

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**

**APPELLATE SIDE,**

**AT BOMBAY**

**Public interest LITIGATION NO.**

**OF 2010**

IN THE MATTER OF ARTICLE 21  
AND ARTICLE 226 OF THE  
CONSTITUTION OF INDIA, 1950  
AND  
ARTICLE 48-A AND ARTICLE 51-  
A OF THE CONSTITUTION OF  
INDIA AND CHAPTER IV OF THE  
WILDLIFE ACT

Mr. Nana Khamkar

R/o : 203 Anuda Chambers,

Shanivar Peth, Karad,

Dist: Satara.

.....Petitioner

V/S

1. Union of India

through the secretary,

Ministry of Environment and Forest,

Parayvaran Bhavan CGO Complex, Lodhi Road ,

New Delhi-110003.

2. The State of Maharashtra,

Through Secretary,

Revenue and Forest Department Mantralaya)

Mumbai-400032.

3. Govt. Of Maharashtra,

Through Secretary, Home Dept.

(Tourism) Mantralaya ,

Mumbai-400032.

4. Managing Director,

Maharashtra State Road Development Corporation ,

Express Towers, 9<sup>th</sup> floor Nariman Point,

Mumbai-400021

5. Principal Chief Conservator of Forests (Wildlife)

Van Bhavan, Nagpur

6. The Chief Engineer

Koyna Irrigation Project

Sinchan Bhavan, Mangalwar Peth

Pune

( The summons for Respondent nos. 2 to 6 to be served upon the Government Pleader appearing for the State of Maharashtra)

.....Respondents

The Hon`ble Chief Justice  
and Other Puisne Judges  
of the Bombay High Court,  
Appeallate Side,  
At Bombay.

It is most respectfully submitted:-

1. The petitioner is a member of Creative Nature Club and the secretary of Shrinivas Patil Charitable Trust, Karad working in Satara District of Maharashtra. He is an environmentalist and a social activist who has filed several PILs in the Bombay High Court regarding damage of rural roads due to heavy traffic of windmill equipments. All his public interest litigations were entertained by the Hon'ble High Court as they brought into light the serious concerns about the society. He is also an RTI Activist.
2. The Respondent no. 1 is the Central Government authority in charge of environment and forests.
3. The Respondent no. 2 is the State Government authority in charge of revenues and forests in the State of Maharashtra.
4. The Respondent no. 3 is the State Department in charge of Tourism in the state of Maharashtra.
5. The Respondent no. 4 is the planning authority in charge of the New Mahabaleshwar Hill Station Project.

6. The Respondent no. 5 is the Chief Engineer in charge of the Koyana Irrigation and Hydro-electric Project.
7. The Respondent no. 6 is the Principal Chief Conservator of Wildlife in the state of Maharashtra.
8. That the Koyana Wildlife Sanctuary is located in Satara Dist of Maharashtra in the Western Ghats. The wild life sanctuary lies on the west as well as east side of the Koyana Dam. The Sanctuary also includes the back water of Koyana Dam. The Koyana Dam reservoir is called the "Shivsagar Reservoir". The Koyana wild life Sanctuary is declared by notification of the State Govt. of Maharashtra Respondent No.3 dated 16<sup>th</sup> September 1985. Copy of notifications is annexed as **Annexure 'A'**. 25 villages from Patan Tehsil and 25 villages from Javli Tehsil combined to form the Koyana wildlife sanctuary. The list of villages in Koyana wildlife Sanctuary is annexed as **Annexure 'B'**.
9. That the State of Maharashtra gave and in principal sanctioned the New Mahabaleshwar Hill Station in its infrastructure development committee meeting on 26/09/2001. The GR was passed in 2004. The copy of GR is annexed as **Annexure 'C'**. The location of the New Mahabaleshwar Project is mentioned in the GR. The Maharashtra State Road Development Corporation Respondent No.4 was appointed as special purpose

vehicle which would facilitate planning of the project. The New Mahabaleshwar Hill Station is planned to cover an area of 37,263 hectares. The Govt. has decided to give 1500 Hectare of the Govt. land for the development of this project. The list of villages in new Mahabaleshwar hill station is annexed as **Annexure 'D'**. The MTDC in its reply to a RTI application on 30<sup>th</sup> April 2010 has stated that till date no Feasibility Report of New Mahabaleswar hill station has been prepared. Hence no plan of the same is available. A copy of reply is annexed as **Annexure 'E'**.

