The Expert Committee.

The Advisory Committee, was headed by S.K Debroy, it was constituted to examine the proposal of the Rajasthan government, for diversion of 5.02 ha of protected forest area in Sariska Tiger Reserve in Alwar for mining of marble stone, from an ecological point of view.

The report prepared by the expert committee held that the area under mining was completely degraded and would need immediate help for restoration; mining was preventing the movement of wildlife in the area, movement of wildlife on the corridor which linked adjoining hills was restricted; pollution due to mining was causing danger to the life of wild life and human beings living nearby; land was not available for grazing, its pressure was being felt on other forested areas; people who were dependent upon natural resources were

³³ The Petitioner’s affidavit, 23rd January 1992.

³⁴ The Supreme Court order, 24th January, 1992

migrating to other places for survival. On the issue of de-reserving of land for the purpose of mining the committee held that 'it is not ecologically acceptable and conducive to the sustainable development.'

The Advisory Committee

The Advisory Committee was headed by A. K Mukerji, it was appointed to examine the proposal given by the state of Rajasthan for diversion of forest land in Sariska Tiger Reserve in Alwar. After examining all the reports, and replies of the state government, the Advisory Committee came to the conclusion that the mining leases were given in 'flagrant violation of the Forest Conservation Act 1980'. It further held that mining operations carried out in the past affected flora and fauna in the Project Tiger area. On the basis of detailed examination the committee came to the conclusion held that the proposal of the state government for diversion of forest land be rejected and an enquiry be conducted by Rajasthan government to fix responsibility for violation of Forest Conservation Act of 1980 and appropriate action be taken against the officers found guilty of violation.

The Appraisal Committee

This Committee was headed by Dr. Kamala Chowdhry it was established to examine the development projects in the Aravalli Ranges of Gurgaon district in Haryana and Alwar district in Rajasthan.³⁵ The sub-committee that was established made intensive site visits on the 17th and 18th August 1993, the members visited the mine sites and held discussions with mine owners, workers, local villagers and workers of Tarun Bharat Sangh. The Committee members observed that mining areas were severely degraded, with big pits and waste was being dumped much beyond the lease boundary. It was felt that blasting, operation of machinery, movement of trucks and labour were having catastrophic effect on the flora and fauna of the region.

The Committee members also considered the proposal of the state government for de-reservation of certain portions of protected areas where mining is going on and transfer of adjacent lands to the protected area, as well as afforestation program. After going through all the proposals, the committee came to the opinion that the Environment Impact Assessment (EIA) and Environment Management Plan (EMP) submitted by the mine owners did not deal adequately with management plans, including waste disposal, mine working, green belt development and rehabilitation of mined areas.³⁶

The Committee members came to the final conclusion that all mining activity in the protected forest area and within the Tiger Reserve should be stopped with immediate effect; and mine owners affected by closure of mines in the Sariska Tiger Reserve might be considered for grant of leases outside ecologically sensitive areas; and a corpus fund be created with contributions from the union and state government as well as the leases to provide relief in the interim period to the local mine workers rendered jobless; and Rajasthan government should review its policies, adopt better technology and management so that mining could be carried out without destroying the local resources.³⁷

Thus, all the committees banned mining activities on ecological grounds and also rejected the proposal of the state government concerning de-reservation of 502 ha. of land in Sariska Tiger Reserve, for mining operations.

The story goes on....

Mining in the Sariska region stopped after 3-4 months of Supreme Courts first interlocutory order, according to the TBS workers. Those who continued to operate mines were charged with contempt of court order.

In the period after the court judgment, TBS workers along with the villagers built Johads and carried afforestation activities in the region. They built around 8,000 traditional water conservation reservoirs in more than 1058 villages in 18 Zillas across Rajasthan. 'From a black area (where water level was not available till several hundred feet below the surface) became a white area.' These structures were built with the help of the village community. 'With the help of water conservation reservoirs, and ban on mining in certain areas, water became abundant. More water meant better crops, better conditions of soil and improvement in the lives of people.' 'Water abundance increased afforestation, and development of wildlife in the area. Five rivers started flowing perennially after decades of drought, a direct result of the increase in the water table through numerous

³⁵ The Advisory committee was established by the MOEF to examine the ecological problems in the Aravali region. The Aravalli Range is a mountain range in Northern-Western India, running approximately 670 km (430 mi) in a south-west direction, starting near Delhi, passing through southern Haryana, Rajasthan, and ending in Ahmedabad Gujarat.

³⁶ The Appraisal Committee meeting, 25th November, 1993, pg. 7

³⁷ Ibid, pg. 11

Johads. Prosperity returned to the region, agriculture became more productive and due to availability of fodder, cattle rearing started, resulting in production of milk.³⁸

According to Rajinder Singh, ban on mining led to the rejuvenation of Sariska, it was a golden period in the life of Sariska. He says that till 2001- 2002 about 28, tigers were found. Villagers living in the Sariska would often hear tiger's roars and very often they would complain about tiger eating away their goat, cow or buffalo and no case was ever filed against any villager for killing tiger.

However, according to Singh, suddenly after this golden period voices began to be heard about diminishing tigers in Sariska. Charges began to be levelled against local villagers, accusing them of killing tigers. Singh pointed out that truth was something else 'mining lobby is a very powerful lobby for years they have trying to obtain mining leases because Sariska is rich in marble, dolomite and other minerals. After 1991, with the court ban on mining in Sariska they have been finding ways and means to start mining. A Sanctuary without tiger can fulfill the requirements of the mining lobby, for if there is no tiger, then Sariska would be de-recognised as a national park and tiger reserve.' Singh points out that mining lobby has been adopting all kinds of tactics so that Sariska is de-recognised as a tiger reserve.

Recent published article in the TOI "Forest guard mowed down by 'mining mafia' in Sariska" on 27th August 2020,³⁹ proves the veracity of the statements expressed by Rajinder Singh. On the basis of this article proceedings were initiated by the National Green Tribunal.⁴⁰ The court directed the State PCB and District Magistrate, Alwar to take steps to stop the operation of mining leases, operating illegally. It also asked them to conduct a study about the carrying capacity of the area to sustain the mining activities on the 'Sustainable Development' principle.⁴¹ This way the story of Sariska goes on...

³⁸ Personal communication with TBS workers.

³⁹ <https://timesofindia.indiatimes.com/city/jaipur/forest-guard-mowed-down-by-mining-mafia-in-sariska/articleshow/77188260.cms>

⁴⁰ The National Green Tribunal was established on 18th October 2010 under the National Green Tribunal Act 2010 for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources.

⁴¹ <http://www.indiaenvironmentportal.org.in/content/470211/order-of-the-national-green-tribunal-regarding-illegal-mining-in-sariska-rajasthan-06042021/>