

## CENTRAL EMPOWERED COMMITTEE

REPORT OF THE CEC IN APPLICATION NO. 986-B FILED BEFORE IT BY SHETH ANANDJI KALYANJI TRUST SEEKING THE DELETION OF THE ENTIRE AREA OF SHRI MUCHHALA MAHAVIR COMPLEX SITUATED IN VILLAGE GHANERAV, TEHSIL DESURI, DISTRICT PALI, RAJASTAN FROM THE RESERVED FOREST/SANCTUARY

The Application No. 986-B has been filed before the CEC by the Sheth Anandji Kalyanji Trust, a religious charitable trust seeking the deletion of the entire area of Shri Muchhala Mahavir Temple Complex situated in village Ghanerav, Tehsil Desuri, District Pali, Rajasthan from the Reserved Forest as well as from Kumbalgarh Sanctuary. In the Application the following prayers have been made:

- "i) Direct the Ministry of Environment & Forest, Government of India to keep the said land at Ghanerav village, Ta. Desuri, District Pali, State Rajasthan out of purview of the Forest (Conservation) Act, 1980.
- ii) Direct the Ministry of Environment and Forests, Government of Rajasthan to delete the said land at Ghanerav village, Ta. Desuri, District Pali, State of Rajasthan from the Reserved Forest and Sanctuary and the boundary of the Forest be modified and corrected on the ground.

And

- iii) Pass such other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case".

2. This Report is being filed by the CEC after examining the matter during the hearings held before the CEC on 3.11.2008, 26.11.2008 and 12.12.2008 and the site visit on 3.1.2009 by Mr. P.V. Jayakrishnan, Chairman, CEC, Mr. Mahendra Vyas, Member, CEC and Mr. S.K. Chadha, Member Secretary, CEC and the meeting on 23.2.2009.

### **BACKGROUND**

3. Shri Muchhala Mahavir Jain Temples Complex is said to date back to the 10<sup>th</sup> Century A.D. and is an important place of pilgrimage for the Jains and attracts Indian as well as foreign tourists. The Temple Complex mainly comprises of temples, dharamsalas and bhojanshala.

4. According to the State Government the whole of the area and the Khasra numbers shown by the Applicant as covered by the Shri Muchhala Mahavir Temples Complex are included in the Reserved Forest Area vide notification No. 173 dated 4<sup>th</sup> March, 1950. This land has been recorded as forest land (Gar Mumkin Van) in the corresponding revenue records. This area has never been recorded in the name of Shri Muchhala Mahavir Temple in the revenue record. During the course of Second Revenue Survey (Year 1983-2003 AD)

the area under question was recorded in the name of the Forest Department in the revenue records as per the notification of 4.3.1950. The land under question has thus never been allotted to the Applicant Trust. In fact as per the available records the land in question is forest land.

5. According to the State Government only 3.28 ha out of the 7.14 ha is covered by the Shree Muchhala Mahavir Temple Complex and is being used by the pilgrims. The rest of the area (3.86 ha.) consists of rich forest and is under the possession of the Forest Department of Rajasthan. Besides this, the whole of the area claimed by the Applicant is an integral part of the "Kumbalgarh Wild Life Sanctuary" notified on 13.7.1971 under the provisions of Section 5 of the Rajasthan Wildlife Animals and Birds (Protection) Act, 1951. This notification describes the Reserved Forest areas with their boundaries and notified as Wildlife Sanctuary. Collector, Pali issued a proclamation vide letter dated 16.10.1997 for inviting objections from the local inhabitants regarding declaration/boundaries of the Kumbalgarh Sanctuary. However the authorities of Shri Muchhala Mahavir Temple neither raised any objection nor claimed their possession. Accordingly, the rights of the villagers were decided. No order, whatsoever, was passed in favour of the Temple authorities.

6. According to the State Government there are some remains of an old wall in some parts of the temple and it is not correct that the Temple Complex is surrounded by an old fort wall. Further only the constructed area i.e. 3.28 ha of the temple is in the possession of the

temple authorities while the rest of the area (3.86 ha) is in the possession of the Forest Department. This position has also been accepted by the Applicant.

