

IN THE HIGH COURT OF ORISSA: CUTTACK

W. P. (C) PIL No. 22421 of 2015

In the matter of:

Dwija Dalpati

.....Petitioner

-Versus-

State of Odisha and others

..... Opp. parties

BRIEF SUBMISSIONS ON BEHALF OF THE PETITIONER

In the aforesaid matter, the following directions may kindly be issued as far as the State of Orissa is concerned keeping in mind the principles laid down in the case of **Suo Motu v. State of Karnataka & others, [W.P. No. 14029/2008 (GM-RES)]**:

A. The State of Odisha shall take necessary steps to reduce pressure on the elephant habitat by people who utilize the elephant habitat illegally and relocate or re-habilitate them in accordance with law;

B. With regard to human-elephant conflicts the State shall review the matter at various stages and from various angles periodically so as to capture elephants in the said region, bearing in mind the balance of convenience from the point of view of elephants as well as from the point of view of human populace. Such steps be immediately taken in the Districts of Balangir, Sonapur, Angul, Dhenkanal and the Chandaka Reserve Forests;

C. The State should immediately constitute a Task Force / Committee comprising of the Principal Chief Conservator of Forests, Chief Wild Life Warden and the Member Secretary, Orissa State Legal Services Authority. The said Task Force / Committee shall constantly

monitor the situation regarding human-elephant conflicts, formulate short-term and long-term measures and enforce implementation. The Task Force/Committee should strive for conservation of elephants and prevention of unnatural death of elephants as well as destruction of crops. The aforesaid body shall hold review meetings as and when required and at least once in three months.

D. The Member Secretary, Orissa State Legal Services Authority is at liberty to refer the matter to the concerned bench for any further directions, if necessary.

E. The State or the Union of India, as the case may be, may renotify the areas of elephant habitat and Corridors having regard to the areas notified under the Project Elephant areas within a stipulated period.

F. The State may be directed to review all clearances given to various projects in the elephant habitat and corridor in a time bound manner.

G. Wherever there is a diversion of forest lands falling within the elephant habitat and corridor, the same must be referred to the Chief Wildlife Warden for assessment of the potential impact, before issuance of any approval or clearance by the State.

H. The State is directed to review the non-forest activities in the elephant habitat and corridor and take appropriate action in that regard, in case there is any violation of law.

I. The State Government shall review the user of the land on the periphery of forests falling within the elephant habitat and corridor and take requisite steps for its conservation and preservation.

J. The State is directed to issue necessary directives to various electricity supply agencies and institutions in the State so as to raise

and maintain the height of high tension and low tension power lines above the ground level, so as to make it safer for the elephants in the elephant habitat and elephant corridor; The Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden of the State shall monitor the steps taken in this regard;

K. Toll free helpline numbers be provided for people injured in elephant attacks and for people seeking help of anti-depredation squads. Appropriate compensation should be paid to affected people within a period of one month of the event.

L. The State shall take effective and adequate measures with regard to the safety and well being of captured elephants, such as giving training to mahots and other care givers and deploying veterinary doctors, where and when necessary;

M. The State is at liberty to seek guidance on the recommendations made by the Task Force Committee and also consult the Committee for any of its future course of action concerning elephants in the State so as to implement the recommendations accepted by the State in their true letter and spirit;

N. The State shall implement the Policy and Action plan of the Union concerning Project Elephant in its true letter and spirit;

O. If any of the aforesaid directions have to be complied by the Union of India, then the same are applicable mutatis mutandi.

Date: 22/1/2016

Cuttack


Advocate for the Petitioner

WRIT BR-VII

[O. H. C.-97-A]

M/S. GAUTAM MISRA
D.K. PATRA, A.S. BEHERA, A.DASHIn the High Court of Orissa
ORDER SHEET

BLAPL/W. P. (WP(C)) No. 22421/20150

DWIJA DALPATI

Petitioner

Versus

STATE OF ORISSA

Opposite-Party


Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
1.	14/12/2015.	Presented in Court B.O.	<p>Detent no-6 and 19 as per SR not removed.</p> <p>(i) For admission with detent no-6 and 19.</p> <p>(ii) since case no 20666/15 is at flag - A' for appn. order.</p> <p>21.12.15 Behera</p>

21.12.15

Wf. y no - 22421/15

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order

[O. H. C.-98]

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
2.	22.12.2015	<p>Learned counsel for the petitioner is present and prays for some to remove the defects.</p> <p>The defects pointed out by the S.R. be removed within two weeks.</p> <p style="text-align: right;">  Dr.D.P.Choudhury, J. </p>	<p>Receipt showing source of copy on AG filed. Hence defect no-6 as per SR removed.</p> <p>By</p> <p>Undertaking for non-filing of translated copy filed. Hence defect no-19 as per SR removed.</p> <p>By</p>

wp⁽¹⁴⁾ no - 22421/15

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
			<p>English translated wp of page no - 17 filed vide memo. under Annex - 1 served by <u> </u> 7.1.16.</p> <p>On 02 May 16 <u>be seen</u>.</p> <p>No defect.</p> <p>For admission, in with case no no - 20666/15 in at flag-st for appn. order.</p> <p>by <u> </u> Bener 7.1.16 7.1.16</p>

[O. H. C.-98]

WP 9 (PIL) NO - 22421/15.

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
			<p>On 06-3 May 16, <u>Be seen</u></p> <p>For Admission, in with these case NO - 20666/15 in at 'Flag-A' for appn. order</p> <p><u>Adjn to 10.2.15</u> Along with WP 9 - 19625/15 and WP 9 - 9056/13</p> <p><u>By</u> <u>9.2.15</u> <u>Be seen.</u></p> <p><u>By</u> <u>9.2.15</u></p> <p><u>By</u> <u>1.3.16</u></p> <p>Notes as above</p> <p>Forwarded in WP 9 - 19625/15 and 'u' - 9056/13 <u>By</u> <u>Be seen</u> <u>2.3.17</u></p>

C-1

WP(C) (PIL) NOs. 22421 &
19625 of 2015 & WP(C) 9056
of 2013

Per:- D.H.WAGHELA, C. J.

03 22.1.2016 1. Since the subject matter in all the three writ petitions are similar, they are ordered to be listed and heard together.


2. Shri G. Mishra, learned counsel for the petitioner in W.P.(C)(PIL) No. 22421 of 2015 has submitted his brief submissions for issuance of certain directions, copies of which are handed to the learned Addl. Government Advocate and the learned counsel appearing for the petitioners in other two writ petitions.

3. Learned Addl. Govt. Advocate is requested to take instruction with regard to the requirement of immediately constituting a task force or a committee comprising of the Principal Chief Conservator of Forests, Orissa and the Chief Wild Life Warden and such other members. It is further open for the parties to directly come up with the suggestion for immediate directions, if necessary. The appropriate authority at the highest level ⁱⁿ the State Government, ~~who~~ may examine the written submissions placed on record today and assist the Court for issuance of appropriate directions for the State of Orissa.

4. Accordingly, list all the three writ petitions together on 10.2.2015.

Issue urgent certified copy as per rules.

A free copy of this order be handed over to the learned Additional Government Advocate for compliance.

.....

(D.H. WAGHELA)
CHIEF JUSTICE

.....

(S.C. PARIJA)
JUDGE

Received the copy
of the order dt-22.1.16
in behalf of the
30.1.16 State counsel.

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) PIL No.19625 of 2015

W.P.(C) Nos.19625 of 2015, 9056 of 2013 & 22421 of 2015.

Mrinalini Padhi (in WP(C) No.19625 of 2015)
Balagopal Mishra & another (in WP(C) No.9056 of 2013)
Dwija Dalpati (in WP(C) No.22421 of 2015)
... *Petitioners*

Petitioner in person (WP(C) No.19625 of 2015)
Mr. Gautam Mishra, Sr. Advocate (WP(C) No.22421 of 2015)

-versus-

State of Odisha and Others ... *Opp. Parties in*
all the cases
Mr. T.K. Patnaik, Additional Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE B. P. ROUTRAY

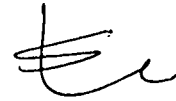
ORDER
4.10.2021

Order No.

04. 1. Copy of the counter affidavit filed on behalf of State in W.P.(C) No.9056 of 2013 be served on the Petitioner in W.P.(C) No.19625 of 2015 who is permitted to file a response thereto before the next date, bringing on record the updated position.
2. Mr. Gautam Mishra, learned Senior Counsel appearing for the Petitioner in W.P.(C) PIL No.22421 of 2015 (*Dwija Dalpati v. State of Orissa*) has submitted a convenience note. A copy thereof be served on Mrs. Padhi, Petitioner in W.P.(C) No.19625 of 2015 as well. Mr. Mishra has also placed on record the copy of judgment dated 8th October, 2013 of the Karnataka High Court in

W.P. No.14029 of 2008 (*Suo Motu v. State of Karnataka and Others*). Copies of said judgment also be served on Mr. Patnaik, learned Additional Standing Counsel to enable him to submit a response thereto on the next date.

3. List these matters in the miscellaneous board for hearing on 11th January, 2022.



(Dr. S. Muralidhar)
Chief Justice



(B.P. Routray)
Judge

M.K. Panda

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) Nos.14706 of 2022, 9056 of 2013,
19625 and 22421 of 2015

W.P.(C) No.14706 of 2022

Gita Rout

Petitioner

Mr. Ashis Kumar Mishra, Advocate

W.P.(C) No.9056 of 2013

Balagopal Mishra and another

Petitioners

Mr. G.P. Mohanty, Advocate

W.P.(C) No.19625 of 2015

Mrinalini Padhi

Petitioner

Mrs. Mrinalini Padhi, In Person

W.P.(C) No. 22421 of 2015

Dwija Dalpati

Petitioner

Mr. Gautam Misra, Sr. Advocate

-versus-

State of Odisha and others

Opp. Parties

Mr. Ashok Parija, Advocate General assisted with
Mr. D.K. Mohanty, AGA
Mr. Iswar Mohanty, ASC

CORAM:

THE CHIEF JUSTICE

JUSTICE CHITTARANJAN DASH

ORDER

25.08.2022

Order No.

08.

1. Pursuant to the order passed by this court on 8th August, 2022, two affidavits have been filed in Court. The first is by the Director General of Police (DGP) in which the proceedings of the meeting held on 17th August, 2022 under the

Chairmanship of the Chief Secretary of Odisha has been enclosed. A decision was taken at that meeting to constitute a Joint Task Force (JTF) comprising officers from the Forest and Police Departments to investigate different cases of unnatural deaths of the elephants in the State. The JTF is to work under the Principal, Chief Conservator of Forests (PCCF), Wildlife in his office and the DGP is expected to provide the required number of police officials of different ranks to act as members of the JTF.

2. Apart from the issue of poaching and unnatural deaths of elephants, the JTF is to look into the cases of poaching of tigers, leopards and illegal trade in pangolins. One Public Prosecutor in each district is expected to be entrusted with the handling of these cases. There are certain other tasks set out for the JTF including the creation of awareness about protection of wildlife "among all the stakeholders".

3. Conscious that the proceedings do not commit the JTF to any definite time-line, and considering that the other affidavit filed today by the PCCF enclosing the details of the pending cases shows that in a large number of cases charge sheets are yet to be filed, the Advocate General volunteers that the necessary corrective steps would be taken within three months and within the same period, charge sheets would be filed in all those cases where it is yet to be filed.

4. The Court finds that while the steps proposed are in the nature of 'remedial' action, there is nothing stated in terms of 'preventive' action. Further, the Court finds that the composition of the JTF is not broad-based to accommodate the

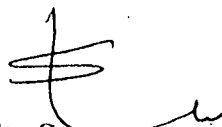
views of wildlife experts or civil society groups involved in wildlife conservation or those working with farmers who may have lost their crops and other interested persons engaged in the issue of man-animal conflict. The learned Advocate General volunteers that the JTF will either co-opt wildlife experts and civil society groups or consult them in its deliberations which will take place at least once every fortnight so that a comprehensive action plan can be drawn up including both the preventive and remedial elements.

5. Considering the number of petitions raising these very issues pending before this Court, a direction is issued that counsel in each of the petitions will prepare a short summary of their respective suggestions and provide them to the Advocate General within a week's time to enable him to examine all the suggestions and place it before the JTF for its consideration. This would include examining the orders dated 13th February, 2012 of the Supreme Court in *T.N. Godavarman Thirumulpad v. Union of India* (2012) 3 SCC 277 concerning the "Asiatic Wild Buffalo"; the judgment of the Karnataka High Court in *Suo Motu v. State of Karnataka* (W.P.(C) No.14025 of 2008), the judgment of the Madras High Court in *S. Manoj Immanuel v. Union of India* (W.P.(MD) No.19711 of 2018) and the decision of the Supreme Court in *Hospitality Association of Mudumalai v. In defence of Environment and Animals* (2020) 10 SCC 589. Further, the measures taken by the State of Assam in tackling similar problems in that state concerning elephant-human conflict will also be examined by the JTF.

6. Considering that the PCCF is going to be the Convener of the JTF, a direction is issued to the PCCF to place before this Court along with an affidavit, the comprehensive action plan drawn up by the JTF, before the next date.

7. The Court takes note of the fact that there have been more deaths of elephants since the previous hearing. The Court has been shown a news item that only this morning, two female elephants were electrocuted inside the Krishi Vigyan Kendra in Judia under Keonjhar Sadar. The Advocate General further states that the PCCF will file further affidavit by the next date placing on record the result of the investigation into the said deaths.

8. List on 26th September, 2022.


(Dr. S. Muralidhar)
Chief Justice


(Chittaranjan Dash)
Judge

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) PIL Nos.19625 & 22421 of 2015

W.P.(C) No.9056 of 2013 & W.P.(C) No.14706 of 2022

Mrinalini Padhi *Petitioner*
(In W.P. (C) PIL No.19625 of 2015)

In person

Dwija Dalpati *Petitioner*
(In W.P. (C) PIL No. 22421 of 2015)

Mr. Gautam Misra, Senior Advocate

Balagopal Mishra and another *Petitioners*
(In W.P.(C) No.9056 of 2013)

Mr. G. P. Mohanty, Advocates

Gita Rout *Petitioner*
(In W.P.(C) No.14706 of 2022)

Mr. A.K. Mishra, Advocates

-versus-

State of Odisha and others *Opposite Parties*

Mr. Debakanta Mohanty, AGA

Mr. B. K. Das, Advocate for Opposite Party No.7

Mr. D.N. Mohapatra, Advocate

(in W.P. (C) PIL No.19625 of 2015)

Mr. A. Suhail, Advocate for Intervenor

CORAM:

**THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH**

Order No.

ORDER
26.09.2022

06. 1. An affidavit has been filed by the Principal Chief Conservator of Forests (Wildlife) on 22nd September, 2022 setting out the steps taken by the Joint Task Force (JTF) since the previous


hearing. It appears that the first meeting of the JTF was held on 20th September, 2022. The decisions taken at the meeting have been set out in detail in para 5 of the affidavit. Copies of the affidavit be supplied to all the counsel appearing for other parties to enable them to file their response thereto before the next date.

2. Inter alia, it has been proposed in the affidavit of the PCCF that a comprehensive action plan will be prepared by December, 2022. The affidavit acknowledges the further deaths of elephants since the last date of hearing and about action initiated against the forest officials besides DISCOM officials for negligence.

3. List for further hearing on 20th October, 2022



(Dr. S. Muralidhar)
Chief Justice



(Chittaranjan Dash)
Judge

S. Behera

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.19625 of 2015

Mrinalini Padhi

Petitioner

Mrs. Mrinalini Padhi, Advocate

-versus-

State of Odisha and others

Opposite Parties

Mr. Debakanta Mohanty, AGA

CORAM:

THE CHIEF JUSTICE

JUSTICE CHITTARANJAN DASH

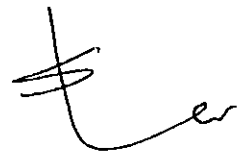
ORDER

20.10.2022

Order No.

07.

1. It is stated that the Joint Task Force (JTF) held a meeting on 19th October, 2022. The convener of the JTF will file an affidavit placing on record the minutes of its deliberations and specific action points.
2. Mr. Debakanta Mohanty, learned AGA has placed before the Court a communication regarding the current status of the criminal cases. It is not clear that what exact progress has been made in terms of arresting the accused in those cases and the further developments in those cases where arrests have been made.
3. An affidavit on the above aspects be filed by Mr. Jatin Kumar Panda, Additional S.P., who is part of the JTF, before the next date. The members of the JTF are requested to remain present virtually on the next date to answer the queries of the Court. The comprehensive action plan also be presented in the Court.
4. List on 11th November, 2022 at 2 P.M.


