



The Indian Journal for Research in Law and Management

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THE GREAT INDIAN BUSTARD CASE: BALANCING BIODIVERSITY AND ENERGY TRANSITION

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INTRODUCTION

The Supreme Court, in the case of *MK Ranjitsinh v Union of India*¹, had pronounced a judgment of enduring significance, in matters of contemporary relevance in Indian environmental jurisprudence. It introduces a distinct constitutional right, of the right to be free from the adverse side effects of climate change. This fall within Article 14² and 21³, of right to equality and protection of life and personal liberty. The court has also notably walked back on a conservation order it had issued 3 years earlier, to substitute it with expert deliberation, to decide how to balance conservation and renewable energy development.

FACTS OF THE MATTER

The Great Indian Bustard, a critically endangered grassland bird, which is predominantly found in Rajasthan, faced extinction due to various factors such as habitat loss, predation, low birth rates, and collisions with power transmission lines which ran overhead. The Supreme Court issued an order, on the 19th of April, 2021, in regards to the same. The court directed that in all the Great Indian Bustard habitats located in Rajasthan and Gujarat, the low voltage power lines must be laid underground, with bird diverters in the interim period. This order also extended to some high voltage lines.

¹ M.K. Ranjitsinh v. Union of India, 2024 SCC OnLine SC 805.

² INDIA CONST. art. 14.

³ INDIA CONST. art. 21.



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This conservation order, however, interfered with India's renewable energy ambitions, as the areas where the restrictions were imposed were also substantial areas of solar and wind energy resource zones. Due to this, modifications were sought by the Ministries of Environment, Power, and New and Renewable Energy, due to the unfeasibility of undergrounding the wires on the scale of voltages and distances involved, and also expensive. The shortfall which would arise upon implementation would force reliance on coal fired power, which would generate an estimate of 623 billion kg of additional carbon dioxide emissions⁴

REASONING

The three Judge Bench, consisting of Chief Justice D.Y Chandrachud, Justice Pardiwala and Mishra, analyzed and gave the judgement on the basis of two pillars; the doctrinal analysis on the basis of climate change and human rights, and a more logical assessment regarding the underground transmission lines feasibility.

The basis of the doctrinal analysis is based primarily on India's International commitments, the UNFCCC⁵, the Paris Agreement⁶, India's Nationally Determined Contributions⁷, along with initiatives such as One Sun One World One Grid⁸, and the International Solar Alliance⁹. Analyzing the Jurisprudential precedents, from the case of *MC Mehta v Kamal Nath*¹⁰, to *Virendra Gair v State of Haryana*, there were discussions regard Articles 48A¹¹ and 51A(g)¹², to

⁴ M.K. Ranjitsinh v. Union of India, 2024 SCC OnLine SC 805.

⁵ United Nations Framework Convention on Climate Change, May 9, 1992, S. Treaty Doc. No. 102-38, 1771 U.N.T.S. 107.

⁶ Paris Agreement to the United Nations Framework Convention on Climate Change, Dec. 12, 2015, T.I.A.S. No. 16-1104, 3156 U.N.T.S. 79.

⁷ India, *India's Updated First Nationally Determined Contribution Under the Paris Agreement: Working Towards Climate Justice*, U.N. FRAMEWORK CONVENTION ON CLIMATE CHANGE (Aug. 26, 2022).

⁸ Int'l Solar Alliance, *One Sun One World One Grid (OSOWOG)*, ISA (last visited July 24, 2026).

⁹ Framework Agreement on the Establishment of the International Solar Alliance, Nov. 15, 2016, U.N. Treaty Reg. No. 56484 (entered into force Dec. 6, 2017).

¹⁰ M.C. Mehta v. Kamal Nath, (2002) 3 SCC 653.

¹¹ INDIA CONST. art. 48A.

¹² INDIA CONST. art. 51A, cl. (g).



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Article 21¹³, regarding the right to a clean environment. It was considered that this right and the indispensable nature of climate mitigation, were essentially “two sides of the same coin”, and the right was drawn from the right to life and equality.

The Court has, however, also reasoned that the burdens of climate change fall disproportionately on indigenous populations, on Island and coastal communities, and on the poor, due to which their rights to life and equality, the States response to their burdens must also recognize the unequal impact. The reliance for this reasoning arises from comparisons to international cases. The Teitiota case of New Zealand¹⁴, the case of Sachchi v Argentina¹⁵, and the Dutch Supreme Courts Urgenda decision¹⁶. These cases have no weight in terms of precedence in India, but the Courts have relied on them to understand the Global perspective and trends.

On the aspect of feasibility, however, the Courts did concede the validity of the Governments submissions, based on expert opinions, the technical objections to undergrounding, due to factors such as the unsuitability of flag markers in unstable desert sand, current leakage at cable joints, the expensive costs for the process, and issues in legally acquiring land for underground cabling. The “blanket direction” previously issued by the Court was in regards to around 99,000 sq.km of land, which is larger than most Indian states, and the order was not evidence based or technically implementable.