7. The State Government has not accepted the contention of the Applicant regarding private ownership of the Temple Complex as no Government record shows that the land occupied by Muchhala Mahavir Temple Complex is privately owned. The Applicant has claimed that the then Jagirdar of Ghanerav has issued a Patta (Permanent Sanad) dated 23.6.1953 and which has recognized possession of Muchhala Mahavir Temple Complex by Jains. However according to the State Government as per the records the ex-Jagirdar of Ghanerav is not the bonafide owner of the land under question on 23.6.1953 and therefore has no right to issue a patta of this land in favour of any other person. On the contrary as per all available records the land in question is forest land. The Forest Department therefore has rightful ownership on this land.

8. The Applicant has contended that the Temple Complex of Muchhala Mahavir is part of old Khasra No. 806 of village Ghanerav, Tehsil Desuri, District Pali, Rajasthan. The State Government has accepted this to the extent that the Temple Complex exists in part of old Khasra No. 806 but the land of this whole Khasra number is included in the Reserved Forest and Wild Life Sanctuary in the notification issued and accordingly it is recorded as forest land in Revenue records.

9. The Collector, Pali in his order dated 21.8.1998 has permitted the use of the Pucca Road connecting the Temple Complex from Village Ghanerav by the public but the Applicant has wrongly concluded from this that the Temple Complex is outside the boundaries of the Wild Life Sanctuary and Forest Area.

#### **OBSERVATIONS AND RECOMMENDATIONS**

10. Shri Muchhal Mahavir Temple Complex is a very old Jain temple which attracts a large number of Jains as also Indian and foreign tourists. The Temple Complex which occupies 3.28 hectares of land and is being used by the Applicant Trust as a Jain Temple is located within the Reserved Forest/Sanctuary as established by the notification of 4.3.1950, 13.7.1971 and Collector Pali's order dated 21.8.1998 and is part of the Kurnbalgarh Sanctuary. The Forest (Conservation) Act, 1980 as well as the Wild Life (Protection) Act, 1972 are therefore applicable to the area. On certain festive occasions the area outside the Temple Complex of 3.28 hectares is put to use by the Applicant Trust for the pilgrims. This has not been disputed by the Forest Department.

11. The Applicant Trust has not made any claims before the concerned authorities. Similarly in the settlement proceedings held in the past the Trust has not made any claims that the Temple Complex

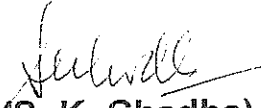
is a private property; and that it belongs to the Applicant Trust. The Forest Department therefore has rightful ownership of this land.

12. Since this Temple complex has been in existence long before the notification of 1971 and 1998, it is not understood why the State Government did not deem it necessary to keep this Temple complex out of the Sanctuary area/Reserved Forest.

13. Considering that the Temple Complex has been in existence for a very long period and that too before the forest laws came into existence, that it cannot be translocated and that the Complex is occupied, managed and maintained by the Trust much before it was declared as Reserved Forest or Sanctuary it will be in the fitness of things if the Applicant Trust is allowed to continue to occupy, manage and maintain the entire Temple Complex measuring 3.28 hectares in the Reserved Forest/Sanctuary within which the Applicant Trust may have "permissive possession" without excluding it from the boundary of the Reserved Forest/Kumbalgarh Sanctuary. The repair and maintenance of the complex may be done by the Temple authorities but any new construction should be carried out by them only after obtaining the approval under the Forest (Conservation) Act, 1980 and in accordance with the provisions of the Wildlife (Protection) Act, 1972. On special occasions the pilgrims may temporarily be allowed to use the area outside the 3.28 ha Temple complex as in the past but without erecting any building/structure, The Rajasthan Forest

Department should prescribe suitable guidelines for this purpose. The Rajasthan Forest Department is agreeable to the above proposed arrangements.

This Hon'ble Court may please consider the above Report and may please pass appropriate order in the matter.

  
(S. K. Chadha)  
Member Secretary

Dated: 12<sup>th</sup> August, 2009