(Dr. S. Muralidhar)
Chief Justice


(Chittaranjan Dash)
Judge

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14706 of 2022

AND

W.P. (C) Nos. 19625, 22421 of 2015 and 9056 of 2013

W.P.(C) No.14706 of 2022

Gita Rout

Petitioner

Mr. Ashis Kumar Mishra, Advocate

W.P. (C) No.19625 of 2015

Mrinalini Padhi

Petitioner

In person

W.P. (C) No. 22421 of 2015

Dwija Dalpati

Petitioner

Mr. Gautam Misra, Senior Advocate

W.P.(C) No.9056 of 2013

Balagopal Mishra and another

Petitioners

Mr. G. P. Mohanty, Advocate

-versus-

State of Odisha and others

Opposite Parties

Mr. Debakanta Mohanty, AGA

Mr. Ishwar Mohanty, ASC

Mr. B. K. Dash, Advocate for O.P. No.7

Mr. D.N. Mohapatra, Advocate

(in W.P. (C) PIL No.19625 of 2015)

Mr. A. Suhail, Advocate

for Intervenor in W.P.(C) No.14706 of 2022

CORAM:

THE CHIEF JUSTICE

JUSTICE M.S. RAMAN

ORDER

15.11.2022

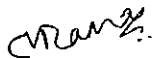
Order No.

09.

1. The Court has had the benefit of participation online by Dr. Raman Sukumar, who is a wild life expert and specializes in elephant

participate in the present proceedings. The I.A. is accordingly disposed of.


(Dr. S. Muralidhar)
Chief Justice


(M.S. Raman)
Judge

SK Jena/Secy

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14706 of 2022

AND

W.P. (C) Nos. 19625 of 2015 and 9056 of 2013

W.P.(C) No.14706 of 2022
Gita Rout

....

Petitioner

Mr. Ashis Kumar Mishra, Advocate

W.P. (C) No.19625 of 2015
Mrinalini Padhi

....

*Petitioner*W.P.(C) No.9056 of 2013
Balagopal Mishra and another

....

In person
Petitioners

-versus-

None

State of Odisha and others

....

*Opposite Parties*Mr. Debakanta Mohanty, AGA
Mr. Ishwar Mohanty, ASCMr. Manoj Nair, Principal Chief Conservator of Forests (WL) &
Chief Wildlife Warden, BhubaneswarCORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMANOrder No.ORDER

13.12.2022

10.

1. Today's hearing has been advanced on account of a development that has caused deep concern. This is the discovery of a carcass of a poached male elephant, which took place around 7th December, 2022. The evidence of theft of the tusks was made to disappear by the burning of the carcass by Forest Officials of the Jenabil Range, Similipal South Division. The Court has been given a written status report of the Deputy Conservator of Forests, Joint Task Force stating *inter alia* that all they could find were few bones and flesh of the

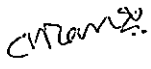
animal from a waterfall/stream wherein the alleged burnt matter was disposed of by the said Forest Staff. It is stated that three Forest Officials have been placed under suspension by the Field Director (STR). The said report and the letters dated 10th December, 2022 placed today are taken on record.

2. Mr. Manoj Nair, the Principal Chief Conservator of Forests (WL) & Chief Wildlife Warden (PCCF) is present in virtual mode. He states that he is right now stationed in Similipal itself to ensure the inquiry is taken to a logical conclusion. The Court has impressed upon Mr. Naik that it would like to be assured that preventive steps that were planned by Joint Task Force (JTF) are actually being put in place immediately.

3. An affidavit listing out the precise preventive measures taken will be filed before the next date. This will include the names of the "Gaja Sathis", who are said to have been deployed and the map showing the elephant corridor routes in State of Odisha with the names of villagers that fall in and around the corridors. The affidavit will also set out the details of the FIR registered in connection with the above incident.

4. List on 22nd December, 2022 at 10.30 am. Mr. Nair will remain present in virtual mode on the next date.


(Dr. S. Muralidhar)
Chief Justice


(M.S. Raman)
Judge

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14706 of 2022

AND

W.P. (C) Nos. 9056 of 2013, 19625 of 2015 and 22421 of 2015

W.P.(C) No.14706 of 2022

Gita Rout

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Mr. Ashis Kumar Mishra, Advocate

Mr. Afraz Suhail, Advocate

W.P.(C) No.9056 of 2013

Balagopal Mishra and another

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Petitioners

Mr. G.P. Mohanty, Advocate

W.P. (C) No.19625 of 2015

Mrinalini Padhi

....

Petitioner

In person

W.P.(C) No.22421 of 2015

Dwija Dalpati

....

Petitioner

Mr. Gautam Misra, Senior Advocate assisted by

Mr. A. Dash, Advocate

State of Odisha and others

....

Opposite Parties

Mr. A.K. Parija, Advocate General assisted by

Debakanta Mohanty, AGA and

Mr. Ishwar Mohanty, ASC

CORAM:

THE CHIEF JUSTICE

JUSTICE M.S. RAMAN

Order No.

ORDER

22.12.2022

11. 1. The Court has had the benefit of a power point presentation by Dr. Raman Sukumar giving a detailed explanation of the present active elephant corridors in Odisha. He has identified nine of them, two of which form part of the earlier identified fourteen elephant corridors. He has, in the virtual presence of the Joint Task Force (JTF) headed by Dr. Manoj Nair, the Chief Conservator Forests and the Field

Officer of the Similipal Tiger Reserve as well as in the physical presence in Court of the learned Advocate General and Senior Counsel as well as counsel appearing on behalf of the respective Petitioners, made certain useful suggestions on how to ensure safe passage for elephants across Odisha. He has emphasized the need to provide additional bridges to link two important reserves viz., the Sambalpur Reserve and the Mahanadi Reserve where at least 70 to 75 per cent of the elephant population of approximately 2000 in Odisha today are active. Dr. Nair states that in the action plan that will be drawn up by the JTF, many of these elements will be addressed. The power point presentation of Dr. Sukumar be kept as part of the record and copies thereof be provided to all learned counsel for the parties.

2. An affidavit dated 21st December, 2022 has been filed by Dr. Nair, the Chief Conservator of Forests explaining the scheme of "Gaja Sathis" and stating that in the current year, the scheme has been scaled up and 5457 volunteers have been engaged in 1177 villages. It is stated that a "Jana Surakhya Gaja Rakshya" scheme has been rolled out to encourage public community partnership having provision for solar fencing with 90% cost being borne by the State. Also to prevent electrocution of elephants and other wild animals, bare conductors in the elephant movement areas to the extent of 2,354 kilometers have already been insulated out of the identified stretches of 3,814 kilometers. It is stated that, in addition, another 4,444 kilometers of bare conductors and 31,000 electrical points have also been identified. Based on the data of human-elephant conflict, 32 Ranges in 19 Divisions have been identified to be the

most conflict prone Ranges. The affidavit also lists out the interventions made for habitat improvements including creation of 34 water bodies, renovation of 26 water bodies, 44 water harvesting structures and meadow development over 200 hectares and over 1 lakh bamboo seed ball plantation.

3. A list of the Gaja Sathi volunteers has been enclosed with the affidavit. As regards the re-mapping of elephant corridors, although the affidavit encloses as Annexure-T/1 series, maps showing those corridors, Dr. Nair states that steps are being taken through Project Elephant, Government of India to confirm the viability of the corridors pursuant to a meeting held on 22nd April, 2022 under the Chairmanship of the Director (Project Elephant), Government of India. Steps have been taken to declare the Similipal-Kuldiha-Hadagarh traditional elephant corridor as Conservation Reserve under Section 38 of the Wildlife (Protection) Act.

4. As regards the incident of an elephant death in Similipal, it is stated that three Forest Officials have been arrested under the Wildlife (Protection) Act and forwarded to the Court of the SDJM, Udala and remanded to the judicial custody.

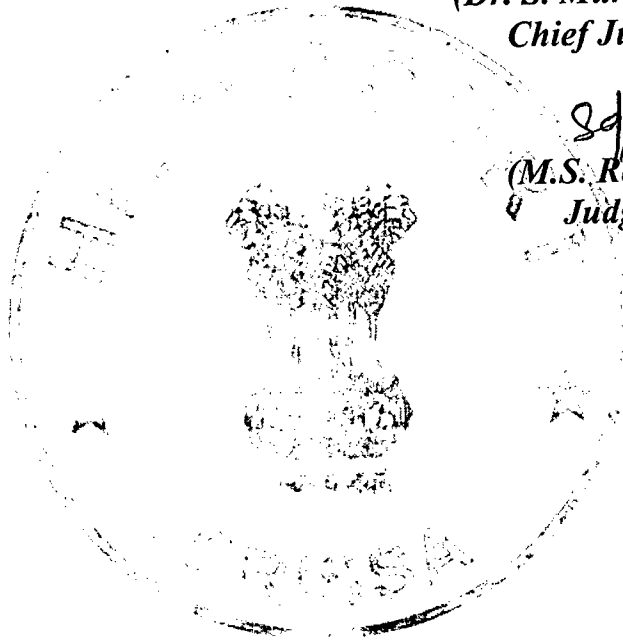
5. The Court inquired from the Field Officer, Similipal of the circumstances under which one of the witnesses in the case of elephant poaching had committed suicide. The Court has been assured that in the said case a charge-sheet will be filed at an early date and the case taken to its logical conclusion.

6. Certain further suggestions have been given from the side of the Petitioners by counsel appearing on their behalf in the virtual presence of the JTF Dr. Nair will take those into consideration while drawing up the action plan. It will be open to the respective counsel to give their written suggestions to the JTF at the earliest.

7. List on 18th January 2023 at 10.30am.


(Dr. S. Muralidhar)
Chief Justice


(M.S. Raman)
Judge



S.K. Guin

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14706 of 2022

AND

W.P. (C) Nos. 9056 of 2013, 19625 of 2015 and 22421 of 2015

W.P.(C) No.14706 of 2022

Gita Rout

Petitioner

Mr. Ashis Kumar Mishra, Advocate

Mr. Afraz Suhail, Advocate

W.P.(C) No.9056 of 2013

Balagopal Mishra and another

Petitioners

Mr. G.P. Mohanty, Advocate

W.P. (C) No.19625 of 2015

Mrinalini Padhi

Petitioner

In person

W.P.(C) No.22421 of 2015

Dwija Dalpati

Petitioner

Mr. Gautam Misra, Senior Advocate assisted by

Mr. A. Dash, Advocate

State of Odisha and others

Opposite Parties

Mr. Debakanta Mohanty, AGA and

Mr. Ishwar Mohanty ASC

CORAM:

THE CHIEF JUSTICE

JUSTICE M.S. RAMAN

ORDER

18.01.2023

Order No.

12.

1. Dr. Manoj V. Nair, the Chief Conservator of Forests (Additional Charge) has filed an affidavit dated 17th January 2023 enclosing the "Comprehensive Action Plan for Conservation of Elephants and Mitigation of Human-Elephant Conflict in Odisha." Dr. Nair, who appeared online explained that the report contains an executive

summary along with the proposed action points under following “10-pillar strategy”:

Sl. No.	Name of the Thematic Pillar	No. of Long-term Action points	No. of Medium-term Action points	No. of Short-term Action points	Page number
1	Human-elephant conflict mitigation	0	2	17	14
2	Inter-departmental co-ordination	2	1	22	18
3.	Protection, enforcement and prosecution	2	4	36	24
4	Elephant habitat, corridors and connectivity	4	2	14	31
5	People's participation, education & awareness	0	0	16	35
6	Habitat management for increased productivity	8	4	6	38
7	Human resource management & capacity building	0	1	20	42
8	Wildlife management health and disease control	0	0	8	46
9	Research application of technology	0	4	15	47
10	Monitoring	0	1	4	50
	Total	17	19	158	51

2. Dr. Nair has taken the Court through the important aspects of the report which deals *inter alia* with inter-departmental coordination, which in turn would require District Level Human Wildlife Conflict Mitigation Committees to be constituted under the chairmanship of the Collector and having the representatives of the Superintendent of Police and Heads of relevant line Departments and the DFO being the Member Secretary. The aspect of 'Human-Elephant Conflict Mitigation' requires adoption of a 'zone based approach' taking cue from the report of the Karnataka Elephant Task Force. Four broad zones, viz., Zone-I (Elephant Conservation Zone), Zone-II (Elephant-human Co-existence Zone), Zone-III (Conflict Mitigation Zone) and Zone-IV (Elephant Removal or Exclusion Zone) have been envisaged. Separate strategies have been worked out for 'protection, enforcement and prosecution' as well as improving elephant habitat corridors and connectivity and people's participation, education and awareness.

3. In response to the concerns expressed by learned counsel appearing for the parties, Dr. Nair points out that the action plan also speaks of 'habitat management for increased productivity' which would involve improving the elephant habitat, plantation of bamboo, ficus and preferred elephant food plants, water sources and other habitat improvement measures apart from forest fire prevention.

4. One major concern in the past few months has been the increased deaths of elephants due to electrocution. To tackle this

issue, the action plan proposes to involve the Electricity Distribution Companies (DISCOMs) to provide solar fencing using the recently launched "Jana Surakhya Gaja Rakhya". One suggestion is for the use of portable (removable) solar fences which has been found to be effective in Sri Lanka and for it to be tried on a pilot basis in selected areas.

5. Dr. Sukumar, who participated online, made certain suggestions regarding ground survey and verification preceding the maps to be drawn up and for the elephant corridors to be studied on a more intensive basis. He also emphasized the need to make Zone-II, i.e., the Elephant-human Co-existence Zone "shock proof". This would require steps to be taken to ensure that there is no 'illegal hooking' of electricity lines, by local population anxious to protect their fields and crops from predatory attacks of wild pigs and boars, which in turn appear to be trapping elephants into deaths.

6. The Court is informed that the Comprehensive Action Plan would require to be approved by the High Power Committee of the Government of Odisha. Considering that the action plan has been drawn up after consulting a wide range of actors as well as experts and the inputs of others as suggested by this Court in its previous orders, and considering that the problem requires urgent attention, the Court requests the High Power Committee through the Chief Secretary to immediately take up this issue of approval of the Comprehensive Action Plan without any delay and preferably within a period of two weeks from today. This is to ensure that it is immediately rolled out and action points are worked out on the

basis of such action plan. Dr. Nair informs the Court that the action points will be finalized within a month thereafter.

7. Mr. Ashis Kumar Mishra, learned counsel appearing for the Petitioner in W.P.(C) No.14706 of 2022, places before the Court the report of his personal visit to village Bakua located inside the Similipal Wildlife Sanctuary and expresses concern that no steps have been taken to further investigate FIR No.320 dated 21st December 2022, registered at PS-Jashipur in Mayurbhanj District concerning the death of Turam Purty who purportedly was an eye-witness to the death of an elephant by burning at Garandia (Jenabil Range) in the Similipal Forest. Mr. Panda, the Additional Superintendent of Police, Member of JTF, present online, has undertaken to contact the Inspector-In-Charge (IIC) of PS-Jashipur to ascertain the progress of the investigation in the said case. The Court will be informed of the progress on the next date.


8. The Court notes with some concern Mr. Panda's submission that three of the forest officials who had been arrested in the case of the burning of an elephant carcass in Similipal forest were subsequently granted bail and have thereafter not been able to be traced despite issuance of non-bailable warrants. The Court would like to emphasize the need for the Police to follow up on these issues with urgency and complete the investigation by taking it to the logical conclusion without unnecessary delay. In the previous order dated 22nd December 2022, the Court noted the assurance that a charge sheet would be filed at an early date and now notes with some concern that charge sheet is yet to be filed. It is expected that by

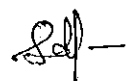
the next date the charge sheet in the said case would have been filed. The Court also notes in this context that the specific action points regarding "crime detection, inquiry and prosecution" in terms of the Comprehensive Action Plan are to be fixed and implemented without any delay.

9. The JTF will file a further affidavit before the next date enclosing the action points drawn up on the basis of the Comprehensive Action Plan.

10. Ms. Mrinalini Padhi, the Petitioner in W.P.(C) No.19625 of 2015 pointed out that she has already impleaded the DISCOMs as Opposite Parties. She undertakes to file an application to implead the present entities so that directions can be issued to them on the next date to file affidavits in response to the action points to be fixed by the JTF.

11. List on 13th March, 2023 at 10:30 am. A copy of this order be communicated forthwith to the Chief Secretary, Government of Odisha.


(Dr. S. Muralidhar)
Chief Justice


(M.S. Raman)
Judge

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14706 of 2022

AND

W.P. (C) Nos. 9056 of 2013, 19625 of 2015 and 22421 of 2015

W.P.(C) No.14706 of 2022

Gita Rout

....

Petitioner

Mr. Ashis Kumar Mishra, Advocate

Mr. Afraz Suhail, Advocate

W.P.(C) No.9056 of 2013

....

Petitioners

Balagopal Mishra and another

Mr. G.P. Mohanty, Advocate

W.P. (C) No.19625 of 2015

Mrinalini Padhi

Petitioner

In person

W.P.(C) No.22421 of 2015

Dwija Dalpati

Petitioner

Mr. Gautam Misra, Senior Advocate assisted by

Mr. A. Dash, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Debakanta Mohanty, Additional Government Advocate and

Mr. Ishwar Mohanty, Additional Standing Counsel

Mr. Akhaya Biswal, Advocate for Intervener

(in I.A. No.3126 of 2023)

Mr. Swayamjit Rout, Advocate

(in I.A. No.640 of 2023)

CORAM:

THE CHIEF JUSTICE

JUSTICE G. SATAPATHY

ORDER

13.03.2023

Order No.

