

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

ORDER

Ranthambore Nature Guide Association & Another Vs. State of Rajasthan & Others
(S.B. Civil Writ Petition No.4506/2011)

S. B. Civil Writ Petition under Article 226 of the
Constitution of India.

Date of Order:

September 28, 2012.

PRESENT

HON'BLE MR. JUSTICE ALOK SHARMA

Mr. Lokesh Sharma] for the petitioners.

Mr. H.V. Nandwana]

Ms. Shefali Sharma]

Dr. M.S. Kachhawa, Addl.GC for respondents.

Mr. G. Viswanatha Reddy, Chief Conservator of Forests.

BY THE COURT:

This petition has been filed seeking in effect a declaration that once a licence is granted to members of the petitioner Association to work as Nature Guides, no further refresher course be conducted or examination be held for the renewal of licence and consequently the order dated 5-3-2011 directing that the Nature Guides participate in the refresher course and appear in the test by a Committee constituted for the purpose be set aside.

Perused the writ petition and reply thereto. Heard and considered.

It is not in dispute that Section 28 (d) of the Wildlife (Protection) Act, 1972 (hereinafter 'the 1972 Act') provides for grant of permit to enter a sanctuary, inter alia for the purpose of tourism. Section 33 of the 1972 Act confers control of sanctuaries on the Chief Wildlife Warden. Ranthambore National Park and Ranthambore Tiger Project and Wildlife Sanctuary as notified, is a famous sanctuary for tigers and attracts hordes of tourists each year. The Chief Wildlife Warden has formulated a policy and circulated it under order dated 24-6-2011. Clause 4.1 of the policy provides that every tourist vehicle will have to be accompanied by a Nature Guide. Clause 4.2 provides that licence to tourist guide will be provided by the notified authority. Qualifications for the grant of licence to Nature Guides have been provided in clause 4.3 of the policy. Clause 4.4.2 of the policy provides that the period of a Nature Guide Licence renewed would be two years. It has been further provided that prior to renewal of licence, the department would conduct a three days refresher course, which would required to be completed successfully by the Nature Guide seeking renewal of licence.

The apprehension of the members of the petitioner Association is that the clause 4.4.2 with regard to the requirement of undergoing a three days refresher course and successful completion of the same is contrary to the rights of renewal inhering in each licenced Nature Guide. The said requirement, it is submitted, confers

arbitrary discretion with the authorities under the 1972 Act with the potential of unjustified and arbitrary rejection of the application for renewal of the licence with the consequence of nature guides with several years experience being denied the right to pursue their vocation entailing a state of unemployment for them and denial of a right to earn their livelihood.

Dr.M.S.Kachhawa, the learned counsel for respondents and Mr.G.Viswantha Reddy, Chief Conservator of Forests present in person submit that the apprehension of the members of the petitioner Association is absolutely unfounded. It is submitted that the holding of three days refresher course and the requirement of its successful completion prior to renewal of licence is merely to update the Nature Guides such that they may be capable of discharging their duties as Nature Guide with reasonable efficiency to the visiting tourists. It is submitted that clause 4.4.2 of the policy does not entail denial of the renewal of the licence. On the contrary under the extant policy relating to Nature Guides under order dated 26-4-2011 an applicant may ordinarily have a legitimate expectation of the renewal of licence. And the whole purpose of the three days refresher course is just to evaluate and assess the quality of the Nature Guides operating in the sanctuary. It is further submitted that lack of knowledge of the Nature Guide in matters relevant to their profession and their inability after the three days

refresher course where found would only be intimated to the Government, whereupon it would be up to the government to take further a decision on the question of the nature, qualifications and general abilities of the guides required to operate in the Ranthambore National Park and Tiger Reserve.

Having heard learned counsel for the parties, and having perused the material available on record of writ petition including the policy in question, I am of the view that the members of the petitioner Association has no legal right to resist the holding of refresher course by the respondent department and their assessment thereafter. Right to regulate entry into the sanctuaries under Section 38 (d) of the 1972 Act includes the right to impose conditions on the issue of licences to enter the sanctuaries. The licence granted to the members of the petitioner Association admittedly are to be renewed every two years and the respondent department under clause 4.4.2 has the right to update and evaluate the Nature Guides operating in the park to maintain the quality of guides accompanying the tourists in the park. However, the guides licenced and working have a legitimate expectation that their licences would be renewed until the government comes out with direction to the contrary to deal with cases of impossible situations of guides not keeping up with the skills essential for their profession as evaluated from time to time.

I would therefore dispose of the writ petition with the following directions:-

(i) The members of the petitioner Association would participate in Three Days Refresher Course to be conducted by the Chief Wildlife Warden or any other authority nominated by him. The course would be non-academic and only of a practical nature relevant to the knowledge requisite for the Nature Guides in Ranthambore National Park and Tiger Reserve;

(ii) The Three Days Refresher Course would be conducted after a notice of at least fifteen days to members of the petitioner Association and pasted on the notice board of the department.

(iii) Along with the notice for Three Days Refresher Course to Nature Guides, the content of the Refresher Course would be circulated;

(iv) As the members of the petitioner Association are working as Nature Guide for over ten years, the licences of the members of the petitioner Association will be renewed and where necessary with a caution on the need to update their knowledge and skills required at their

jobs;

(v) The State Government will be free to take necessary action and issue directions essential for maintaining the standards of guides working as nature guides and subsequent renewal shall abide by such directions.

With the above directions, the writ petition is disposed of.

Stay application needs no address and the same is dismissed.

(Alok Sharma),J.

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All corrections made in the order have been incorporated in the order being emailed.

Arun Kumar Sharma, Private Secretary.