10. That the Government of India that is the Respondent No.1 has forwarded a proposal to UNESCO to declare the parts of western ghats as World Heritage sites. The Sahyadri sub cluster which comprises of the Kas plateau, Koyana wild life Sanctuary and Chandoli National Park is included in this proposal to be declared as world heritage sites. The copy of the same is sourced from the UNESCO world heritage website which is annexed as **Annexure 'E-1'**.

11. That the Govt. of Maharashtra Respondent No.2 declared 'Sahyadri Tiger Project' vide its notification dated 5<sup>th</sup> January 2010. The area of Sahyadri Tiger Project includes 423.53 Sq. Km. of the Koyana wild life sanctuary and 370.67sq.km of the Chandoli National

Park. Enclosed is copy of notification of Sahyadri tiger projects as **Annexure 'F'**. The tiger project is to have a core area and the surrounding area as a buffer zone. With the creation of the buffer area plan there is a likelihood of villages in New Mahabeleshwar Hill Station to be included in buffer zone of Sahyadri tiger project. As per the guidelines published by the National Tiger Conservation Authority the buffer zone is to have an eco development strategy devoid of any large-scale commercial activity. This contradiction arises as the intention of the New Mahabaleshwar Hill Station is to decongest the tourist pressure on the Mahabaleshwar hill station whereas the intention of creation of buffer zone vide Sahaydri tiger project is to have a cohabitation approach between humans and wildlife devoid of any hectic commercial activity. Moreover the Sahaydri tiger project is a time bound project. After declaration of the project the core area diagram and the buffer diagram is to be submitted for sanction to the National Tiger Conservation Authority in a time bound manner. The State has received the first installment from the Union Government against the Sahayadri tiger project

12. That the Govt. Of India vide its office order dated 11<sup>th</sup> March 2010 has constituted the western Ghats Ecology Expert Panel to assess the current status of the ecology

of the Western Ghats Region and to demarcate area within the region which should be ear marked for notification as ecologically sensitive zone under the Environment Protection Act 1986. The panel is to furnish its recommendation and report within 6 months of its constitution Copy of the office order is annexed as **Annexure `G`**.

13. That the chapter IV of Wild Life Act 1972 deals with Sanctuaries and National Park. Section 18 before its amendment by Act 44 of 1991 provided that the State Govt. may by notification declare any area to be a Sanctuary if it consider that such area is of adequate ecological, faunal, floral, Geomorphologies, natural or zoological significance for the purpose of protecting, propagating wildlife or its environment. After its amendment it provides that the State Govt. may by notification declare its intention to constitute any area other than an area comprised within any reserved forest or territorial water as the Sanctuary if it considers that such area is of adequate ecological, faunal, floral, geomorphologic, natural or zoological significance for the purpose of protecting, propagating or developing wildlife or its environment.

14. When a notification is issued under section 18 the collector as per section 19 is required to enquire into

and determine the existence, nature and extent of the rights of any person in or over the land comprise within the limits of the sanctuary. Section 20 says that after such notification is issued no rights can be acquired in and over the land comprise within the said limits except by succession, testamentary or otherwise.

15. Section 21 requires the collector to publish the notification in the regional language in every town and village in or in the neighborhood of the comprise there in specifying the situations and the limits of the sanctuary and calling upon persons claiming any right to prefer their claim before the collector specifying the nature and extent of such right and the amount and particulars of the compensation if any claim in respect thereof.

16. Section 22 says that the collector is expected to enquire into the claim preferred by any person and pass an order admitting or rejecting the same in whole or in part if such a claim is admitted in whole or in part. The collector may either exclude such land from the limits of the proposed sanctuary or proceed to acquire such rights unless the right holder agrees to surrender the rights of payment of agreed compensation worked out in accordance with the provision of the Land Acquisition Act 1894 or allow the continuous right of



any person in or over any land within the limits of the sanctuary. If he decides to proceed to acquire such land or right in or over such land, he shall proceed in accordance with the provision of the Land Acquisition Act.