I.A. No.1737 of 2023 (W.P.(C) No.19625 of 2015)

13.

1. Notice be issued to the Companies indicated in the Schedule to this application, i.e., TPSODL, TPWODL, TPNODL and TPCODL through Registered/Speed Post with A.D. making it returnable before

the next date. Requisites for which shall be filed within three working days. In addition to the above, notice is permitted to be served by Dasti.

2. The Court is informed that one Sri Bijay Kumar Das, Advocate usually appears on behalf of some of these Distribution Companies (DISCOMs). The Registry will request him to remain present on the next date.

W.P.(C) No.14706 of 2022

3. Subsequent to the previous hearing on 18th January, 2023 there has been an unfortunate loss of elephants as well as humans who have either died or have been injured due to the human wildlife conflict (HWC). The Court is informed by Dr. Manoj V. Nair who is the Convener of the Joint Task Force (JTF) that there have been 12 elephant deaths and deaths of 14 persons in just less than two months since the previous hearing. Of the 12 elephant deaths, two were due to poaching, four due to electrocution, two calves died due to trampling by other elephants in their herds, three died due to the diseases and one due to infighting.

4. Of the four electrocution deaths and two poaching deaths, the Court is informed by the Additional SP, who is a part of the JTF, that six First Information Reports (FIRs) have in fact been registered. He assures that by the next date, a separate status report will be placed on record by him, i.e., the ASP indicating the progress of investigation in the said six FIRs.

5. The Court notes that as part of the State Action Plan (SAP), which the Court is now informed has been approved by the State Government, Section-1 of Chapter-IV which deals with "Human

Elephant Conflict Mitigation” having 19 Action Points. Action Point 6 pertains to “Revision of compassionate payment for both Human death, crop loss, human injury and property damage by wild animals”. Although the turnaround time is six months, Dr. Nair informs the Court that every effort is being made to ensure release of *ex gratia* amounts and compensation in a much shorter period for which purpose, there are District Level Committees and District Level Senior Officers’ Meetings being conducted.

6. On the next date, the Court will be informed in a tabular chart the names of persons who have been killed or injured or whose property was damaged by wild animals or those who have sustained crop losses in the last six months and what amounts by way of *ex gratia* and compensation have been released to such persons or families of such persons as the case may be.

7. There is a series issue about deaths of elephants due to electrocution. Today, in a companion writ petition being W.P.(C) 19625 of 2015, this Court has issued notice to the five major Distribution Companies (DISCOMs) in the State of Odisha which have been made aware of the action plan and their responsibilities thereunder. Dr. Nair informs the Court that at a meeting, convened by the Chief Secretary on 3rd March, 2023, representatives of these DISCOMs had participated. The Court will be informed on the next date by the JTF of the specific time-bound action plans fixing responsibilities on the DISCOMs on the steps to be taken for total prevention of electrocution deaths of elephants. The Court will also be informed as to the corrective action taken in respect of the electrocution deaths that have already taken place including one as recently as yesterday in Dhenkanal. The Court would like to

emphasize that drawing up and approving of an action plan is perhaps the first step, but ensuring its implementation, in its letter and spirit, is an imperative. The Court is assured by Dr. Nair speaking for the JTF that they will be ensuring that the SAP that has been rolled out is implemented without let or hindrance. He informs the Court that 79 Forest Guards have now additionally been deployed to aid the JTF in the tasks set out under the SAP.

8. Although the previous date the Court was informed that steps would be taken to convert the Zone-II into a 'shock-proof' zone, Dr. Nair informs that Zones-I, II and III will be required to be made 'shock-proof' as there have been numerous instances of young bulls among the elephant herds, straying in Zones-I, II and III thus increasing the potential of HWC.

9. The ASP has informed the Court of the progress in FIR No.320 registered at the PS-Jashipur by way of a status report enclosed as Annexure-ZC/1 to the affidavit tendered in Court today by Dr. Nair. It reveals that there have been arrests of further persons suspected of the crime. The ASP present online assures the Court that very soon a charge sheet will be filed in the said case.

10. As regards the case of a poaching death in Similipal, it is stated that the final report has already been filed. The Court will be informed on the next date of the progress in the said case. The separate affidavits of the ASP complying with the directions issued in this order and of Dr. Nair, the Convener of the JTF be filed at least one week prior to the next date. The affidavit of the JTF will also indicate what precise steps have been taken in terms of the action plan where immediate steps were to be taken.

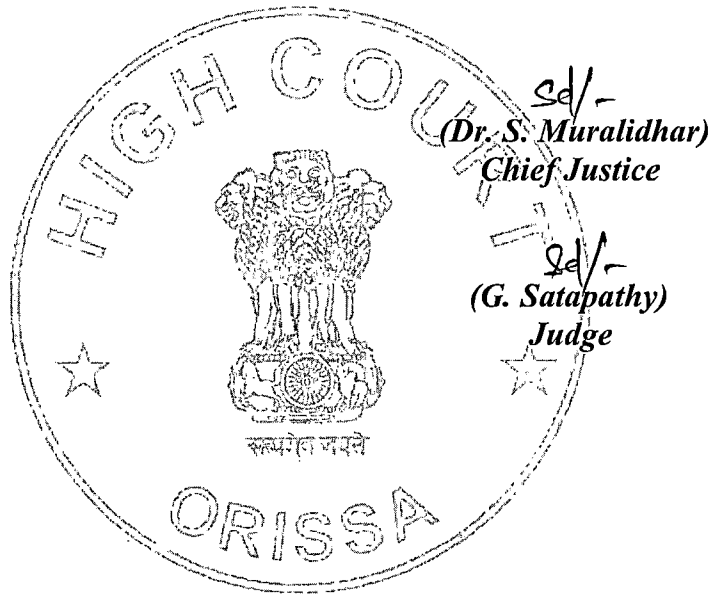
11. The IIC, Jashipur will remain present online on the next date along with the JTF.

12. List on 20th April, 2023 at 10.30 am.

I.A. No.640 of 2023 & I.A. No.3126 of 2023

13. Notice. Copy of these applications be served on Mr. Debakanta Mohanty, learned Additional Government Advocate for the State to enable him to obtain instructions for the next date.

S.Behera



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14706 of 2022

AND

W.P. (C) Nos. 9056 of 2013, 19625 of 2015 and 22421 of 2015

W.P.(C) No.14706 of 2022

Gita Rout

....

Petitioner

Mr. Ashis Kumar Mishra, Advocate

W.P.(C) No.9056 of 2013

....

Petitioners

Balagopal Mishra and another

W.P. (C) No.19625 of 2015

....

Petitioner

Mrinalini Padhi

W.P.(C) No.22421 of 2015

....

Petitioner

Dwija Dalpati

State of Odisha and others

....

Opposite Parties

Mr. Debakanta Mohanty, Additional Government Advocate and
Mr. Ishwar Mohanty, Additional Standing Counsel

CORAM:

THE CHIEF JUSTICE

JUSTICE G. SATAPATHY

ORDER

19.03.2023

Order No.

14.

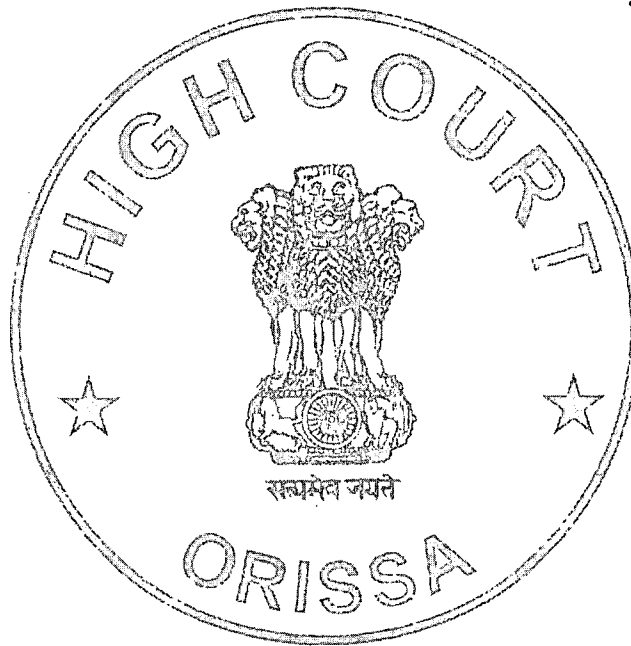
1. The present matter is taken up today on being mentioned by Mr. Debakanta Mohanty, learned Additional Government Advocate for the State stating that Dr. Manoj V. Nair who is the Convener of the Joint Task Force (JTF) is in some difficulty tomorrow and may not be available till 8th May, 2023.

2. List on 9th May, 2023 at 10.30AM. Mr. Mohanty, learned Additional Government Advocate for the State undertakes to inform all other counsel of the cancellation of tomorrow's date.

(Dr. S. Muralidhar)
Chief Justice

(G. Satapathy)
Judge

S.Behera



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14706 of 2022

AND

W.P. (C) Nos.9056 of 2013, 19625 of 2015,
22421 of 2015 & 14057 OF 2023

W.P.(C) No.14706 of 2022

Gita Rout

....

Petitioner

Mr. Ashis Kumar Mishra, Advocate,
Mr. Afraz Suhail, Advocate and
Mr. Omkar Devdas, Advocate

W.P.(C) No.9056 of 2013

Balagopal Mishra and another

....

Petitioners

Mr. G.P. Mohanty, Advocate

W.P. (C) No.19625 of 2015

Mrinalini Padhi

....

Petitioner

In person

W.P.(C) No.22421 of 2015

Dwija Dalpati

....

Petitioner

Mr. Gautam Misra, Senior Advocate assisted by
Mr. A. Dash, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Dr. Manoj V. Nair, Principal Chief Conservator of Forests (WL.) &
Chief Wildlife Warden, Bhubaneswar

Mr. Debakanta Mohanty, Additional Government Advocate &
Mr. Ishwar Mohanty, Additional Standing Counsel

Mr. Bijaya Kumar Dash, Advocate FOR O.P. No.7-TPCODL
Mr. Akhaya Biswal, Advocate for Intervene

(in I.A. No.3126 of 2023

Advocate (in I.A. No.640 of 2023) and

Mr. J. K. Panda, Additional Superintendent of Police

W.P.(C) No.14057 of 2023

State of Odisha and others

....

Petitioner

Mr. Debakanta Mohanty, AGA and Mr. Ishwar Mohanty, ASO

Q

-versus-

*Wildlife Society of Orissa (Elephant
Corridors) and another*

....

Opposite Parties

Mr. Sankar Prasad Pani, Advocate

**CORAM:
THE CHIEF JUSTICE
JUSTICE G. SATAPATHY**

**ORDER
09.05.2023**

Order No.

15.

1. The Vakalatnama filed by Mr. Bijaya Kumar Dash, learned counsel for Opposite Party No.7-TPCODL is taken on record.
2. Pursuant to the order passed by this Court on 13th March 2023, two affidavits have been filed. The first dated 17th April, 2023 is by the Chairperson-cum-Convenor, Joint Task Force (JTF), Dr. Manoj V. Nair providing information as regards compensation paid in respect of human losses, human injuries, animal losses, house damage and crop damage. It is stated that in the past six months, there have been 21,093 cases of crop loss on account of attacks by elephants. Dr. Nair, who appears in virtual mode, informs the Court that sum of Rs.7.22 crores has been paid on this score. The Court has also been shown a copy of the Notification dated 3rd May, 2023 issued under Rule 45-KK of the Wildlife (Protection) (Odisha) Amendment Rules, 2023 enhancing the amounts of compassionate payment in all of the above categories. For the instance, the *ex gratia* for human loss has been increased from Rs. 4 to Rs. 6 lakhs. According to Dr. Nair, there is a 40 days turnaround time for payment of compensation.

3. It appears that on 5th April 2023, there was a meeting held by the Chairperson of the JTF with the DISCOMs where *inter alia* a discussion was held on the mitigation measures that have to be put in place for avoiding deaths of elephants due to electrocution. The series of steps to be taken with the DISCOMs, pursuant to the Comprehensive Action Plan (CAP), include “barricading the open transformers, fixing of interposing poles of both HT and LT lines, conversion of LT bare conductor to AB cable, change of vacuum circuit breaker, maintenance of primary substation, sensitization of feeders & periodical checklist of feeder, fittings of spikes in the electric poles, establishment of elephant control room etc.”
4. The minutes also refers to a study undertaken by SNEHA (Support for Network and Extension Help Agency) having experience in working on human-elephant conflict issues in Karnataka. SNEHA was engaged by the DISCOMs to undertake a study in two districts i.e. Dhenkanal and Angul. Mr. Bijaya Kumar Dash, learned counsel appearing for the DISCOMs has handed over a copy of the reported submitted by SNEHA to TATA Power Limited, Mumbai where *inter alia* one suggestion given is for use of alternate 6V Solar or DC fence set-up which will “repel the wildlife or set off an alarm instead of creating causality.”
5. The Interveners in I.A. No.3126 of 2023 has also asked for similar measures to be deployed in the villages of those Applicants after undertaking a ground survey..
6. Mr. Shenhagam, who is the CEO of TPCODL, is present on line, and explains that Elephant Control Rooms have been set up by the

DISCOMs since 2020 and that on advance information of elephant movement being received from the Forest Department, they are able to take corrective action.

7. However, the Court is of the view that steps would have to be taken by the DISCOMs to interact with the residents of villages falling within their respective areas which have witnessed elephant movement in the past. The DISCOMs would do well to persuade the villagers to go in for 6V Solar fencing and offer it as a viable alternative even while disconnecting the illegally 'hooked' electricity connections which are powering the *ad hoc* electric fences put up by the villagers to prevent attacks by wild animals of either humans or crops.

8. Dr. Nair placed before the Court the statistics of elephant deaths and human deaths in the past two months. On 9th March 2023, an adult male elephant was electrocuted in Keonjhar and on 13th March, 2023 another male was electrocuted in Gumsar in Ganjam District. On 11th April 2023, one adult female elephant and an adult male elephant were electrocuted in Bonai and Subarnapur respectively. Apart from the four electrocution deaths, there have been in the last two months, 14 more deaths of elephants—2 due to disease, 2 due to natural causes, 1 due to infighting and 1 due to a train accident. Of 18 elephants that have died, there have been 11 adults and 7 very young calves. Dr. Nair adds that the reasons for the death of these 7 very young calves are still being analyzed.

9. During this period, 20 persons have lost their lives due to attacks by elephants. Dr. Nair further adds that these deaths have occurred in

areas not necessarily in or around the 14 elephant corridors in Odisha that were earlier identified by identified by the Asian Nature Conservation Foundation (ANCF). It is informed that due to passage of time only 4 such corridors are considered active and one among them has been notified as a Conservation Reserve pursuant to a judgment by the Supreme Court of India in *Binay Kumar Dalei v. State of Odisha* (decision dated 2nd March, 2022 in Civil Appeal Nos.1627-1628 of 2022).

10. At this juncture, it must be noted here that the Wildlife Society of Odisha (Elephant Corridors) ['WSO'] had approached the National Green Tribunal (NGT) with a petition being O.A. No.129 of 2016 questioning the inordinate delay on part of the State of Odisha in notifying the Elephant Corridors under Section 3 of the Environment (Protection) Act, 1986 (EP Act) read with Rule 6 of the Environment (Protection) Rules, 1986. It must be further noted here that in the said application, the NGT appears to have passed a 'final order' on 17th August, 2021 directing the State of Odisha to notify the 14 Elephant Corridors as earlier identified by the ANCF within a period of two months. This led to the State of Orissa filing a Review Petition pointing out that there is a petition, W.P.(C) No.275 of 2015, on this issue which is pending before the Supreme Court. Further, it was pointed out that the report of the ANCF suggests that "most of the corridors have no functional existence and most of the corridors are also not ecological feasible." Accordingly, a review was sought by the State of Odisha of the order dated 17th August, 2021 of the NGT. Even while the said review petition was pending, Execution Application No.3/2022/EZ appears to have been filed by WSO

pressing for execution of the order dated 17th August, 2021 in which the NGT passed an order on 6th April 2023, granting the State one month's time 'and no more' to notify the elephant corridors. By this time, in the hearing of the execution application, it was brought to the notice of the NGT by the State of Odisha that this Court was seized of one of the present petitions i.e. W.P.(C) PIL No.14706 of 2022 on the same issue. Against the said order dated 6th April 2023, the State of Odisha has filed W.P.(C) No.14057 of 2023 in which this Court passed an order on 4th May, 2023 staying the further proceedings before the NGT.

I. A. No.6983 of 2023 arising out of W.P.(C) No.14057 of 2023

11. WSO has filed this I.A. seeking vacation of the aforesaid stay order dated 4th May, 2023. Notice. Notice is accepted by the learned Additional Government Advocate for the State, who undertakes to file a reply thereto within four weeks, rejoinder thereto be filed on or before the next date. The Vakalatnama filed by Sri Pani is taken on record.