JUDGEMENT

The Apex Court, instead of setting aside the 2021 order, had chosen to opt for an Institutional solution, after recalling the blanket underground injunction. The Court constituted an Expert,

¹³ INDIA CONST. art. 21.

¹⁴ *Teitiota v. New Zealand*, CCPR/C/127/D/2728/2016, U.N. Human Rights Comm. (Jan. 7, 2020).

¹⁵ *Sacchi v. Argentina*, Communication No. 104/2019, U.N. Comm. on the Rights of the Child, CRC/C/88/D/104/2019 (Sept. 22, 2021).

¹⁶ *State of the Netherlands v. Urgenda Found.*, ECLI:NL:HR:2019:2006 (Neth. H.R. Dec. 20, 2019).



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Multidisciplinary Committee, comprising of forest officials, wildlife scientists, and power sector scientists. The purpose was to analyze each area and determine which areas should have underground cables and which areas should have overhead power lines, to provide standards for bird diverters, and also to give recommendations of alternate methods to protect the Great Indian Bustard, such as grassland restoration and breeding enclosures which are predator proof.

The highly technical nature of the issue was recognized by the Courts, as it was one involving various sectors of significance, renewable, clean energy sources, and wildlife conservation. This is a notable instance of the Court, where it has chosen to favor delegated, evidence-based policymaking over technicality-based decision making. The court did however retain control over the matter and direct the Committee to report back on the 31st of July, 2024.

The Expert Committee recommended a Revised Priority Area of 14,013 sq.km for Rajasthan, which is 850 sq.km in addition to the previous number, and 740 sq.km for Gujarat, once again expanding from the prior number of 500 sq.km. Conservation actions such as grassland habitat restoration, identification of critical sites, predator management, community engagement, and provisioning of food and water was recommended, alongside the continuation of Project GIB with Campa funding. In regards to power infrastructure, the blanket underground mandate was rejected, due to the practical and economic unfeasibility. Dedicated powerline corridors, of up to 5kms, were recommended, via which new transmissions must run with low voltage below 11kV, and the usage of bunched and insulated wires, and undergrounding being suggested primarily for lines with fixed timelines around 2028, and voltage of around 33kV and 66kV. A ban on new overhead powerlines has also been suggested, unless through corridors, and a ban on any new turbine or solar projects above 2MV within priority areas. The non priority, potential areas were however suggested to be largely unrestricted in terms of solar and wind energy generation capacity.



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The Committee had also notably not recommended Bird Flight Diverters as mandatory mitigation measures, due to unproven efficacy and high costs of maintenance, instead asking for further WII Studies¹⁷ for the effectiveness of the same, prior to deployment.

The Apex Court had agreed with most of the suggestions; however, it did reject requests from most renewable energy companies to exclude conservation areas which overlapped with renewable energy projects. Demands from the petitioner for bird diverters and protected flight corridors outside the identified priority zones were also turned down. Instead, a balanced approach was preferred, and directions were issued to implement the measures within the span of 2 years, under the supervision of the Inspector General of the Wildlife Division in the Ministry of Environment, Forest and Climate Change.

CRITICAL ANALYSIS

The Courts' observational introduction of the right against adverse climate change is pertinent in nature, given the existing climate changes and their harms, such as changing monsoon patterns, rising sea levels, air pollution levels increasing in a harmful manner in cities like Mumbai and Delhi, etc. The issue is intergenerational, and not one that is localized. This right, and its linkage to the Right to Equality and Life, introduces the argument of distributive equality, rather than a one-dimensional claim to clean environment. It does, however, not elaborate regarding the nature of the applicability of the right, and it can be viewed as an interpretational baseline.

The Supreme Court has played a significant part in environmental jurisprudence, considering the lack of climate change legislation in South Asia. The approach taken by the court has also been nuanced, balancing both development and technology, and conservation of the environment. It has also paved the way for accountability regarding meeting climate targets.



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However, the narrative does prove to be complicated, given how the court has invoked this new right, it has also had to use it to curtail a conservative protective order, indicating how the difficulties in maintaining a balance. The evidentiary rigor of interim environmental orders must also be raised, due to how the 2021 orders were issued broadly, retrenched accordingly only when the affected ministry and industry raise concerns on record.

CONCLUSION

MK Ranjitsinh v Union of India is a Milestone Judgement in Indian Environmental constitutionalism, not necessarily for the outcome delivered in regards to the Great Indian Bustard, but for the nuanced doctrinal architecture it constructed. By introducing and anchoring the Right against the adverse effects of Climate Change, to Article 14 and 21, the Court moved Indian Climate Jurisprudence away from merely ecological framing to one based on the principle of distributive justice, and the uneven burdens. However, the Judgements restraint, and the Courts operationalization through expert driven, evidence based institutional mechanisms, retrenching its prior order from 2021. This dual character of caution in terms of enforcement and expansive in the articulation of rights indicated the position of Indian climate litigation. The introduction of the right, has also opened doors to be interpreted and shaped by future legislation.