17. Section 26 A states that a) when a notification has been issued under Section 18 and the period for preferring claims has elapsed, and all claims, if any, made in relation to any land in an area intended to be declared as a sanctuary, have been disposed of by the State Government; or (b) any area comprised within any reserve forest or any part of the territorial waters, which is considered by the State Government to be of adequate ecological, faunal, floral, geomorphologies, natural or zoological significance for the purpose of protecting, propagating or developing wild life or its environment, is to be included in a sanctuary, *the State Government shall issue a notification specifying the limits of the area which shall be comprised within the sanctuary and declare that the said area shall be a sanctuary on and from such date as may be specified in the notification.*

18. In regards to Koyana wild life sanctuary the State Government appointed SDO Satara and SDO Karad as inquiry officers. The SDO Satara was to act as an inquiry

officer for 25 villages in Jawali Tehsil which were included in the Koyana wild life sanctuary where as SDO Karad was to act as inquiry officer for 25 villages in Patan Tehsil which was included in Koyana wild life sanctuary. The copy of the orders is annexed as Annex (H) and (H1).

19. The SDO Satara conducted inquiry and submitted its report on 23<sup>rd</sup> July 1998. Copy of the report is annexed as **Annexure I**. SDO Karad prepared the reports three times and submitted it to the government on 25<sup>th</sup> July 1998, 22<sup>ND</sup> September 2000 and 7<sup>th</sup> September 2002. First, Second, Third reports of SDO-Karad are annexed as **Annexures (J, J1, J2)**. The government issued guidelines for inquiry officers vide letter WLP/1095/PRAKRA/253FA-1 dated 14<sup>th</sup> January 1998 which stated that the inquiry officer's report should be conclusive. In spite of these directives, the SDO Karad was ordered to prepare three reports. A commentary on these reports is incorporated in the management plan for Koyana Wildlife Sanctuary prepared by conservator of forest (wildlife) - Kolhapur under the headline legal status from page no. 43 to page no. 50 is annexed as **Annexure K**.

20. The SDO-Karad vide its three inquiry reports proposed to delete non-forest area from villages Ghatmata, Torne, Gokul, Humbrali, Kamargaon, Navja, Mirgaon, Vajegaon, Dastan, Chirambe, Ambeghar, Gojegaon, Aral, Kusawade. The Supreme Court vide its order dated 22/8/1997 had directed all the states to complete the enquiry of the sanctuaries and all other works within a period of one year. All other works by necessary implication includes declaration of notification u/s 26 (A) which finally demarcates the boundaries of the sanctuary. The non issuance of this final notification by the state of Maharashtra for a period of more than 25 years since the declaration of sanctuary, the proposal of 24% area deletion from the sanctuary from SDO in its report in the year 1998 along with declaration of New Mahabaleshwar Hill Station in the year 2004 has caused large scale encroachments and illegalities in the Koyna Wildlife Sanctuary namely,

- a. Large scale land transactions in the Koyna Wildlife Sanctuary other than by succession in contravention to S. 20 of the Wildlife Act.
- b. Illegal erection of wind mills in the Koyna Wildlife Sanctuary.
- c. Illegal construction of resorts in the Koyna Wildlife Sanctuary.
- d. Massive tree cutting in the Koyna Wildlife Sanctuary.

e. Construction of road from Pradhan Mantri Gram Sadak Yojna costing Rs. 175 lakhs without seeking prior approval of the Wildlife Authority.

21. The National Parks and Sanctuaries are constituted under Chapter 4 of The Wildlife Protection Act, 1972 and have same provisions of law. The effect of co-joint reading of section 20 and section 35 (3) is explained by Karnataka High Court in case of Magarhole BudaKatta v/s. State of Karnataka, A.r. 1997 Kant 288-SB. It is observed in Para 16 of the judgment that "A co-joint reading of Section 20 and Section 35(3) of the Act spells out a restriction or acquisition of any right in on or over the land comprised within the limits of the area of a national park except by succession, testamentary or intestate. Therefore, the petitioner submits that on and after the date of declaration by the State Government of its intention to declare an area as a national park under section 35(1), no one can acquire any right in, on or over the land comprised therein either by way of transfer within the meaning of Transfer of property Act 1882 or by easement or license as understood under the easement Act 1882.