12. Dr. Nair has explained two major problems coming in the way of notifying elephant corridors. The first being there is no legal provision in the Wildlife Protection Act, 1986 (WP Act), which enables the making of such notification. The second is that the EP Act only talks of eco sensitive zones, which does not fully answer the need for a comprehensive provision for this purpose.

13. Mr. Pani, learned counsel appearing for WSO sought to counter the submission by referring to Section 3(2) (v) of the EP Act, which empowers the Central Government to take 'measures to protect and

improve environment' and in that process, notify restriction of areas "in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards." In the considered view of the Court, Section 3(2)(v) of the EP Act operates in a very narrow sphere as it does not contemplate loss of human lives, crops and vegetation etc. as a result of movement of wild animals including elephants and it is doubtful therefore if the measures taken under the above provision to answer the problem brought about as a result of elephant-human conflict.

14. In any event, it does appear that identifying elephant corridors precisely is a complex task as pointed out by the ANCF and which was also voiced today during the course of hearing by Dr. Nair. It is significant that many of the deaths that this Court has noted in the present order or in the earlier orders of elephants and humans have occurred in areas not strictly in or around the elephant corridors earlier identified.

15. Consequently, at this stage, the Court does not consider it advisable to vacate the order passed by it on 4th May, 2023 in W.P.(C) No.14057 of 2023 and would consider that question after response is received to the application filed today by the WSO.

16. In the considered view of the Court, not enough steps have been taken to prevent deaths of elephants due to electrocution in Odisha. This is despite the CAP being made available to the DISCOMs for nearly two months now. A direction is issued that the CEOs of the four DISCOMs will immediately convene a meeting within a week

from today in which the Chairperson of the JTF will also participate and chalk out a time bound plan for completing the survey of all the villages of their respective zones which have witnessed movement of wild animals, attacks by wild animals, destruction of crops and deaths of wild animals due to electrocution and rule out a plan for replacing of the electric fences wherever found with solar power fences as suggested by SNEHA.

17. It is absolutely essential for the DISCOMs to immediately identify all such instances of illegal hooking of electricity transmission lines to power such electric fences illegally put up in the villages and discontinue the practice forthwith. Sensitization meeting with the villagers by the officials of DISCOMs required to be undertaken in coordination with the Forest Officials. The Court would like to be informed by the next date of the exact extent of such 6V solar power/DC fences that have been erected in place of the electric fences which were earlier being used.

18. The second affidavit has been filed by Shri J. K. Panda, Additional S.P. and a member of the JTF where the details of the 6 ongoing criminal cases that having been registered in Athagarh, Similipal, Gumsur and Dhenkanal Divisions have been set out. The Court is assured by Mr. Panda that all possible steps have been taken to carry each of the criminal cases to the logical end by completing investigation, filing charge-sheet, arresting the persons accused and ensuring that the case progresses. A further affidavit updating the status of these criminal cases be filed before the next date.


**I. A. No.640 of 2023 and I.A. No.3126 of 2023 arising out of
W.P.(C) No.14706 of 2022**

19. The Intervener in I.A. No.640 of 2023 has prayed for processing of all compensation claims for the loss of human lives and crop loss by the State Government and for all such claims to be settled in a time bound manner. Notice was issued in the said I.A. on 13th March, 2023 and no replies have yet been filed. Meanwhile, an additional affidavit has been filed by the Intervener on 5th May 2023, copy of which has already been served on learned Additional Government Advocate for the State. Let a copy thereof be served on learned counsel for the Petitioners as well other counsel appearing today. Replies to both the I.As. i.e. I.A. No.640 of 2023 and I.A. No.3126 of 2023 be filed by the State within four weeks and rejoinder thereto, if any, be filed before the next date.

20. Dr. Nair informs the Court that on 17th April, 2023, a High Power Committee (HPC) has been constituted with the Principal Secretary, (Energy) being one of the Members and all the DISCOMs being the special invitees. He informs the court that the HPC would meet very soon. Apart from inviting the DISCOMs, the Court directs that the representatives of the Applicants in I.A. No.640 of 2023 and I.A. No.3126 of 2023 also be invited to present their issues before the said Committee. The HPC will also invite SNEHA apart from Dr. Sukumar to participate in virtual mode at its meeting. The minutes of the meeting of the HPC be placed before the Court along with an affidavit before the next date.

21. Dr. Nair will file his affidavit explaining the progress in the implementation of the CAP.

22. List on 19th July, 2023 at 10.30 am.



(Dr. S. Muralidhar)
Chief Justice



(G. Satapathy)
Judge

M. Panda



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14706 of 2022

Gita Rout & another

.....

Petitioners

Mr. S.P. Mishra, Senior Advocate
Mr. L.K. Moharana, Advocate

-Versus-

State of Odisha & others

.....

Opp. Parties

Mr. Ashok Parija,
Advocate General
Mr. Debakanta Mohanty,
Addl. Government Advocate
Mr. Ishwar Mohanty,
Addl. Standing Counsel

CORAM:
JUSTICE S. TALAPATRA
JUSTICE SAVITRI RATHO

ORDER
19.07.2023

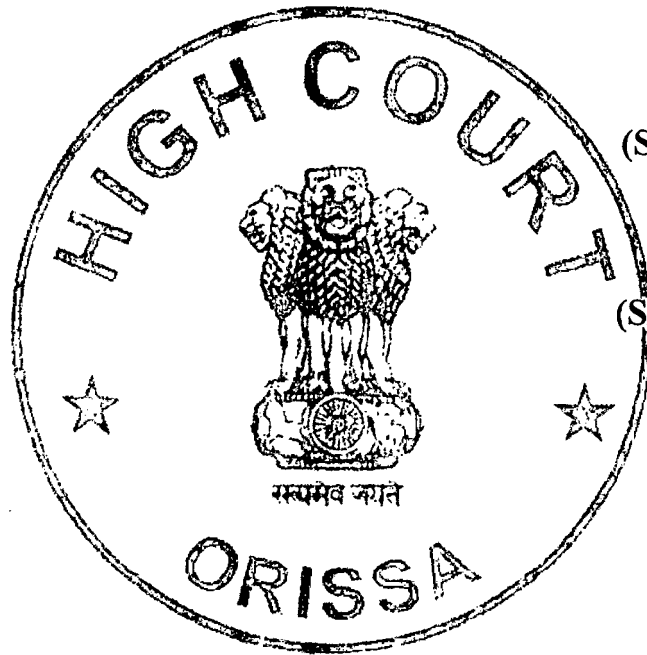
Order No.

15.

1. This matter is taken up through Hybrid Mode.
2. Today, the Superintendent of Police, Joint Tax Force has filed an affidavit in terms of the order dated 09.05.2023 through Mr. Debakanta Mohanty, learned Addl. Government Advocate and Mr. Ishwar Mohanty, learned Addl. Standing Counsel. The same is taken on record.
3. TPCODL has also filed their affidavit in terms of the said order through Mr. L.K. Moharana, learned counsel who is assisting Mr. S.P. Mishra, learned Senior Counsel. The said affidavit is taken on record.

4. We would request learned counsel for supplying the copy of the said affidavit to Mr. Afraz Suhail, learned counsel appearing for the intervenor.

5. Let the matter be listed on 23.08.2023 along with W.P.(C) No.9056 of 2013, W.P.(C) No.19625 of 2015, W.P.(C) No.14706 of 2022, W.P.(C) No.22421 of 2015, W.P.(C) No.4571 of 2022, W.P.(C) No.5129 of 2022 and W.P.(C) No.14057 of 2023.



(S. Talapatra)
Judge

(Savitri Ratho)
Judge

Signature Not Verified

Digitally Signed
Signed by: SUBHASIS MOHANTY
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 19-Jul-2023 18:26:09

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14706 of 2022
and

W.P. (C) Nos.9056 of 2013, 19625 of 2015,
22421 of 2015 & 14057 of 2023

W.P.(C) No.14706 of 2022
Gita Rout

Petitioner

Mr. Ashis Kumar Mishra, Advocate,
Mr. Afraz Suhail, Advocate and
Mr. Omkar Devdas, Advocate

W.P.(C) No.9056 of 2013.
Balagopal Mishra and another

Petitioners

Mr. G.P. Mohanty, Advocate

W.P. (C) No.19625 of 2015
Mrinalini Padhi

Petitioner

None

W.P.(C) No.22421 of 2015
Dwija Dalpati

Petitioner

Mr. Gautam Misra, Senior Advocate assisted by
Mr. A. Dash, Advocate

-versus-

State of Odisha and others

Opposite Parties

Mr. Debakanta Mohanty, AGA &
Mr. Ishwar Mohanty, ASC for the State
Mr. Bijaya Kumar Dash, Advocate TPCODL
Mr. Akhaya Biswal, Advocate for Intervener

W.P.(C) No.14057 of 2023
State of Odisha and others

Petitioners

Mr. Debakanta Mohanty, AGA
Mr. Ishwar Mohanty, ASC

-versus-

Wildlife Society of Orissa (Elephant
Corridors) and another

Opposite Parties

Mr. Sankar Prasad Pani, Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE SAVITRI RATHO

ORDER
29.08.2023

Order No.

18.


W.P.(C) No.14057 of 2023 and I.A. No.6983 of 2023

1. Heard Mr. S.P. Pani, learned counsel, who is representing the Opposite Party No.1-Wildlife Society of Orissa (Elephant Corridors).
 2. The interlocutory application being I.A. No.6983 of 2023 has been filed seeking vacation of the stay order dated 4th May, 2023.
 3. Mr. Ishwar Mohanty, learned Additional Standing Counsel has stated that the State has filed their response to the said application seeking vacation of the stay order.
 4. Mr. Pani, learned counsel for Opposite Party No.1 has not asked for any accommodation for filing any rejoinder to the response filed by the State.
 5. I.A. No.6983 of 2023 will be taken up for consideration of the prayer for vacation of the order dated 4th May, 2023 on merit on 11th September 2023.
- W.P.(C) No. 14706 of 2022, W.P. (C) Nos.9056 of 2013, 19625 of 2015, W.P.(C) No.22421 of 2015 and W.P.(C) No.14057 of 2023
6. Let the matters be listed on 11th September, 2023.

7. It has been agreed upon by the learned counsel for the parties that Dr. Manoj V. Nair, the Principal Chief Conservator of Forests (Wild Life) should be requested to make a presentation on ground reality on which the Public Interest Litigation (PIL) is focused. The conversation should encompass the comprehensive action plan for conservation of elephant and mitigation of human-elephant conflict in Odisha.

8. This Court would request all the counsel appearing for the parties including the Interveners to be present at 4PM at the New Conference Hall in the Old Building of the Court on the date fixed. This Court would request Dr. Nair to initiate the conversation by PPT presentation so that everybody can get the crux of the problem at the beginning and we believe that it will streamline the conversation to a definite direction in order to find a solution to the problem.

9. The writ petition being W.P.(C) No.4571 of 2022, which has been wrongly tagged with this batch of writ petitions, be de-tagged.


(S. Talapatra)
Chief Justice


(Savitri Ratho)
Judge



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 28706 of 2024

***Registrar (Judicial), Orissa High
Court, Cuttack***

Petitioner

Mr. K. C. Kar, Govt. Advocate(State)

-versus-

State of Odisha & Others

.... Opposite Parties

Mr. Ashis Ku. Mishra, Advocate

Mr. D. R. Bhokta, Advocate(CGC)

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MISS JUSTICE SAVITRI RATHO

ORDER

19.11.2024

Order No.

(01.)

19.

**W.P.(C) No. 28706 of 2024, W.P.(C) No.14706 of 2022, W.P.(C)
No.9056 of 2013, W.P.(C) No.19625 of 2015, W.P.(C) 22421 of 2015
and W.P.(C) No.14057 of 2023**

This matter is taken up through Hybrid mode.

2. Suo motu notice has been taken by this Court on its judicial side based on newspaper reports published in Orissa Post captioned "JUMBOS IN PERIL" and the Times of India, Bhubaneswar Edition, both published today, i.e. 19.11.2024.

3. The report in the Orissa Post discloses that three elephants - two females and a calf were electrocuted to death in Sambalpur District,



after coming in contact with live wires laid by poachers, reportedly to kill wild boars. It further appears from the said report that there has been 27 deaths of elephants in 15 forests and wildlife divisions till mid-July of 2024-25 and electrocution accounts for nearly 30% of the total deaths.

4. There is another report published in Bhubaneswar edition of Times of India today regarding the electrocution of the three elephants. If the report in the Times of India is to be believed, as many as 78 elephant deaths were recorded in the State during the year 2023-24, according to Wildlife Society of Odisha data. The said report in the Times of India also mentions that electrocution was the leading cause with 20 deaths, followed by 10 deaths due to natural causes 5 deaths caused by poaching/ivory hunting and 5 deaths due to train/vehicle accidents.

5. We take serious note of the facts which have emerged from the aforesaid two newspaper reports. More than five decades ago, noticing rapid decline of Indian wild animals because of taxidermy and trade in wild life and products derived there from, the Wild Life (Protection) Act, 1972 was enacted to provide for protection of wild animals, birds and plants etc. The disclosures made in the



newspaper reports, if correct, are appalling. It has happened despite stringent statutory provisions and this Court's intervention in the pending proceedings.

6. Mr. Goutam Mishra, learned Senior Counsel assisting this Court has drawn our attention to this Court's order dated 13.12.2022 and 29.08.2023 passed in - W.P. (C) No.14706 of 2022 and batch. The order dated 13.12.2022 reads as under;

"1. Today's hearing has been advanced on account of a development that has caused deep concern. This is the discovery of a carcass of a poached male elephant, which took place around 7th December, 2022. The evidence of theft of the tusks was made to disappear by the burning of the carcass by Forest Officials of the Jenabil Range, Similipal South Division. The Court has been given a written status report of the Deputy Conservator of Forests, Joint Task Force stating inter alia that all they could find were few bones and flesh of the animal from a waterfall/stream wherein the alleged burnt matter was disposed of by the said Forest Staff. It is stated that three Forest Officials have been placed under suspension by the Field Director (STR). The said report and the letters dated 10th December, 2022 placed today are taken on record.



2. Mr. Manoj Nair, the Principal Chief Conservator of Forests (WL) & Chief Wildlife Warden (PCCF) is present in virtual mode. He states that he is right now stationed in Similipal itself to ensure the inquiry is taken to a logical conclusion. The Court has impressed upon Mr. Naik that it would like to be assured that preventive steps that were planned by Joint Task Force(JTF) are actually being put in place immediately.

3. An affidavit listing out the precise preventive measures taken will be filed before the next date. This will include the names of the "Gaja Sathis", who are said to have been deployed and the map showing the elephant corridor routes in State of Odisha with the names of villagers that fall in and around the corridors. The affidavit will also set out the details of the FIR registered in connection with the above incident.

4. List on 22nd December, 2022 at 10.30 am. Mr. Nair will remain present in virtual mode on the next date."

7. The order dated 29.08.2023 reads thus;

"7. It has been agreed upon by the learned counsel for the parties that Dr. Manoj V. Nair, the Principal Chief Conservator of Forests (Wild Life) should be requested to make a presentation on ground reality on which the Public Interest Litigation (PIL) is focused. The conversation should encompass the comprehensive



action plan for conservation of elephant and mitigation of human-elephant conflict in Odisha."

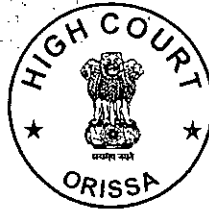
8. Mr. K.C. Kar, learned Government Advocate accepts notice in the present suo motu proceeding on behalf of the Opposite Parties – (1) State of Odisha represented by the Chief Secretary, Odisha, (2) Addl. Chief Secretary, Department of Forest and Environment of Govt. of Odisha, (3) Principal Chief Conservator of Forest, Sambalpur, and (5) Divisional Forest Officer, Raikhol.

9. In addition to the persons/officers impleaded as Opposite Parties in the present suo motu proceeding, let the following be also impleaded as Opposite Parties No.6 & 7 respectively:-

"1. The Union of India through its Secretary, Ministry of Environment and Climate change

2.The Director of Wildlife Preservation, New Delhi, appointed under Section- 3 of the Wildlife (Protection) Act, 1972."


10. Mr. D. R. Bhokta, learned Central Government Counsel accepts notice on behalf of the Union of India and the Director of Wildlife Protection.



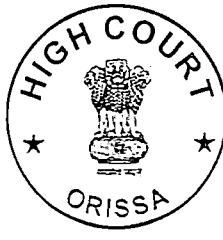
11. List this matter on 26.11.2024 to be taken up at 2.00 p.m. along with W.P.(C) No. 14706 of 2022, W.P.(C) No. 19625 of 2015 and W.P.(C) No. 9056 of 2013.

13. On the next date, the Principal Chief Conservator of Forests (Wild Life) shall be required to join the proceedings online. He will further be required to furnish to this Court in the meanwhile, the number of reported deaths of the elephants in the State of Odisha from 2020 till date in tabular form displaying the known reasons for their deaths, by way of an affidavit. He shall also be required to disclose in the affidavit, the steps taken to investigate the cause behind the deaths of the three elephants in Sambalpur District as reported in the newspapers.


