

Hon'ble Mr. Justice G.S. Singhvi and
Hon'ble Mr. Justice Sudhansu Jyoti Mukhopadhaya
C/o The Registrar
Supreme Court of India
Tilak Marg
New Delhi
110 001
India

January 3, 2013

Dear Justice G.S. Singhvi and Justice Sudhansu Jyoti Mukhopadhaya,

Regarding: Special Leave Petition (Civil) No 12125 of 2010 (LG, Andaman and Nicobar Islands & ORS (Petitioners) v M/s Barefoot Inns and Leisure PVT Ltd (Respondent).

Survival International would like to draw to the attention of this Honourable Court flagrant breaches of the order that it made on 2 July 2012 (the July Order). We understand that we are not party to proceedings and are unable to make a formal application. We also understand, however, that under Article 142 of the Constitution and the Rules to Regulate Proceedings for Contempt of the Supreme Court the Court may act of its own motion if a party appears to have deliberately failed to comply with one of its orders. For the reasons set out below, we respectfully invite the Court of its own motion to investigate whether the Petitioner has ignored the July Order and thereby committed a serious and continuing contempt of court.

Survival International has worked to protect the right of the Jarawa people of the Andaman Islands and for a number of years has been particularly concerned at the impact on the tribe of the tourist buses that drive through the Jarawa Tribal Reserve, along the Andaman Trunk Road. Ostensibly, the tourists are on their way to visit a limestone cave and a so-called "mud volcano" on Baratang Island. Their real purpose, however, is often to stare

at, and if possible to make contact with, any Jarawa they spot near the Road.

In an attempt to protect the Jarawa against the adverse effects of tourism and other commercial operations, on 30 October 2007 the Petitioner issued a Notification under the Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Regulations 1956. The Notification prohibited any form of commercial or tourist activity within a radius of five kilometres from the Reserve. Both the cave and the mud volcano lie within this buffer zone.

The order of 2 July 2012

A series of legal challenges culminated in the July Order, which was made by Judges G. S. Singhvi and Sudhansu Jyoti Mukhopadhaya. The Order directed that:

“...henceforth no commercial and tourism related activities shall be carried out by the administration or any private individual in violation of the prohibition contained in notification dated 30.10.2007 and order dated 6.11.2007. It shall be the duty of the Principal Secretary (Tribal Welfare) and other officers of the Administration of Andaman and Nicobar to ensure total compliance of the prohibition contained in notification dated 30.10.2007 and this order. Any breach of this order will entail punishment under the Contempt of Courts Act, 1971.”

The Court expressly refused the Petitioner’s request, contained in a letter from the Principal Secretary dated 3 May 2012, that “Visits of tourists during day time to Lime stone cave and Mud Volcanoes existing in Island in the Buffer Zone may be allowed to be continued”.

On the contrary, by the terms of the July Order the Court made it abundantly clear that visits were *not* to continue, and that if they did the Principal Secretary and other officers responsible for the breach could expect to be committed for contempt.

Exactly one week after the July Order had been made the Petitioner issued an application for so-called “directions”. In fact, the application was not for directions at all, but was to suspend the operation of the Order for eight weeks so as to enable the Petitioner to re-notify the buffer zone under

amended regulations. The purpose of the re-notification, which has still not been issued, will be to enable certain tourist and commercial activities to take place within the buffer zone after all.

So far as we have been able to establish, no “directions” have been made as a result of this application, and the July Order has not been suspended or otherwise amended in any way.

Breaches of the Order

Notwithstanding the unambiguous terms of the July Order, and its failure to obtain any variation of its terms, the Petitioner has continued to allow commercial and tourism related activities to be carried on by private individuals in clear violation not only of the 2007 notification but of the expressed will of the Court. The Petitioner has proceeded as if the Order had never been made.

In Annexure one we exhibit an article published in a British newspaper called *The Observer* on 2 September 2012. This was written by the same journalist, Gethin Chamberlain, who had exposed the scandal of “human safaris” in the Jarawa Reserve in January 2012. The article describes Mr Chamberlain’s visit to the limestone cave in Baratang on 29 August 2012, almost two months after the Order was made. Mr Chamberlain writes that the Order

“...should have been the end of the human safaris, the term coined to describe the eight daily convoys of vehicles that run up and down the road through the heart of the pristine jungle.

Last week, however, when the *Observer* returned to the Andamans, it was business as usual for the human safari industry. Not only does it continue, but it does so with the blessing of the Andaman and Nicobar administration, which runs its own daily tourist bus through the reserve. It costs 1,000 rupees (£11.36) for a ticket on the air-conditioned bus (850 rupees without air conditioning), ostensibly to visit a limestone cave and mud “volcano” on Baratang island, which lies 100km north of the capital, Port Blair – and inside the buffer zone fixed by the Supreme Court.

Hundreds of private tour operators offer their own versions of the tour. But as the reactions of the bus passengers testify, the real attraction of the trip is

that it runs through the Jarawa reserve on South Andaman island and offers the opportunity to see the inhabitants in their natural habitat.”

(NB. The Andaman Administration stopped running its own tourist buses to Baratang on October 1, 2012. However, tours operated by private companies continue daily).

On 22 September 2012, NDTV broadcasts a documentary programme entitled ‘At the crossroads: The Andaman Jarawa’. This had been filmed during the week beginning 5 September 2012 and showed tourists on their way to the limestone cave. The film left no room for doubt that tourist operations continue in the buffer zone, and contained interviews in which tourists freely admitted that their real interest was not the cave but the chance to catch sight of Jarawa en route. A DVD of the film can be supplied on request or can be viewed on the NDTV website:

<http://www.ndtv.com/video/player/ndtv-special-ndtv-24x7/at-the-crossroads-the-andaman-jarawa/247852>

On 27 September 2012, World Tourism Day, a programme promoting banned tourism activities in Baratang was broadcast by DDK Port Blair.

We also include, in Annexure two, photographs taken in October, which from our previous experience of the area we believe to be entirely typical. They show tourists at the jetty in Middle Strait en route to Baratang, boats taking tourists to the limestone caves and white tourist vehicles waiting at Middle Strait to take day-trippers back through the Jarawa Reserve.

What should be done?

We understand that these proceedings are next listed for hearing on 24 January 2013, and are most anxious that steps are taken ensure that the Jarawa are at last given the protection that they so desperately deserve. We believe that this will only happen if the Petitioner is compelled to obey the Order – and to do so immediately, without further delays.

Although this is entirely a matter for the Court, we also believe that the Petitioner’s conduct is an affront to the rule of law and to the dignity of this Honourable Court. It apparently considers itself free to ignore court orders if and for so long as it finds it convenient to do so.

We propose to send a copy of this letter to the Petitioner, which will no doubt communicate directly with the Court if it wishes to challenge the evidence to which we have referred.

Yours sincerely,

A handwritten signature in black ink that reads "Stephen Corry". The signature is written in a cursive style with a large, prominent initial "S".

Stephen Corry
Director
Survival International