22. The petitioner had requested the collector by sending him different written requests to cancel all such illegal land deals which have taken place in the Koyana WLS

sanctuary in violation of Section 20 of the wildlife Act, 1972. As regard to illegal erection of wind mills, resorts, tree cutting and construction of roads the petitioner has written to the Prime Minister of India, The Minister of Environment and Forests, The Principal Secretary (Forests Department) and the Principal Chief Conservator of Forests (Wildlife) for necessary action in the case. **Annexure** as **K1, K2, K3, K4**.

23. After the Declaration of New Mahabaleshwar Hill Station in the year 2004, MSRDC wrote a letter to Collector-Satara mentioning the list of villages included in the New Mahabaleshwar Hill Station. Surprisingly out of the 52 villages proposed in the New Mahabaleshwar Hill Station 14 villages are located in the Koyana WLS. The 14 villages are as follows.

**Jawali**: Vasota, Deur, Savrat, Vele, Jambrukh.

**Patan**: Aral, Ambeghar Turf Patan, Dastan, Devghar Turf Helwak, Gojegaon, Nahimbe, Vajegaon, Kusawde, Chirambe.

24. The inclusion of Koyana WLS villages in the list of New Mahabaleshwar Hill Station is illegal and void ab intio because the government has not issued the final notification under 26A for Koyana Wildlife Sanctuary by which it has got powers to add or delete any area from the Sanctuary. A further illegality is observed in pursuant

to Divisional Commissioner-Pune's letter to the Revenue and forest department dated 11/3/2004 which proposed to hand over 775.81 Hectares of governmental land in village Aral, Kusawade and Nahimbe to MSRDC which is planning authority of New Mahabaleshwar Hill Station. The three villages Aral, Kusawade and Nahimbe are located in Koyana Wildlife Sanctuary. Hence the proposal of the Divisional Commissioner Pune to handover the land to MSRDC is also ab initio void. A copy of the letter is annexed as **Annexure K5**. First the government has to delete the non-forest area by final notification and then after if it requires they may include the area in New Mahabaleshwar Hill station proposal by a separate notification. But in case of Koyana Wildlife Sanctuary, the government without issuing final notification has included fourteen villages from Koyana Wildlife Sanctuary in the list of villages to be developed under The New Mahabaleshwar Hill Station Project. The illegal transactions of private lands in Koyana WLS are initiated due to this declaration of list of villages under New Mahabaleshwar Hill Station Project.

25. The Sahyadri Tiger Project is to have a core and buffer area based on scientific approach. The Proposal for Sahyadri Tiger Project show a zonation map in which dark green color denotes core area where as light

green color denotes the surrounding buffer zone area. Zonation map is annexed as **Annexure L**. The list of villages in the core area and that in the buffer area can very well be tabulated from the zonation map. The list is attached as **Annexure M**.

26. As per section 38 (v) (4) of Wildlife (Protection) Amendment Act, 2006, a tiger reserve includes (i) core or critical tiger habitat area of National Parks and Sanctuaries, where it has been established on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of tiger conservation Without affecting the rights of the schedule tribes or such other forest dwellers, and notified as such by the state government in consultation with an expert committee constituted for the purpose. (ii) Buffer or peripheral area consisting of the area peripheral to critical tiger habitat or core area identified and established in accordance with the provision contained in explanation (i) above, where a lesser degree of habitat protection is required to ensure the integrity of the critical tiger habitat with adequate disposal for tiger species, and which aim at promoting co-existence between wild life and human activity with due recognition of the livelihood developmental social and cultural rights of the local people, where in the limits of such areas are determined on the basis of

scientific and objective criteria in consultation with the concerned gram-sabha and as expert committee constituted for the purpose. Hereto annexed is a copy of the Wildlife Amendment Act being annexure as **Annexure N.**

27.A contradiction arises as the intention of New Mahabaleshwar Hill Station is to depressurize the tourist pressure from the existing the Mahabaleshwar and Panchgani Hill Station where as the intention of Sahyadri Tiger Project is to protect the environmental and the ecological balance. As per the guidelines for buffer zone, the area of buffer zone is subjected to conservation oriented community programmers as a part of eco-development, taking care not to distort the village level dynamics in an artificial manner resulting in the entry of market economy, which may make the exercise counterproductive.