(Chakradhari Sharan Singh)
Chief Justice


(Savitri Ratho)
Judge

Subhalaxmi



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 28706 of 2024

Registrar (Judicial), Orissa High
Court, Cuttack

....

Petitioner

-versus-

State of Odisha and others

....

Opposite Parties

Ms. Aishwarya Dash, Addl. Standing Counsel

CORAM:

**HON'BLE THE CHIEF JUSTICE
HON'BLE MISS JUSTICE SAVITRI RATHO**

ORDER

26.11.2024

Order No.

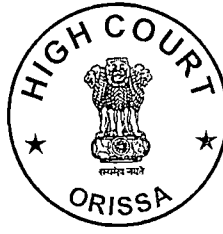
02. 18

W.P.(C) No. 28706 of 2024, W.P.(C) No. 9056 of 2013,
W.P.(C) No. 19625 of 2015, W.P.(C) No. 22421 of 2015,
W.P.(C) No. 14706 of 2022 and W.P.(C) No. 14057 of 2023.

These matters are taken up through Hybrid mode.

2. In the light of this Court's order dated 19.11.2024, Dr. Manoj V. Nair, the Chief Conservator of Forests (Wildlife-I) has joined in the proceedings online through video conferencing.

3. An affidavit has also been filed, sworn by him, in compliance of the said order. In the said affidavit details relating to deaths of wild elephants in the State of Odisha from 2020-21 to 2024-25 (as on 22.11.2024), with dates have been provided in tabular form. The said affidavit also contains, briefly, the causes of deaths of the elephants for the said period under Annexure-3 at page 59.



Referring to the said figures, Dr. Nair has admitted that deaths of wild elephants by electrocution, either deliberate or accidental is the area of most serious concern.

4. It is evident from the data provided in the affidavit that in the year 2024, twenty-three deaths of wild elephants have been reported due to electrocution. Eight-five elephants in the State of Odisha died of electrocution from 2021 to 22.11.2024. This has happened despite this Court's serious intervention, which led to preparation of an action plan and constitution of Joint Task Force to protect the wild elephants in the State of Odisha.

5. Mr. Goutam Mishra, learned Senior Counsel has submitted that considering the circumstance that electrocution is one of the major reasons for the deaths of wild elephants in the State of Odisha, inclusion of the representatives from the electricity distribution companies (DISCOMS) of the State is required.

6. In the facts and circumstances, to begin with, we deem it proper to direct Dr. Manoj V. Nair, the Chief Conservator of Forests (Wildlife-I) to convene a meeting of the Chief Executive Officers of Tata Power Central Odisha Distribution Limited (TPCODL), Tata Power Western Odisha Distribution Limited (TPWODL), Tata



Power Northern Odisha Distribution Limited (TPNODL), Tata Power Southern Odisha Distribution Limited (TPSODL) by 06.12.2024 to ponder over the issue of deaths of wild elephants in the State of Odisha because of electrocution and the remedial measures, which can be taken jointly by the State and the DISCOMS.

7. List these matters on 10.12.2024, to be taken up at 2.00 P.M. Dr. Manoj V. Nair, the Chief Conservator of Forests (Wildlife-I) shall be required to inform this Court the outcome of the meeting to be convened by him, in terms of this Court's present order. Dr. Nair shall also be required to inform this Court about the developments in the complaint case registered in relation to the deaths of three elephants on 18.11.2024.

8. We also deem it proper to direct for impleadment of Tata Power Central Odisha Distribution Limited (TPCODL), Tata Power Western Odisha Distribution Limited (TPWODL), Tata Power Northern Odisha Distribution Limited (TPNODL), Tata Power Southern Odisha Distribution Limited (TPSODL) through their respective Chief Executive Officers as opposite parties in W.P.(C)



No. 28706 of 2024. Let necessary steps be taken by Registry to amend the cause title of the case.

9. Mr. Sankar Prasad Pani, learned counsel appearing on behalf of the wildlife society, opposite party in W.P.(C) No. 14057 of 2023 has drawn our attention to an interim order passed by this Court on 04.05.2023 in the said writ petition. He has submitted that an application has been filed for vacation of the interim order vide I.A. No. 6983 of 2023. We make it clear that on the next date, we will take up W.P.(C) No. 14057 of 2023.

(Chakradhari Sharan Singh)
Chief Justice

(Savitri Ratho)
Judge

Arun Mishra

IN THE HIGH COURT OF ORISSA

PTL
WPC Case No. 22421/2015

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
04	04.10.2021	<p>Order No. 04 (may be seen)</p> <p>For admission with</p> <p>1) M.C. No. 20666/2015 as at fl. A reg. appro. order.</p> <p><u>Aj. to 11.01.22</u></p> <p>Jana Prakash Sarda.</p> <p><u>07/01/22</u></p> <p><u>(Ref. in WPC 19625/2015)</u></p>
04	04.10.2021	<p>Order No. 04.</p> <p>For admission with</p> <p>1) M.C. No. 20666/2015 as at fl. A reg. appro. order.</p> <p>2) Affidavit filed by OPs 2 and 4 as at fl. B.</p> <p><u>Aj. to 11.01.22</u></p> <p>Jana Prakash Sarda.</p> <p><u>05/04/22</u></p> <p><u>24/08/22</u></p> <p><u>(Ref. in WPC 19625/15)</u></p>

IN THE HIGH COURT OF ORISSA

WP(C) Case No. 22421/2015

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
05	25/08/2022	<p>Order No. 05</p> <p>For admission with</p> <p>1) M.C. No. 20666/15 as at H.A. reg. appo. orders.</p> <p>2) Affidavit filed by O/s 2 and 4 as at H.B.</p> <p><u>Adj. to 26.9.22</u></p> <p>D.B.</p> <p>Trana Prakash Sharm.</p> <p>22/09/22</p> <p><u>(Ref. in WP(C) 19625/2015)</u></p>
06	26/09/2022	<p>Order No. 06</p> <p>Office notes dtd. 22/9/22 maybe repeated.</p> <p><u>Adj. to 20/10/2022</u></p> <p>D.B.</p> <p>Trana Prakash Sharm.</p> <p>19/10/22</p> <p><u>04/11/22</u></p> <p><u>Adj. to 11.11.22</u></p> <p><u>(Ref. in WP(C) 19625/2015)</u></p>

IN THE HIGH COURT OF ORISSA

WP (C) Case No. 22421/2015

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
Common Order Sl. No. 09	15/11/2022	Common Sl. Order No. 09 for admission with 1) M.C. No. 20666/15 is at Sl. A reg. appoo. orders. 11) Affidavits filed by O/s 2 and 4 is at Sl. B. Adj. to 18.1.2023. Jana Prakash Swain. 18.1.22 20/12/22 (Ref. in WPA) 14706/2022)
Common order No. 09	15/11/2022	Common Order No. 09 for admission with 1) M.C. No. 20666/15 is at Sl. A reg. appoo. orders. 11) Affidavits filed by O/s 2 and 4 is at Sl. B. Adj. to 22.12.22 Jana Prakash Swain. 20/12/22 (Ref. in WPA) 14706/2022)

D.B.
(CJ's Court)

D.B.

IN THE HIGH COURT OF ORISSA

Case No. 22421/2015

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
Common order No. 11	22/12/2022	<p>Common Order No. 11</p> <p>office notes dtd. 20/12/22 be repeated.</p> <p><u>Adj. to 18.1.23</u></p> <p><u>Jana Prakash Shain</u></p> <p><u>16/1/23</u></p> <p><u>(Ref. to WP No. 14706/2022)</u></p> <p>D.B.</p>
Common order No. 12	18/01/2023	<p>Common Order No. 12</p> <p>for admission with</p> <p>i) M.C. No. 20666/15 is at Pt. A reg. appor. orders.</p> <p>ii) Affidavits filed by O/s 2 and 4 is at Pt. B.</p> <p><u>Adj. to 13.1.23</u></p> <p><u>Jana Prakash Shain</u></p> <p><u>09/03/23</u></p> <p><u>(Ref. to WP No. 14706/2022)</u></p> <p>D.B.</p>

IN THE HIGH COURT OF ORISSA

WPC) ^{PIL} Case No. 22421/2015

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
Common order NO. 13	12/03/2023	<p><u>Common Order No. 13</u></p> <p>Office noted dt. 9/3/23 & reply be repeated.</p> <p><u>Adj. to 20/4/23 at 10:30 AM</u></p> <p>Jnanabrakash Swain. 18/4/23.</p> <p>(Ref. in WPC 14706/22)</p> <p>D.B.</p>
Common order NO. 14	19/03/2023	<p><u>Common Order No. 14</u></p> <p>For admission with</p> <p>1) M.C. No. 20666/15 is at Jr. A' reg. appor. Orders.</p> <p>11) Affidavits filed by Ope 2 and 4 is at Jr. B'.</p> <p><u>Adj. to 9/5/23</u></p> <p>Jnanabrakash Swain. 5/5/23.</p> <p>(for ref. in WPC 14706/22)</p> <p>D.B.</p>

IN THE HIGH COURT OF ORISSA

Case No. WPC)-22421/2015

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
Common order No. 15	09.05.2023	<p>for admission with</p> <p>1) M.C. No - 20666/15 Es at flag 'A' reg. appo. orders.</p> <p>2) Affidavits filed by ops-2 and 4 Es at flag 'B'.</p> <p>Adj. to 19.07.23 bench.</p> <p>Desumpt. Date 17.7.23</p> <p>Ref. in WPC) - 14706/22</p> <p>Uma Prakash Soren. Adj. to 23/8/23</p> <p>21/08/23. Adj. to 11.9.23</p> <p>05/9/23.</p>

IN THE HIGH COURT OF ORISSA

WP(C) Case No. 22421/2015OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
Common order No. 18	29/08/23	<p>Common Order No. 15 for admission with 1) M.C. No. 20666/15 at fl. 'A' reg. appo. order. 2) Affidavits filed by bbs 2 and 4 is at fl. 'B'.</p> <p><u>Adj. to 11.10.23</u></p> <p>Inna Prakash Saini. 29/10/23.</p> <p><u>(Ref. in WP(C) NO. 14406/22)</u></p> <p>5-9-23 time-3.40PM Received a copy of order dated 29-8-23 for 5-9-23 as above be repeated. D.B.</p>
Common Order No. 18	29/08/23	<p>Order No. 15 Office notes dtd. 9/10/23</p> <p>Inna Prakash Saini 29/11/24</p> <p><u>(Ref. in WP(C) 9056/13)</u></p>

Record Received from court today
i.e. on 1645 hrs on 22.11.24

IN THE HIGH COURT OF ORISSA

Case No. WPC 22421/2015

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
Common order No. 19	19.11.24	<p>Previous office note dated 9.10.23 at prepage may be repeated with</p> <p>A copy of order dated 19.11.24 is communicated to Ld. AGA for necessary compliance.</p> <p>Balaram Das 22.11.24 Ina Pradhan 25.11.24</p> <p>adj to 26.11.24 Bench for ref in</p> <p>WPC 9056/2013 (WPC 24806/2024)</p>

IN THE HIGH COURT OF ORISSA

WP(C) Case No. 22421/2015

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
Common Order No. 19	19.11.24	<p><u>Common Order No. 19</u> for admission with</p> <p>I) M.C. No. 20666/15 at J.A. reg. appor. order II) Affidavits dtd. 11.2.2022 filed by DPs 2 and 4 at J.A. III) A copy of order dtd. 19.11.24 is communicated to Id. AGA for necessary compliance.</p> <p><u>Ag. to 26.11.24</u></p> <p>Trans. Prakash Sharma 25/11/24 (Ref. in WP(C) 27806/2024) D.B.</p> <p>Qm ^{sup.} (Dk) 25.11.24</p>
18	26.11.2024	<p><u>Order No. 19</u> Office notes as above may kindly be repeated.</p> <p><u>Ag. to 10.12.24</u></p> <p>Ref. in WP(C) - 28706/24 D.B.</p> <p>Devi Prasad Das 06.12.24</p>

ORISSA HIGH COURT, CUTTACK
FILING ACKNOWLEDGEMENT SLIP

Diary No.- (66738 / 2015)

Case Number : WP(C)/22421/2015
Misc Cases : 20666/2015
Pet/Res Name : DWIJA DALPATI VS . STATE OF ORISSA
Registration Date : 14/12/2015 Filed By : M/S.GAUTAM MISRA
Subject : LETTER PETITION & PIL MATTER
PS Case : ---
Lower Court :
D.O.J :

Tuesday 15th of December 2015 12:15:30 PM

-
1. COURT FEE ~~IS DEFICIENT~~. *of Rs 6/- paid.*
 2. VALUATION OF PROPERTY NOT MADE *x*
 3. AUTHENTICATION FEE IS DEFICIENT *x*
 4. AFFIDAVIT/VERIFICATION ~~NOT~~ PROPER.
 5. ~~SECOND COPY OF PETITION NOT FILED.~~
 - ✓* 6. RECEIPT SHOWING SERV. COPY TO AG/CG/IT/CT/ETC. NOT FILED.
 7. VAKALATNAMA ~~NOT~~ PROPERLY STAMPED, EXECUTED, ACCEPTED.
 8. CAUSE TITLE ~~NOT~~ IN ORDER.
 9. PROVISION OF LAW ~~NOT~~ FURNISHED ON TOP OF CAUSE TITLE.
 10. SUBJECT CODE ~~NOT~~ FURNISHED.
 11. NEAT, LEGIBLE ATTESTED ANNEXURES ~~NOT~~ FILED.
 12. ASSESMENT SLIP ~~NOT~~ FILLED-IN PROPERLY.
 13. APPLICATION CONTAINS MORE THAN ONE PRAYER. *x*
 14. ~~NOT~~ PROPERLY INDEXED.
 15. ALL PAPERS ~~NOT~~ PROPERLY SIGNED.
 16. PETITION/APPEAL NOT IN TIME *x*
 17. REFERENCE CERTIFICATE ~~NOT~~ FURNISHED.
 18. CERTIFIED COPY OF TRIAL/APPELLATE COURT ORDER NOT FILED *x*
 - ✓* 19. UNDERTAKING FOR NON FILING OF TRANSLATED COPY NOT FILED
 20. VERNACULAR CERTIFICATE NOT FURNISHED. *x*
 21. STATUTORY DEPOSIT/AWARDED AMOUNT NOT DEPOSITED *x*
 22. REQUISITES NOT FILED. *x*
 23. NOMENCLATURE ~~NOT~~ CORRECTLY FURNISHED .
 24. LIMITATION NOT IN TIME / EXPIRED *x*

DEFECTIVE/READY

D.B.

[Signature]
(Stamp Reporter)

18/12/15

1. AHO/ AS/ CMPA /CMPAT/ CMPMC/ CRA/ CRMC/ CRRET/ CRREV/CVA/ CVREF/ CVREV/ CVRVW/ DREF/ EC/ EP/ FA/ GA/ JCRA/ JCRMC/ JCRREV/ MA/ MJC/ MREF/ OCRMC/ OJC/ OS/ SA/ SCA/ SJC/ SM/ TA/ TMC:

Case Type W.P.C. PIL No. 2242/2015 Date of Regn. 14.12.15

2. If 'State' is a Party, Name the Deptt : (Pet/Res) [put mark]

✓

If Public Undertakings (specify name) : (Pet/Res) [put mark]

×

3. (a) Number of category with sub-category under which the matter falls:

21

99

00

IF OTHERS, specify the subject. ×

- (b) Which is applicable? ✓ [put mark]
(Single Bench/Div. Bench/Three Judge Bench/Five Judge Bench)

4. Article of the Constitution/Act (Central/State) ✓ [put mark]

U/a 226 & 227 of the Constitution of India.

5. Section/Sub-section involved: _____

6. Rules involved: ×

7. Whether any other matter is pending in this Court on the same point of law: If so, give the number of matter: _____

×

8. Whether any other matter is pending against the impugned order/ Judgement?

If so, give the number of matter: _____

×

9. Whether the matter is covered by any judgement of the Supreme Court, this Court or any other High Court, if so give details of the judgement: ×

10. Point of law involved in the matter: The petitioner who is a local inhabitant of Balangir has filed the present P.I.L. to direct seeking a direction to the opp. parties to take steps to prevent man-elephant conflict in the Coimgha & Sonapur region in the district of Balangir.

IN THE HIGH COURT OF ORISSA: CUTTACK

W.P. (C) PIL No. 22421 OF 2015

Code No. 219980

In the matter of:

Dwija Dalpati

.....Petitioner

-versus-

State of Odisha and othersOpposite Parties

INDEX

<u>Sl. No.</u>	<u>Description of documents</u>	<u>Pages</u>
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5.	VAKALATNAMA	

Cuttack

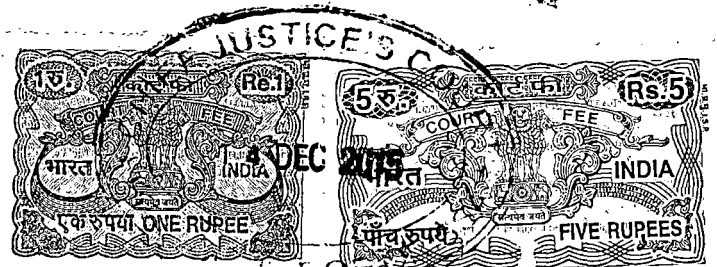
By the petitioner through

Date: 13.12.15


Advocate

Synopsis

1. The present PIL seeks to prevent the conflict between elephants and human beings in the District of Balangir. The same is for the benefit of the local population as well as for the benefit of the revered animal. The lackadaisical attitude of the State Government towards the said issue is making matters worse day by day at the ground level.
2. The petitioner is a farmer belonging to the District of Balangir and out of concern for the local people as well as the elephants of the Sonepur - Loisingha Range he has filed the present PIL. He has no political affiliations and the present PIL is not sponsored by any other entity except the petitioner. The PIL has been filed in a bonafide manner.
3. To fortify the stand of the petitioner he has relied on "Newspaper Reports" of varied dates under Annexure-1 Series which basically mention about the problems of the conflict in the said local area in the Dist. Of Bolangir.
4. The petitioner also seeks to bring to the kind notice of this Ho'ble Court the directions of the Karnataka High Court in the case of **Suo Motu v. The State of Karnataka Rep. by the Chief Secretary and ors.**, [W.P.(C) No. 14029/2008 (GM-RES)]
5. In the interim the petitioner has sought for appointing a Task Force to report regarding ground realities and take immediate preventive measures.



22326

IN THE HIGH COURT OF ORISSA: CUTTACK

(ORIGINAL JURISDICTION CASE)

W.P. (C) PIL No. 22421 OF 2015

CODE NO. 2199 00

In the matter of:

An application in Public Interest Litigation under Articles 226 and 227 of the Constitution of India, 1950, read with the provisions of the Orissa High Court Public Interest Litigation Rules, 2010 challenging the inaction of the opp. parties in trying to prevent the Man-Animal conflict in the Loisingha Forest Range in the district of Balangir.

Presented in Court

[Signature]
B. C. Mishra

And

In the matter of:

Dwija Dalpati, aged about 61 years,
Son of Late Kesaba Dalpati,
Resident of Vill. Malpada, Metakani Chhak,
P.O./P.S./Dist. Balangir

..... Petitioner

Versus

1. State of Odisha, represented through the Chief Secretary, Secretariat Building, Bhubaneswar, Dist. Khurda



2. The Secretary, Department of Forest & Environment, Secretariat Building, Bhubaneswar, Dist. Khurda
3. Principal Chief Conservator of Forests, Odisha at- Aranya Bhawan, Chandra Sekharpur, Bhubaneswar, Dist. Khurda, Odisha
4. Chief Conservator of Forests, Bhawanipatna, Dist. Kalahandi
5. Divisional Forest Officer (D.F.O.), (Territorial), Loisingha Range, Dist. Balangir

.....Opposite Parties

(The matter out of which the present Writ Petition (PIL) arises was never before this Hon'ble Court in the present form as per instructions received)

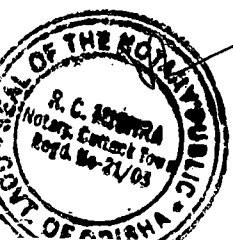
To

The Hon'ble Justice D.H. Waghela, B.Com. LL.M., the Chief Justice of the Hon'ble High Court of Orissa and his Lordships Companion Justices of the said Hon'ble Court.

The humble petition on behalf of
the petitioner named above;

MOST RESPECTFULLY SHEWETH:

1. That the present application under Articles 226 and 227 of the Constitution of India is being filed by way of Public Interest Litigation to prevent conflict between elephants and



human beings in the district of Balangir. The petition is being filed to prevent such man-animal conflict and the same is for the benefit of the local population as well as for the benefit of the revered animals.

2. That the petitioner is a citizen of India and the cause of action for filing the present writ application arises within the territorial jurisdiction of this Hon'ble Court. The opp. parties are amendable to the writ jurisdiction of this Hon'ble Court.

3. That the petitioner is a local inhabitant of Balangir and is concerned with the well being of the local population of Balangir. The petitioner is filing the present application on his own and not at the instance of anyone. The litigation costs including the Advocate's fees and travelling expenses are being borne by the petitioner himself.

4. That the brief factual backdrop of the case leading to the filing of the present application is that in the region of Loisingha and Sonapur there is a population of around 50 elephants and every year due to the conflict between the local inhabitants in the said area and the elephants there is wide spread destruction of properties as well as human lives. In this conflict between the local inhabitants and the elephants of the Loisingha Range there is also a huge loss of elephants.



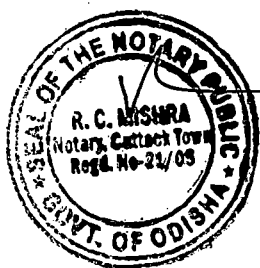
5. That the petitioner would like to bring it to the kind notice of this Hon'ble Court that on 20.10.2013 there was a report in the New Indian Express regarding one instance of such man-animal conflict. Copies of the relevant newspaper cuttings is annexed herewith as **ANNEXURE-1 SERIES**.

6. That in the last decade there has been rampant deforestation and the opp. parties have been completely callous about the aforesaid serious issue. Due to such deforestation the elephants are straying into the territory of human beings.

7. That the opp. parties are not taking any step to resolve the man-animal conflict, due to which the present petitioner has been constrained to file the present Public Interest Litigation and the same is filed with a bonafide intention.

8. That the aforesaid issue has been completely neglected, whereby the poor farmers of the region are the worst sufferers. The people belonging to the region of Loisingha and Sonapur are deeply affected both in terms of life and livelihood since the elephants frequently stray into human habitat. As a result there is huge crop loss and loss of human lives.

9. That the objective of the present Public Interest Litigation is to improve the condition of the local population as well as to prevent the elephants in the Loisingha Forest



Range from entering into the human habitat. The State is duty bound to take cogent steps to prevent such man-animal conflict. In the present case the officials of the State Government are in deep slumber.

10. That it is humbly submitted that there is no proper plan formulated by the State Government to develop a proper elephant corridor, due to which the situation is becoming worse day by day.

11. That it would be worthwhile to mention that the petitioner has raised the aforesaid issue with the opp. parties, but in vain.

12. That to the best of knowledge of the petitioner, no public interest petition raising the same is filed before this Hon'ble Court or before any other court in the State of Odisha.

13. That the present petition has been filed on the following amongst other grounds:

GROUND

A. For that it is humbly contended that Article 48-A of the Constitution makes it incumbent upon the State to protect and improve the environment and safe guard forests and wildlife. For the sake of clarity and convenience, Article 48-A of the Constitution reads as follows:



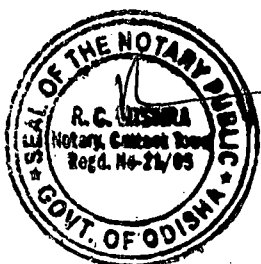
"48-A. Protection and improvement of environment and safeguarding of forests and wildlife-

The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country."

It is submitted that keeping in view the provision under Article 48-A of the Constitution, the State of Odisha should make concrete plans for developing a proper elephant corridor so that the conflict between man and elephants can be prevented.

B. For that it is one of the fundamental duties enshrined in the Constitution under Article 51A (g) of the Constitution of India which makes it incumbent upon the citizens to protect wild life and the flora and fauna. Similarly, it is the responsibility of the State to protect its citizens and in the instant case the fundamental right of right to life under Article 21 of the Constitution of the people of Loisingha and Sonepur in the district of Balangir is under threat because of the migration of the wild elephants and the havoc created by them by destroying the houses and crops of the people and also sometimes killing the people.


C. For that the State of Odisha does not yet have a mechanism in place to tackle the menace of the migration of the elephants to areas being inhabited by human beings.

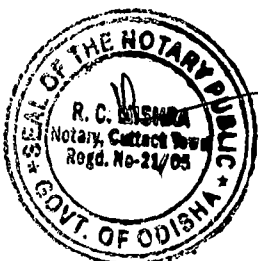


D. For that the people of Odisha in general and Loisingha and Sonepur in the district of Balangir in particular are living in state of distress and also suffering financial losses because of the destruction of crops by the elephants when they migrate to villages.

E. For that it would be worthwhile to mention that the elephants are great risk to agriculture and in case they come out of their natural habitat, there is substantial destruction to crops. The same also results to injuries to farmers and on a few occasions there is also death of human beings/farmers.

F. For that it is humbly contended that while protecting the elephants is an important aspect, the State should also take every care to protect the interest of the local inhabitants as well in the sense that the crops and other properties of the people which are destroyed by the elephants, the persons concerned should be adequately compensated by the State.

 G. For that this conflict between the human beings and elephants is faced in various parts of the country and the Loisingha range also suffers from the aforesaid conflict between human beings and elephants. This conflict in the district of Balangir has destroyed the livelihood of the farmers and such destruction happens year after year.



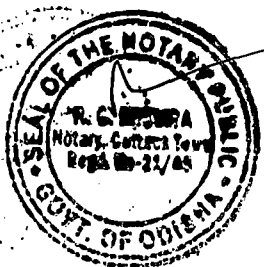
H. For that the forest officials and the State Government in general has ignored this vital problem, due to which the local population has developed wide spread anger against the elephants.

I. For that due to such developments, the elephants are also at the receiving end as the farmers try to attack them to save their property/crops.

J. For that the petitioner is given to understand that in the last six to seven years around 65 human beings have lost their lives due to attacks by elephants. Such attacks are now become a common feature in the district of Balangir and Sonepur. It would be highly pertinent to mention that elephants are habituated to regular migration and they require a lot of space. Development/depletion of forest cover and various encroachments by human beings to elephant territory have resulted in escalation of the conflict between the local inhabitants of Balangir and the elephants in the Loisingha-Sonepur range.

K. For that due to acute loss of crops every year, the local population has started migrating to be labourers at construction sites.

L. For that the Hon'ble High Court of Karnataka in the case of **Suo Motu v. The State of Karnataka Rep. by the Chief Seceretary and ors.**, [W.P.(C) No. 14029/2008 (GM-RES)] which was initiated suo motu on the directions of the



Hon'ble Chief Justice pertaining to the death of four elephants in Mysore Forest Area, has been pleased to observe as follows:

"12. Article 48-A, which is a Directive Principle of the State Policy and Article 51-A(g), which is a fundamental duty enshrined in the Constitution, guide the State as well as the citizen in the matter of protection of environment including wildlife. They read as follows:-

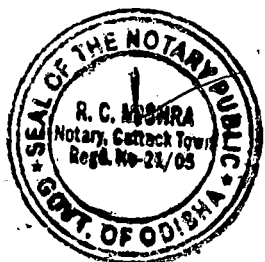
48A. Protection and improvement of environment and safeguarding of forests and wild life:--The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

51A. Fundamental duties:--It shall be the duty of every citizen of India.

(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

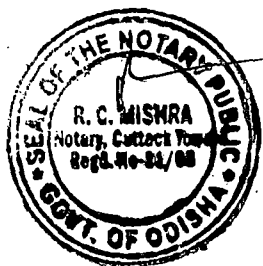
13. Article 48A was inserted by the 42nd amendment made to the Constitution to protect and improve the environment and to safeguard the forest and the wildlife of the country. Article 51A states that it shall be the duty of every citizen of India to protect and improve natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.

14. The Stockholm Declaration, the Declaration of United Nations Convention on Human Environment signed in the year 1972, to



which India is a signatory, have laid down the foundation for sustainable development and urged the nations to work together for the protection of environment. Conventions on Biological Diversity, signed in the year 1992 at Rio Summit, has recognized that the conservation of biological diversity is "a common concern of human kind" and it is an integral part of the development process. The Parliament has enacted the Biological Diversity Act in the year 2002 followed by the National Biodiversity Rules in the year 2004. The main objective of the Act is conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the utilization of genetic resources. The International Union for Conservation of Nature (IUCN) has calculated the percentage of endangered species as 40% of all organisms. The IUCN adopted a resolution resulting in a treaty drafted as the Washington Convention and known as the Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973. The Forest Conservation Act is enacted in the year 1980 with a view to check further de-forestation which would result in ecological imbalance. The aforesaid enactments enacted in the light of Article 48A and 51A(g) of the Constitution and the Conventions have enabled the Government of India to lay down various policies and action plans such as the National Forest Policy (NFP) 1988, National Environment Policy (NEP) 2006, National Bio-diversity Action Plan (NBAP) 2008, National Action Plan on Climate Change (NAPCC) 2008 and the Integrated development of wild life habitats and centrally sponsored scheme framed in the year 2009 and integrated development of National Wild-life Action Plan (NWAP) 2002-2016.

15. The Wildlife (Protection) Act, 1972 (the 'Act' for short) provides for protection of wild animals and birds with a view to

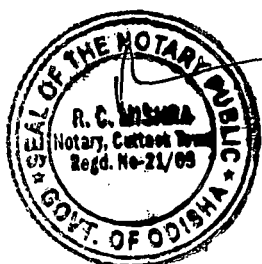


ensuring the ecological and environmental security of the country. The Act provides for setting up of protected areas such as national parks, wildlife sanctuaries, conservation reserves and community reserves. The Schedules list names of endangered species of mammals, amphibians, reptiles, birds, crustaceans and insects. For the possession, transportation, translocation etc., of these species permission from the Government of India is needed. Penalties for contravention of the Act in respect of Schedule I species are very stringent. Under the said Act, the National Board for Wildlife and the State Boards for Wildlife have been constituted having specific functions to carry out the objects of the Act.

16. Section 9 of the Act expressly bars hunting any wild animal specified in Schedules I to IV except as provided under Sections 11 and 12 of the Act. The expression 'hunting' includes:

- (a) killing or poisoning of any wild animal or captive animal and every attempt to do so;
- (b) capturing, coursing, snaring, trapping, driving or baiting any wild or captive animal and every attempt to do so;
- (c) injuring or destroying or taking any part of the body of any such animal or, in the case of wild birds or reptiles, damaging the eggs of such birds or reptiles, or disturbing the eggs or nests of such birds or reptiles;

17. Section 11 of the Act states that, notwithstanding anything contained in any other law for the time being in force and subject to the provisions of Chapter IV, the Chief Wild Life Warden may, if satisfied that the wild animal specified in Schedule I has become dangerous to human life or is so disabled



or diseased as to be beyond recovery, by order in writing and stating the reasons therefore, permit any person to hunt such animal or cause such animal to be hunted, but no wild animal could be ordered to be killed unless the Chief Life Warden is satisfied that such animal cannot be captured, tranquilized or translocated. Also no such captured animal can be kept in captivity unless the Chief Wild Life Warden is satisfied that such animal cannot be rehabilitated in the wild and the reasons for the same have to be recorded in writing. The process of capture or translocation of an animal in Schedule-I has to be made in such a manner as to cause minimum trauma to the animal. Indian Elephant is found in Entry 12-B of Schedule-I of the Act."

M. For that it is humbly contended that man-elephant conflict can be prevented or minimized in four different ways which are as follows:

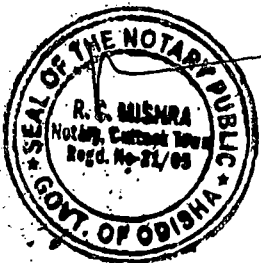
(a) Introducing barriers such as trenches, fences or repellents such as crackers, watcher squads etc., between the elephant and man;

(b) Change in cropping patterns around elephant populated areas to include non-palatable crops, which do not attract elephants;

(c) securing corridors for elephant movement;

(d) capture of rogue and problem herds.

It is submitted that the first method is only a temporary solution and ought not to impede migration. The



second and third measures are long-term measures which need to be pursued for finding a permanent solution to man-elephant conflict. The last measure should be resorted to only after identifying rouge animals which could be captured and translocated. The issue of translocation of herds of elephants from one habitat to another is a matter which would require careful and comprehensive consideration. (Source: Law of Forests in India- by R.N. Choudhury- 3rd Edition)

N. For that one of the main objectives of the 'Project Elephant' which was launched by the Central Government in the year 1992 is adopting measures for mitigation of man elephant conflict in crucial habitats. It may also be mentioned that the Project Elephant is also being implemented in the State of Orissa. It is reiterated that there is no proper mechanism in place in the State of Orissa to prevent man-elephant conflict. A copy of the scheme regarding the 'Project Elephant' is annexed herewith as **ANNEXURE- 2.**

14. That the petitioner has no other alternative efficacious remedy except to approach this Hon'ble Court under its extraordinary jurisdiction.