28.As per section 38 (O) of Wildlife (Protection) Amendment Act, 2006 powers and functions of tiger conservation authority, the tiger conservation authority shall have following powers and perform the following functions namely: (C) Lay normative standards for tourism activities and guidelines for project tiger from time to time for tiger conservation in the buffer and



core area of tiger reserves and ensure their due compliance.

29. On comparison of the list of villages of Sahyadri Tiger Project and that of New Mahabaleshwar Hill Station Project, it is observed that 35 villages of Sahyadri Tiger Project find a place in the list of 53 villages under New Mahabaleshwar Hill Station Project.

Now those almost 35 villages out of 53 villages under New Mahabaleshwar Hill Station development coming under the core/buffer area of Sahyadri Tiger Project, the very purpose of development of New Mahabaleshwar Hill Station fails. The common zone (i.e. 35 villages) of New Mahabaleshwar Hill Station and that of Sahyadri Tiger Project will come under the normative standards of the national tiger conservation authority which will control the tourism activities in the core/buffer area. Hence due to the declaration of Sahyadri Tiger Project a need has arisen to review the New Mahabaleshwar Hill Station Project in accordance to the NTCA guidelines.

30. A Study of Western Ghat forests in Maharashtra using remote sensing techniques are conducted by the scientists from Dehra Dun based Indian Institute of Remote Sensing (IIRS) and Center for Development of

Advanced Computing (Pune). The report is a comprehensive account of forest cover change since 1985 using satellite remote sensing technique in the Western Ghats of Maharashtra.

31. The results reveal loss of dense forest in Western Ghats of Maharashtra at annual rates of 0.72 % and loss of open forest at an annual rate of 0.49 %. The copy of the reports is Annexed as **Annexure O**. The studies have shown that forest cover in Satara district has declined

32. The photographs of massive tree cutting around the Sahyadri Tiger Project are also enclosed as **Annexure P**.

33. The reduction in forest cover area of Western Ghats is an issue of grave concern because these regions house rich biodiversity and a high concentration of globally endemic species. Moreover, the Koyana WLS in Satara District is very rich in bio diversity and due to this peculiarity of the region, the Government of India has proposed to UNESCO to declare this site as World Heritage Center.

34. Depletion of forest affects many ecological, social, and economic consequences including extinction of biotic communities leading to loss of biodiversity, soil erosion, global warming and loss in income to forest dwellers.

35. It is pertinent to note that this 24 percent reduction from Koyana Wild Life Sanctuary as proposed by SDO Karad would lead to inclusion of this area in the development of New Mahabaleshwar Hill Station as the proposed list of villages to be deleted find a place in the list of village to be developed under New Mahabaleshwar Hill Station.

36. Moreover this is a systematic attempt for carving out of the area from Koyana Wild Life Sanctuary citing peoples and villager's demand and including it in the New Mahabaleshwar Hill Station development. Secondly the SDO-Satara has proposed the continuation of the rights of the villager's located in the Koyana Wild Life Sanctuary where as SDO- Karad has proposed the deletion of the entire non-forest area from 14 villages of Patan Tehsil. This 24 percent reduction in Koyana Wild Life Sanctuary is protecting the ecology of the area. It is pertinent to note that Koyana Wild Life Sanctuary is protecting the Shiv Sagar reservoir from silting of soil, erosion etc. Thus maintaining the water holding capacity of the dam which otherwise gets reduced due to soil accumulation in the reservoir. The Koyana Wild Life Sanctuary thus further helps in more generation of electricity and water for irrigation and drinking purposes for villages down

streams. It is very important that the catchments' area of Koyana dam needs to be preserved and this preservation will be possible by keeping the boundaries of Koyana Wild Life Sanctuary intact, thus up holding the very intention of constitution of Koyana Wild life Sanctuary declared in 1985.