PRAYER

Under the facts and circumstances as narrated above this Hon'ble Court may be pleased to issue notice to the opposite parties and after hearing the parties be pleased to direct the opp. parties to:

(a) take appropriate measures to prevent the wild life especially the elephants from straying into the human habitat in the Loisingha-Sonepur range in the District of Balangir;

And

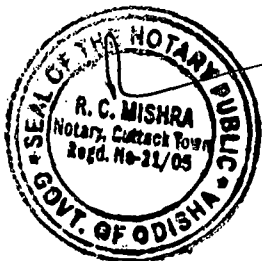
(b) direct the opposite parties to take adequate measures to have an elephant corridor in place so that the elephants do not enter into human habitat;

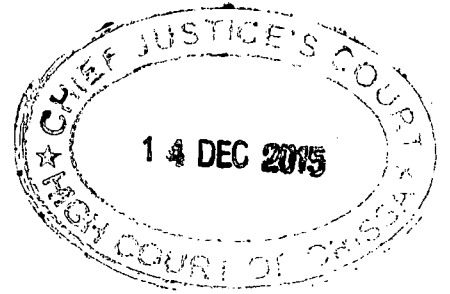
And

Dr (c) direct the opposite parties to take concrete steps to implement the 'Project Elephant' scheme in the Loisingha-Sonepur range in the District of Balangir in letter and spirit;

And

(d) direct the opposite parties to pay compensation to the persons concerned in the Loisingha-Sonepur range in the District of Balangir who have suffered losses due to the straying of elephants in the human habitat;





And

(e) direct the Opposite Parties to notify the areas of elephant habitat and their corridors and make necessary land acquisitions in that regard if required;

And

further be pleased to pass any other order/ orders, as may be deemed fit and proper in the interest of justice.

And for this act of kindness the humble petitioner as in duty bound shall ever pray.

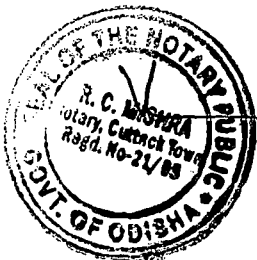
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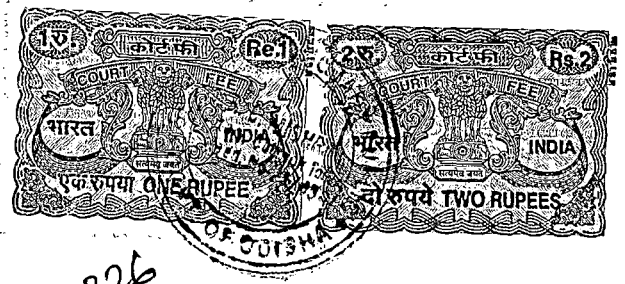
By the petitioner through

A handwritten signature in black ink, appearing to be "D.K.".

Advocate

Date: 13/12/15





32326

AFFIDAVIT

I, Dwija Dalpati, aged about 61 years, Son of Late Kesaba Dalpati, Vill. Malpada, Metakani Chhak, P.O./P.S/Dist. Balangir, do hereby solemnly affirm and state as follows:-

1. That I am the petitioner in this writ application and I am acquainted with the facts and circumstances of the case.
2. That the facts stated above are true to the best of my knowledge and belief and the same are based on records and the Annexures are true copies of the original.

Identified by

Ranjana K. Mohapatra
A.C. 13.12.15-

Dwija Dalpati
Deponent

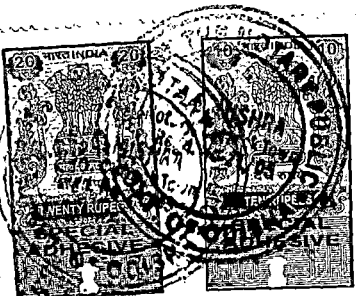
CERTIFICATE

CERTIFIED that due to want of C. papers plain papers have been used.

Solemnly affirm on In oath by the Deponent
at Cuttack on 13.12.15 being identified
by *R. K. Mohapatra*
Advocate/Adv's Clerk/Asst. AG'S office/Notary
Personally, that the facts stated above are
true to the best of his/her knowledge.

[Signature]
Advocate

[Signature]
R.C. MISHRA, Notary, Cuttack Town (ODISHA)
Redg. No-21/05



17



ANNEXURE-1 Series

12/14/2015

Two elephants electrocuted in Sonepur| Odisha Television Limited

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Two female elephants electrocuted in Sonepur

Odisha tv Bhubaneswar November 22 2015 at 7.48 pm.

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ELEPHANT DEATH

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Sonepur two elephants reportedly died at Tithipali reserve forest in Subarnapur in the district on Sunday morning. Though the exact reason behind the deaths is yet to be ascertained. DFO of Sonepur forest range said, the pachyderms might have died after coming in contact with solar fencing wire.

Sources said the solar fencing wire was found connected to a live extra-high tension wire resulting in the instant death of the two wild jumbos.

Till last report came in, the Forest officials are yet to arrive at the spot.

It may be mentioned that three elephants were electrocuted in last month.

Odisha tv App on
TARANGA

While one pachyderm aged between six to seven years died at Seramunda in Nuagada reserve for rest on October 30, two female elephants were electrocuted at Unani village under Ambabhana block in Bargarh district on October 23.

Rapid

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<http://odishatv.in/two-elephants-electrocuted-in-sonepur/>

1/2

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17



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Two female elephants electrocuted in Sonapur

Odishatv Bureau on November 22, 2015 at 7:48 pm

ELEPHANT DEATH



Sonapur: Two female elephants reportedly died at Tithipali reserve forest in Subarnapur in the district on Sunday morning.

Though the exact reason behind the deaths is yet to be ascertained, DFO of Sonapur forest range said, the pachyderms might have died after coming in contacts with solar fencing wire.

Sources said the solar fencing wire was found connected to a live extra-high tension wire resulting in the instant death of the two wild jumbos.

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While one pachyderm aged between six to seven years died at Seramunda in Nuagada reserve forest on October 30, two female elephants were electrocuted at Unani village under Ambabhana block in Bargarh district on October 23.

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THE NEW INDIAN EXPRESS

Sunday, December 06, 2015

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Home > States > Odisha

Elephant found dead in Balangir

By Express News Service - BALANGIR | Published: 20th October 2013 12:59 PM
Last Updated: 20th October 2013 12:59 PM



Email 0

The body of an adolescent female elephant was found near Khaliapali village in Loisingha forest range of Balangir division on Saturday. The forest officials put its age at five.

Balangir DFO Abhiram nayak said the elephant died after she accidentally fell into 10-feet deep gorge in the forest on Friday night.

The locals found the dead elephant on Saturday morning and informed the forest ranger of Loisingha. Assistant Conservator of Forest Goutam Naik rushed to the spot and started investigation. It may be mentioned that two elephants have died in the area in the last one year.

Due to rampant deforestation and careless attitude of Forest department, the elephants are not getting food and intruding into human habitation and damaging the crop.

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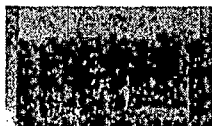
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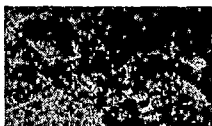
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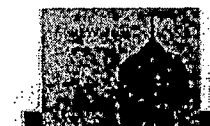
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Tusker tramples man to death in Balangir

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Tusker tramples man to death in Balangir

09/08/2010

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Report by: Manohar Panda, Orissabarta

Balangir: A wild elephant trampled a Tetelgaon villager within Loisingha police limits late night. The deceased has been identified as Laxmidhar Bhoi. Laxmidhar with severe injuries has been admitted to Bolangir district headquarters hospital. A herd of 32 elephants entered Salebhatta area from Barapahar forest range. After damaging the crops, the elephant reached Tetelgaon . Where four persons were sleeping near the paddy field .after the elephant ran, one person managed to escape while the rest three were clueless. At this time, the elephant trampled Laxmidhar , who died on the spot . We have alerted the villagers as the herd is close. We have asked the villagers to stay watchful at night, the DFO, Balangir, RK Sahu said.

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ELEPHANT CALF DIES IN BALANGIR*Sunday, 26 May 2013 | PNS | BALANGIR*

Rate : 0/5 Page : 0

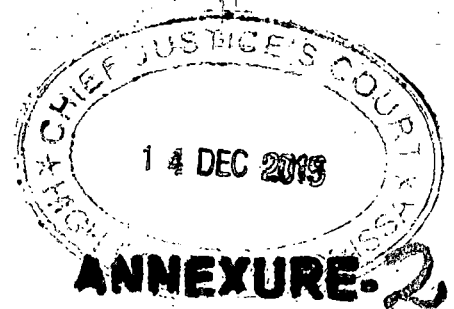
Barely a month has elapsed since the mysterious death of an elephant at Keisepali in Agalpur block, the death of a male elephant calf was reported from Budula village in the same block on Friday.

As many as 24 elephants, including calves, were found at Budulae on Friday. To watch the movement of the herd of the pachyderms, people in large numbers gathered at the spot.

A forest official at Loisingha said, "We sent our elephant squad and informed the police about the situation. But the crowd did not allow the elephants to go from there. Apparently, as the elephants remained under hot sun for a long time, an eight-month-old calf died by evening. The young elephant's body was brought to Loisingha for postmortem and buried later."

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OF
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21



2

Elephant is an animal included in Schedule-I of the Wildlife (Protection) Act, 1972. A complete ban on ivory trade was imposed in 1991. Project Elephant was launched in February 1992 by Govt. of India to consolidate the programmes for conservation of elephant and its habitat. The Project seeks to address (a) the threats to the survival of elephant in our country on account of loss of its habitat, migration path and poaching for tusks; and (b) issues arising out of elephant depredation in villages. Project Elephant also seeks (i) to maintain an appropriate size of the population in any habitat to safeguard it against extinction; and (ii) to maintain genetic continuity of isolated populations, which are otherwise susceptible to inbreeding.

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Project Objectives

- To conserve and protect elephant populations and to ensure that any population remains healthy and viable within its ecosystem.
- To conserve and protect the habitat of the elephant, and to reverse the deterioration of these habitats.
- To conserve, protect, and open up traditional migration corridors linking the different habitats.
- To create conditions, through eco-development activities, welfare measures and mitigation of elephant depredation for nurturing the traditional compassion and tolerance of the people living in and around elephant habitats.
- To take concrete measures to protect the elephant from poaching and other threats.
- To create viable mechanisms to ensure inter-state and inter regional coordination in protecting and conserving the elephant and its ranges.
- To create infrastructure and facilities, including training of manpower, for conservation support activities, veterinary care, humane methods of tranquilising and translocation, etc.
- To encourage, and create facilities for research related to the ecological significance of elephant and veterinary care of the animal.
- To educate people about the ecological significance of conserving the elephants and to revive the historical reverence and compassion for elephants.
- To devise strategies and programmes of providing alternative source of livelihood to craftsmen and communities adversely affected due to ban on the trade of Ivory products.

Elephant Reserve (ER) Network

"Because the elephant requires much larger home range than any other terrestrial animal, it is usually one of the first species to suffer the consequences of habitat fragmentation and destruction." Elephant Reserves offer hope to rejuvenate some of the fragmented habitats.

In the state of Odisha, where many forests are shared by the tiger and elephant, the establishment of ERs have raised the hope to unify fragmented tiger habitats as well.



Three Elephant Reserves (ERs)--- the Mayurbhanj ER, Mahanadi ER and Sambalpur ER were notified in the State in the years 2001 and 2002 to define the prime elephant habitats and to launch various management interventions for conservation of elephant. The extent of notified and proposed forest blocks in these three reserves is 4129 sq. km, and the geographical area covered by these three reserves is 8539 sq. km. In order to (a) include most of the remaining important elephant habitats with n ERs, (b) redress the problem of rising number of cases of elephant depredation and (c) reverse the trend of habitat fragmentation and degradation, it is proposed (year 2004) (i) to expand the area of Mahanadi and Sambalpur ERs, and (ii) to constitute new ERs called the Brahmani-Baitarani ER and South Odisha ER. As per the proposed constitution

constitute new ERs called the Brahmani-Baitarani ER and South Odisha ER. As per the proposed constitution

of the ER-network the maximum number of elephants will remain within the Reserves.

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Mayurbhanj ER

SIMILIPAL-KULDIHA-HADGARH ELEPHANT RESERVE (Constituted: September 2001)

Location

State: Odisha

Districts: portions of Mayurbhanj, Balasore, Bhadrak and Keonjhar

North: 21°10' to 22°03' latitude

East: 85°45' to 87°05' longitude

Approaches to the Reserve:

Southeast : Kuldiha (from Balasore 40km)

South : Hadgarh (from Bhadrak 40km)

West : Karanjia (from Keonjhar 50km)

North : Rairangpur (from Tatanagar 80km)

Northeast : Similipal (from Baripada 20km)

Area of the Reserve:

The Mayurbhanj ER comprises of the following areas.

Similipal Tiger Reserve: ... 2750.00sq.km

Kuldiha Sanctuary: ... 272.75sq.km

Hadgarh Sanctuary ... 191.06sq.km

----- 3213.81sq.km

Balance area including

RF, PF, VF, DPF and Revenue lands: 3829.93sq.km

Total: 7043.74sq.km.

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Sambalpur ER

BADRAMA-KHALASUNI ER (Proposed in 2004)

(First constituted: March 2002; Revision Proposed in March 2004)

[As per 2002 notification, Sambalpur ER included the entire area of Badrama Sanctuary and Khalasuni Sanctuary.]

Location

Districts of: Sambalpur, Sundargarh, , Jharsuguda, Sonepur

Forest Divisions: (Parts) of : Bamra (Wildlife), Bonai, Sambalpur (N), Sambalpur (S), Rairakhol.

Latitude: 20° 5'N and 22° 12'N

Longitude : 83° 13'E and 84° 58'E

Approaches to Sambalpur ER:

1. N.H.6 runs in the middle of the Elephant reserve.

2. NH 42 runs through the proposed extension.

3. Sambalpur-Rourkela State highway runs along the North-West and Northern boundary of the elephant reserve.

4. Sambalpur Rly. Junction and Jharsuguda Rly. Junction on East Coast Rly. are at a distance 30 and 25Kms. respectively from the reserve boundary.

5. SH 10 runs on the Western and northern boundary of the proposed extension.

Area of Sambalpur ER (as in 2004):

Name of Division	Area of Elephant Habitat in Sq. km	Area of Zone of Influence in Sq.km.	Total Area in Sq.km.

Bamra WL	573.27	1576.0197	2149.2897
Sambalpur (S)	402.45	828.06	1230.51
Sambalpur (N)	76.55	151.4200	227.97
Bonai	693.56	295.54	989.10
Rairakhol	813.54	436.4600	1250.00
Total	2559.37	3287.4997	5846.8697

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Mahanadi ER (Proposed in 2004)

(First constituted: March 2002; Revision Proposed in June 2004) [As per 2002 constitution, the Mahanadi ER includes total area of Satkosia Gorge Sanctuary (795.52sq.km); Baisipalli Sanctuary (168.35sq.km); Hatidhara RF in Boudh District (63.89sq.km); Makaraprasad RF in Nayagarh District (10.54sq.km)]

Location

Districts: Angul, Cuttack, Nayagarh, Kondhmal, Dhenkanal

Forest Divisions: Portions of Angul, Athagarh, Cuttack, Nayagarh, Boudh and Dhenkanal, and entire Satkosia Wildlife Division, Mahanadi Wildlife Division and Athamallik Forest Division.

Latitude: North - 20°. 10' to 21°. 5'

Longitude: East - 84°. 15' to 85°. 58'

Approaches to Mahanadi ER:

On the North-East-Hindol is approachable from Dhenkanal (60 Kms.)

On the North-Pampasar is approachable from Angul (30 Kms.)

On the South-West-Dhandatopa is approachable from Athamallik (10 Kms.)

On the South-West-Charichhack is approachable from Boudh (40 Kms.)

On the South-Dasapalla is approachable from Nayagarh (40 Kms.)

On the South-East- Gania is approachable from Nayagarh (60 Kms.)

On the West- Kapilas is approachable from Dhenkanal(30 Kms.)

On the East- Tangi is approachable from Cuttack (20 Kms)

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Area of Mahanadi ER (as in 2004):

Name of the Division	Elephant Habitat (RF, PRF)	Zone of Influence	Total
Satkosia Wildlife Division	447.79	207.2	654.99
Mahanadi Wildlife Division	300.50	136.79	437.29
Angul Division	252.28	355.72	608.00
Dhenkanal Division	513.51	1333.16	1846.67
Athagarh Division	400.48	680.93	1081.41
Athamallik Division	538.39	1302.61	1841.00
Boudh Division	335.01	110.00	445.01
Nayagarh Division	299.00	708.35	1007.35
Cuttack Division	52.20	62.40	114.60
Total	3139.16	4897.16	8036.32

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Elephant Conservation Issues

The factors impinging on conservation of elephants in Odisha fall under two distinct categories.

- Activities like hunting for tusks and killing by villagers in retaliation for depredation caused by single elephants or herds;
- Diversion of forest lands, mainly for mining of forest land, encroachment, and shifting cultivation leading to loss/ decline/fragmentation/degradation of elephant habitat.