37. Various press reports regarding New Mahabaleshwar Hill Station project have raised questions in the minds of the general people. The cabinet minister in the Government of Maharashtra has gone on record saying that New Mahabaleshwar Hill Station project is a private project which is very shocking. This means without the permission of the government or any of its authority any one can declare and do whatever they want to do? All the press reports regarding New Mahabaleshwar Hill Station are enclosed herewith.

38. Further a road of length of 6.4 km constructed from the Pradhan Mantri Gram Sadak Yojana costing Rs. 175 Lacs is illegally constructed in the Koyana Wild Life Sanctuary. The illegality is discovered through RTI application made by the petitioner, copy of the same is enclosed as **Annexure Q**.

39. Any new construction of road in national parks and sanctuaries in India needs a prior approval of the India

Board of Wild Life. No such permission was taken prior to construction of this road. The wild life division also suppressed this fact for a period of 3 year for reasons unknown. The petitioner has requested to the Central Empowered Committee to constitute a fact finding committee to look in to the illegalities in the Koyana Wild Life Sanctuary. Copy of the letter to CEC is annexed as **Annexure R**.

40. Illegal resorts have come up in the Koyana wild life Sanctuary in village areas of Humbarli, Mirgaon, Kamargaon etc. The list of some government and private Resorts are -

- a. Maharashtra Tourism Development Corporation's Koyananagar Resort. (State Government of Maharashtra undertaking)
- b. Gursale Resorts.
- c. Srushti Resorts.
- d. Wind Castle Resorts.
- e. Visava Resorts.
- f. Nisarga Yatri Resorts.
- g. Vaaji Resorts.
- h. Gaganvihar Resorts.

41. An article on illegal resorts around Jim Corbett National Park is enclosed to understand the situation. In the coming years, same will be the situation in Sahyadri

Tiger Project if not restricted now. Copy of the article is annexed as **Annexure S**.

42. Massive tree cutting is taking place in Koyana Wild Life sanctuary. RTI reply of tree cutting in Koyana Wild Life Sanctuary at a place called Navja is enclosed being **Annexure T**. The Range Forest Officer has admitted the fact that illegal tree cutting has taken place in the Wild Life Sanctuary.

43. The Nagpur Bench of the Bombay High Court has put a ban on tree cutting around 10 KM zone of protected areas in WP 1277/2000 Shobhatai Phadanavis vs State of Maharashtra. Hereto annexed is a copy of the order being **Annexure U**.

44. In spite of the ban, the Conservator of Forest (Kolhapur) taking help of one order in Civil Application in the same case, issued a letter saying that ban has been lifted. Due to the issuance of this letter the Forest Officers have given permission for tree cutting in the area around Koyana Wild Life sanctuary. The petitioner has brought this discrepancy to the notice of Principal Chief Conservator of Forests, Nagpur and to the Division Bench - Nagpur of Bombay High Court through its Registrar.

45. That numerous windmills have been permitted to be erected in the Wildlife Sanctuary. The details are given as per **Annexure V** (as marked in green).

46. The Wildlife Conservation Strategy, 2002 as adopted by the Government of India has declared the following,

- a. No diversion of forest land for non forest purposes from critical and ecologically fragile wildlife habitat shall be allowed.
- b. Lands falling within 10 kilometers of the boundaries of national parks and sanctuaries should be notified as eco fragile zones u/s 3 (v) of the Environment (Protection) Act and Rule 5, Sub-rule 5 (viii) and (x) of the Environment (Protection) Rules.
- c. Removal of encroachments and illegal activities from within forest lands and protected areas.
- d. The settlement of rights in National Parks and Sanctuaries should not be used to exclude or reduce the areas that are crucial and integral part of the wildlife habitat.

The State Government has acted in contravention of the Wildlife Conservation strategy, 2002 while reserving land for the New Mahabaleshwar Hill Station Project. The Government

has not taken any steps to remove illegal encroachments and illegal tree cutting.

47. That many of the details related to the Koyana Wild Life Sanctuary were not made public before the publication of the reproduced map of the Sahyadri Tiger Project. But now as the external boundaries of the Koyana Wild Life Sanctuary have been reproduced by the concerned authorities many of the irregularities and the illegalities came to light. So the petitioner also came to know various facts recently and after verification of the same with many of the government documents as well as with the facts and circumstances, the petitioner could see serious violations of different legal norms and enactments for which the petitioner is filing this petition in the larger public interest of the society.

48. That the petitioner had issued notices to the Divisional Commissioner Pune and District Forest Officer Satara and tried to brought into their notice the illegalities happening around the Koyana Wild Life Sanctuary. These are the important government arms of implementation of all such projects. But they have not given any reply to the notices. Annexed hereto are the copies of the notices being **Annexure W**.



This petition raises the following amongst other GROUNDS:-

### **GROUNDS OF OBJECTION**

- A) Till date i.e. six years after government's intention of development New Mahabaleshwar Hill Station, the project is not initiated nor has any acquisition as proposed by the government been complete.
- B) Meanwhile, the union government Respondent No.1 on the recommendation of the State of Maharashtra has declared the Sahyadri Tiger Project comprising of Koyana Wild Life Sanctuary and Chandoli National Park. The Tiger Project is to have core area and the surrounding area as a buffer zone. Now while creation of the buffer area plan there is a likelihood of villages in New Mahabaleshwar Hill Station to be included in buffer zone of Sahyadri Tiger Project. As per the guidelines published by the National Tiger Conservation Authority the buffer zone is to have an eco-development strategy devoid of any large scale commercial activity. The contradiction arises as the intention of New Mahabaleshwar Hill Station is to de-pressurize the tourist pressure on the Mahabaleshwar Hill Station where as the intention of creation of buffer zone wide Sahyadri Tiger Project is to have a

cohabitation approach between humans and wildlife devoid of any hectic commercial activity.

C) Moreover, the Sahyadri Tiger Project is a time bound programme. After declaration of the project, the core area diagram and the buffer diagram is to be submitted for sanction to NTCA in a time bound manner. The state has received the first installment from the Union Government against Sahyadri Tiger Project.

D) Secondly, the Union Government has announced the constitution of the Western Ghats Ecology Expert Panel. The first task of the panel will be to assess the current status of the ecology of the Western Ghats region and to demarcate areas within the region which should be earmarked for notification as ecologically sensitive zones under the Environment (Protection) Act 1986. The committee is constituted on 4<sup>th</sup> March 2010. The panel is to submit its recommendation within six months from its date of its constitution.

E) Thirdly, the Prime Minister of India has written to the Chief Minister of Maharashtra to declare areas around Tiger Projects as eco-sensitive zones as required by law on priority basis.

F) In view of the contradictions arising out of the Sahyadri Tiger Project expert panel on Western Ghats against the interim of Government of

Maharashtra to develop New Mahabaleshwar Hill Station, a status quo be maintained on New Mahabaleshwar Hill Station till the core/buffer zone area is finalized and the suggestion of the expert panel on Western Ghats are fulfilled. There is likelihood that the committee may have certain suggestion for Koyana region.

G) It is pertinent to note that a proposal declaring the Koyana region as a world heritage center is pending with UNESCO for its declaration.

H) Due to the declaration of the intention of the Government of Maharashtra to develop New Mahabaleshwar Hill Station, the land costs in the region has gone up which is resulting in an illegal land deals in Koyana wild life sanctuary region which are banned by law has taken place. The applicant has moved an application to collector Satara to cancel all such illegal land deals. Moreover, the region is experiencing massive tree cutting to make land available for New Mahabaleshwar Hill Station.

I) MSRDC which is appointed as special purpose vehicle in reply to a RTI application has stated that it has nothing to do with New Mahabaleshwar Hill Station. This stand is in contradiction with the GR passed by the Government of Maharashtra.

- J) One of the ministers in the cabinet of Government of Maharashtra has on record said that New Mahabaleshwar Hill Station is a private project.
- K) In contravention of the Government of India's guidelines, the State Government has overlooked illegal tree cutting and encroachment on forest lands.

### **CONCLUDING PARAGRAPHS**

1. That the cause of action arises in the district Satara i.e. within the extra territorial jurisdiction of this Hon'ble Court and hence this Hon'ble Court has jurisdiction to try, entertain and decided this petition.
2. That the petitioner has not filed any other proceeding before this Hon'ble Court or the Hon'ble Supreme Court or before any other court in respect of this cause of action
3. That the petitioner has collected the necessary information and thereafter consulted his advocate and decided to file this public interest litigation and the cause of action is continuing and hence this petition is filed within period of limitation.
4. Proper court fee stamp is paid

## **PRAYER**

It is respectfully prayed:

- a. That this Hon'ble Court be pleased to issue writ mandamus or writ in the nature of mandamus or any other writ or direction or order thereby direct the respondents to maintain status quo be maintained on New Mahabaleshwar Hill Station till final notification of Sahyadri Tiger Project is issued by the Respondent No.2 and till final recommendation report of the expert panel of Western Ghats is submitted to the Union Government along with its suggestion, if any, for the region in and around Koyana wild life Sanctuary and till the UNESCO declares the Sahyadri sub cluster as World Heritage site.
- b. That the inclusion of fourteen villages from Koyana wild life sanctuary in the new Mahabaleshwar hill station project be declared as illegal, unlawful and ab initio void.
- c. That this Hon'ble Court be pleased to issue writ mandamus or writ in the nature of mandamus or any other writ or direction or order thereby review of the recommendation of 24 percent area reduction from Koyana wild life sanctuary by SDO-Karad in view of depleting forest cover of

the Western Ghats based on continuity of region for the Sahyadri Tiger Project with a wider migrating corridor and environmental and ecological aspects of the region.

- d. That this Hon'ble Court be pleased to issue writ mandamus or writ in the nature of mandamus or any other writ or direction or order thereby cancel all illegal land transfers that have taken place in the Koyana wild life sanctuary after 1985.
- e. That this Hon'ble Court be pleased to issue writ mandamus or writ in the nature of mandamus or any other writ or direction or order thereby direct the conservator of forest in (Wild Life Division) Kolhapur not to consider the deletion of 24 percent area from Koyana wild life sanctuary while preparing core/buffer area of Sahyadri Tiger Project but to earmark the core/buffer area on scientific basis as mentioned in the guidelines for Tiger Projects.
- f. That this Hon'ble Court be pleased to issue writ mandamus or writ in the nature of mandamus or any other writ or direction or order thereby directed the Respondents to take preventive measures against the depleting forest cover in the Western Ghats and adhere to Article 48A and Article 51-A of the Constitution of India in

view of the depleting forest in the Western Ghats as studied from the remote sensing data by the expert the Respondents be

- g. That during the pendency of the petition the respondents be directed to maintain status quo on rationalization of boundaries of the Koyana Wildlife Sanctuaries or any deletions as proposed by the Sub Divisional Officer.
- h. During the pendency of this petition this Hon'ble Court be direct the respondents to take steps to remove illegal encroachments and stop any illegal tree cutting in forest land.
- i. Any other just and equitable orders may be granted in favour of the petitioner from time to time in the interest of justice.

Mumbai

Dated

Advocates for the Petitioner

Drafted and filed by

Asim Sarode and Associates

## **AFFIDAVIT**

I, Nana Khamkar, aged 40, Occupation Social Activist, R/o 203, Anuda Chambers, Shanivar Peth, Karad, Dist. Satara do take oath and state on solemn affirmation that I have gone through the memo of the above petition. I say that the contents mentioned in this petition are the statements of facts and the same are true to the best of my knowledge while the contents of the remaining paragraphs are true to the best of my belief.

Solemnly affirmed at Pune on this 4<sup>th</sup> day of July of the year 2010.

I know the Affiant,

Advocates

Affiant