Strategy and Action Plan

- Constitution of 'Elephant Reserves' by including the contiguous elephant habitats, ranges and the corridors between them.
- Evolving appropriate management of the designated 'Elephant Reserves' and other Elephant Habitats and conservation of the traditional migratory paths.
- Measures to minimise the problem of crop-raiding, house damage and killing of humans.
- Management of problem elephants or 'Problem Populations' by means of capture/ translocation/ domestication and other methods.
- Adoption of 'Animal Welfare' measures. Domestication and use of elephants for tourism, patrolling, etc have to be done carefully without subjecting the elephant to undue stress and ensuring proper upkeep and care of the animals. Methods of capturing have to be humane. Emphasis to be laid on training of right type of mahouts.
- Improvement of the quality and security of the life of the human population who share any elephant habitat and its resources for daily living.
- Research on aspects of elephant conservation.
- Education and awareness campaign
- Setting up of veterinary units for medical attention to sick elephants in each Elephant Reserve
- Training of mahouts and elephant managers

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Distribution in Odisha

In Odisha elephants are not seen in ten districts, namely Puri, Jagatsinghpur, Kendrapada, Bhadrakh, Koraput, Nabarangpur, Malakangiri, Bargarh, Sonepur and Bolangir. Estimation of elephant population is carried out periodically throughout Odisha. The estimation was carried out during 5th to 7th May 2002.

Table: Elephant Population in Odisha (May 2002)

Sl No	Division	Male	Female	Calf / Unknown Sex	Total
1	Angul	10	7	7	24
2	Athamalik	10	14	13	37
3	Athagad	19	98	39	158
4	Dhenkanal	14	45	22	81
5	Keonjhar	40	49	23	112
6	Satkosia WL	17	43	95	155
7	Balliguda	9	14	9	32
8	Boudh	0	0	0	0
9	Ghumsur(N)	2	4	3	9
10	Ghumsur(S)	2	2	2	6

11	Nayagarh	0	0	0	0
12	Mahanadi WI	4	10	11	25
13	Paralakhemundi	6	19	17	42
14	Puri	0	0	0	0
15	Phulbani	1	3	2	6
16	Bolangir	0	0	0	0
17	Jaypore	0	0	0	0
18	Kalahandi	19	34	8	61
19	Khariar	0	0	0	0
20	Raygada	0	0	0	0
21	Sunabeda WI	0	0	0	0
22	Bamra	45	123	33	201
23	Bonai	15	40	27	82
24	Badrama WI	0	0	0	0
25	Deogarh	2	7	0	9
26	Rairakhole	25	93	47	165
27	Sundargarh	0	0	0	0
28	Sambalpur	20	22	22	64
29	Chandaka WI	13	30	19	62
30	Similipal	97	283	132	512
	(Figures of Karanjia and Baripada Division included)				
	State Total	370	940	531	1841

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Captive elephants

The History of Odisha provides evidences about a rich tradition of maintaining elephants in captivity. There are innumerable elephant sculptures in temples and caves, and the Maharaja of Puri is known as the "Gajapati". Maintaining captive elephants was not possible in princely states after Indian-independence and particularly after the introduction of 'privy purse' where the princely states handed over most of their properties to the Government and maintaining personal collection of elephants was no longer necessary.

The changed scenario reflected on the families of 'Mahouts' who mastered the skill of elephant-maintenance. The mahouts have gradually vanished along with the disappearance of the tradition of keeping elephants.

Captive elephants are now maintained only in some of the 'camps' under State Wildlife Organisation. In Nandankanan the elephants are used for joy rides by visitors. In Similipal, however, the elephants are used by staff moving for habitat or wildlife protection, when the roads get cut off in the rains or where 'elephant power' is required to be deployed.

Table: Captive Elephants in Odisha during 2003

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7

Sl. No.	Place	Male	Female	Total
1	Nandankanan Biological Park	2	8	10
2	Similipal Sanctuary	3	2	5
3	Debrigarh Sanctuary	1	0	1
	Total	6	10	16

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**Table: Death of Elephant
(1990-91 to 2002-03)**

Sl. No.	Year	Nature of death					Total
		Poaching	Accident	Natural	Disease	Reason not known	
1	1990-91	11	6	12			29
2	1991-92	11	2	6			19
3	1992-93	15	5	16			36
4	1993-94	13	7	18			38
5	1994-95	23	5	15			43
6	1995-96	19	7	17			43
7	1996-97	14	10	10			34
8	1997-98	13	5	19			37
9	1998-99	13	11	4	1	1	30
10	99-2000	10	6	5	2	1	24
11	2000-01	11	3	3	1	2	20
12	2001-02	10	7	2	4	1	24
13	2002-03	16	11	0	10	3	40

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14	2003-04	9	15	1	18	4	47
	TOTAL	188	100	128	36	12	464

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Table: Elephant Depredation

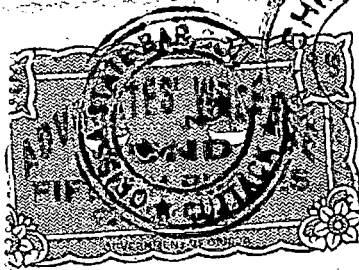
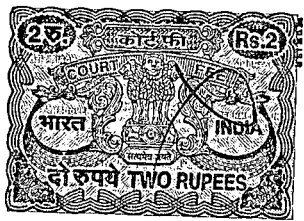
Number of cases of elephant depredation (1995-1996 to 2002-2003) in Odisha along with amount of

Sl.No.	Year	Human kill in Nos.	Human injury in Nos.	Crop damage in Acre	House damage in Nos.	Compassionate amount paid in Rupees
1	1995-96	30	1	1091.01	115	1019575
2	1996-97	6	1	0	0	70000
3	1997-98	15	1	1028.35	12	664464
4	1998-99	21	12	467.696	8	608139
5	99-2000	23	5	1999.624	262	1500000
6	2000-01	22	1	3187.69	5	1800000
7	2001-02	64	6	2823.824	1021	3006730
8	2002-03	66	7	4240.188	890	4103600
9	2003-04	12	1	3314.288	242	2451869
	TOTAL	259	35	18152.67	2555	15224377

compassionate payment made in different years:

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32326

FORM OF VAKALATNAMA

IN THE HIGH COURT OF ORISSA, CUTTACK

W.P.C.C) NO. 2242 OF 2015

BETWEEN Dwija Dalpati Appellant/Petitioner

- Versus -

State of Odisha Respondent/Opp. Party

Know all men by these Presents, that by this VAKALATNAMA,

I/We Dwija Dalpati s/o Late Khesaba Dalpati
Vill. Malpada Metakani Chhach, P.O/P.S/DIST
Balungir

Appellant/Respondent/Petitioner/Opposite party in the aforesaid Suit/
Appeal/ Case do hereby appoint and retain **Sri Gautam Misra, Dinesh Kumar Patra** ^{A.S. Behera} and **Anupam Dash**

Advocate(s), to appear for me/us, in the above case and conduct and prosecute or defend the same and all proceeding that may be taken in respect of any application connected with the same, or any decree or order passed therein including all applications for return of documents or receipt of any money that may be payable to me/us in the said case and also in applications for review, in appeals under High Court order and in applications for leave to appeal to Supreme Court. I/We authorise my/our Advocate (s) to admit any compromise lawfully entered in the said case and to represent me/us in during the trial.

Dwija Dalpati

Signature of Executant

Dated the 13/12/2015

Received from the executant (s)
satisfied and accepted as I hold no
brief for the other side.

CM
Advocate

Accepted as above

De
Advocate

Accepted as above

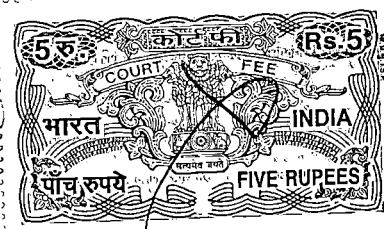
De
Advocate

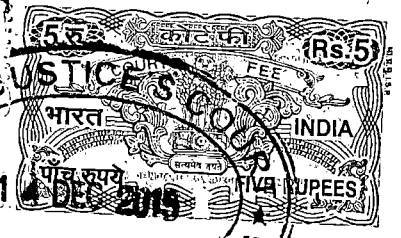
Accepted as above

A. Dash
Advocate

Accepted as above

Advocate





32327

IN THE HIGH COURT OF ORISSA: CUTTACK

MISC. CASE No. 20666 of 2015

(Arising out of W.P.(C) PIL No. 22421 of 2015)

In the matter of:

An application for appropriate orders under
Chapter-VI, Rule-27 of the Orissa High Court
Rules, 1948.

And

In the matter of:

Dwija Dalpati

..... Petitioner

-versus-

State Of Odisha and others

..... Opp. Parties

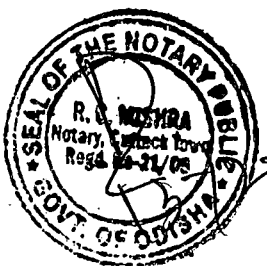
To

The Hon'ble Justice D.H. Waghela, B.Com. LL.M., the Chief
Justice of the Hon'ble High Court of Orissa and his
Lordships Companion Justices of the said Hon'ble Court.

The humble petition on behalf of
the petitioner named above;

MOST RESPECTFULLY SHEWETH:

1. That the present application under Articles 226 and 227
of the Constitution of India is being filed by way of Public



Interest Litigation to prevent conflict between elephants and human beings in the district of Balangir. The petition is being filed to prevent such man-animal conflict and the same is for the benefit of the local population as well as for the benefit of the revered animals.

2. That the facts enumerated in the writ application and the grounds taken therein may kindly be considered as a part of this Misc. Case.

3. That the petitioner has a strong prima facie case and the balance of convenience lies in favour of the petitioner.

4. That unless urgent ad-interim orders are passed directing that the concerned opp. parties to constitute a Task Force to report regarding the ground realities of Man-elephant conflict in the region of Loisingha and Sonapur in the District of Balangir, the petitioner will suffer irreparable loss and will be severely prejudiced.

5. That keeping in mind the aforesaid facts and circumstances, it would be expedient in the interest of justice to direct that during the pendency of the writ petition the concerned opp. parties may appoint a Task Force to report regarding the ground realities of Man-elephant conflict in the region of Loisingha and Sonapur in the district of Balangir and to take appropriate interim measures to prevent further conflict between the local villagers and elephants.



PRAYER

Under the facts and circumstances as narrated above, this Hon'ble Court may graciously be pleased to direct that during the pendency of the writ petition the concerned opp. parties may appoint a ✓ Task Force to report ✓ regarding the ground realities of Man-elephant conflict in the region of Loisingha and Sonepur in the District of Balangir and to take appropriate interim measures to prevent further conflict between the local villagers and elephants and further be pleased to pass any other order/orders as may be deemed fit and proper.

And for this act of kindness, the petitioner shall as in duty bound ever pray.

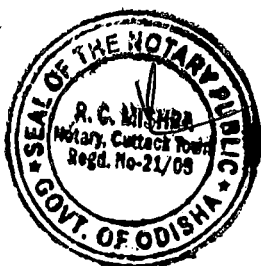
Cuttack

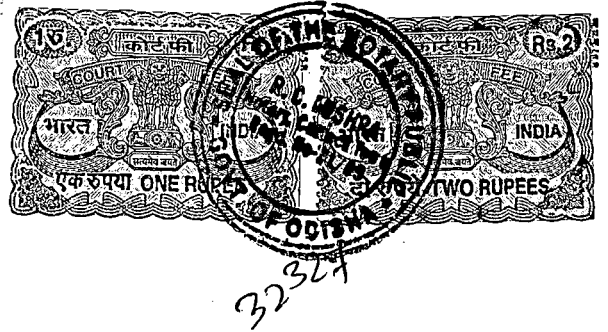
By the petitioner through



Advocate

Date: 13.12.15





AFFIDAVIT

I, Dwija Dalpati, aged about 61 years, S/o. Late Kesaba Dalpati, resident of village Malpada, Metakani Chhak, P.O./P.S./Dist. Balangir, do hereby solemnly affirm and state as follows:-

1. That I am the petitioner in this writ application and I am acquainted with the facts and circumstances of the case.
2. That the facts stated above are true to best of my knowledge and belief and the same are based on records.

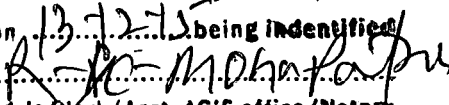
Identified by
Rajam Lal Mohapatra
A.C. 13.12.15

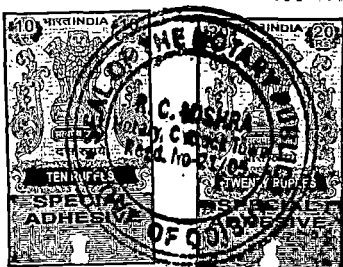
Dwija Dalpati
Deponent

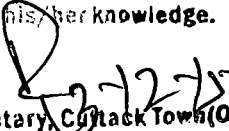
CERTIFICATE

CERTIFIED that due to want of C. papers plain papers have been used.


Advocate

Solemnly affirm on in oath by the Deponent
at Cuttack on 13.12.15 being identified
by 
Advocate/Adv's Clerk/Asst. AG'S office/Notary
Personally, that the facts stated above are
true to the best of his/her knowledge.




R.C. MISHRA, Notary, Cuttack Town (ODISHA)
Regd. No. 21/05

15
7
THE ADVOCATE GENERAL, ODISHA, CUTTACK

SUINO: -65494 DATE: 12/14/2015 CODE

CASETYPE: WPCPIL No: 22421 YEAR: 2015

PETITIONER / APPELANT: DWILJA DALPATI

RESPONDENT / OPP STATE

PETITION & MEMO ☒ MISC CASE ☒ EXTRA COPY ☐

COUNTER ☐ ADDL ☐ SET:

REORDER ☐ CONSOLIDATED ☐



ADDL. STANDING COUNSEL

14:4

ERR-2014-00-0000

12/14/2015 12:14:40



In the High Court of Orissa, ~~Cuttack~~

WPC PIL 22421 of 2015

Dwijā Dalpati — — — petitioner
— vs —

State of Odisha and ors — — — opposite parties.

MEMO

I undertake to file an English translation
copy as and when required by this
Hon'ble Court.

Cuttack
Dt 28/12/15

~~Adv~~
Advocate
for the petitioner

**COMPUTERISED FILING COUNTER
ORISSA HIGH COURT,CUTTACK
ACKNOWLEDGEMENT SLIP**

Seat No : 15

Branch No : WRIT BRANCH-7

Receipt No : 81968/2015

Date Of Receiving : 28/12/2015

Time : 11:49:25 AM

Case No : **WP(C) 22421/2015**

Received From : Petitioner

Filed By: ADVOCATE FOR PETITIONER

Document(s) Filed :

2- English Translate

28 DEC 2015

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REGIONAL

Letter-Header Count of on issue
WPC 22421/2015-

Dwija Dal Pakh — Petitioner
MS

State & Districts — SP-Pakhs

Translated copy of
Page 17 in Annex 1
Series filed here
with 7 on the store
to feel case

Call
28-12-15-

Advocate
For the Petitioner

**COMPUTERISED FILING COUNTER
ORISSA HIGH COURT,CUTTACK
ACKNOWLEDGEMENT SLIP**

Seat No : 15

Branch No : WRIT BRANCH-7

Receipt No : 11370/2022

Date Of Receiving : 15/02/2022

Time : 03:13:33 PM

Case No : WP(C) 22421/2015

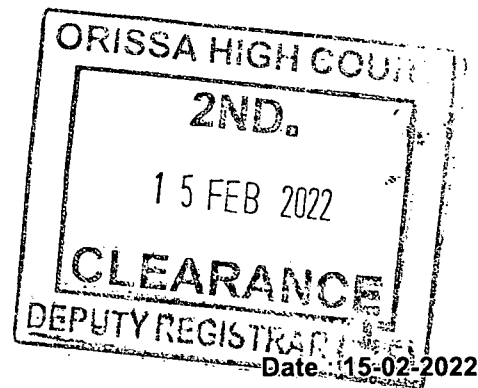
Received From : Respondent (2,4)

Filed By: ADDL .STANDING COUNSEL

Document(s) Filed :

5- AFFIDAVIT -e-Filing hard copy(Govt.)

eVerification



Efiling Number : ED-ODHC01-00874-2022

In CNR No. : ODHC010182272015

**Case Type : WP(C) - WP(C)-WRIT PETITION
UNDER ART.226 AND 227.**

Filing No. : 22421 / 2015

Registration No. : 22421 / 2015

Cause Title : DWIJA DALPATI Vs. STATE OF ORISSA

I state that I have gone through the pleadings and documents listed herein below. I undertake to submit signed copies of pleadings and original / certified copies or copies of documents physically before the court within time limit prescribed by Rules / Notification issued by High Court. Hence now I am verifying correctness and conformity of pleadings and / or documents with originals in my possession.

Uploaded documents :

#	Title (Documents)	Uploaded Documents	Pages	hash(SHA256)
1	AFFIDAVIT (AFFIDAVIT)	EDODHC01008742022_AFFIDAVIT.p df	23	83fadb8bcdfe933891d3fab04ec9da6 2c7eb249f6fccff09e5a987e7c74177a

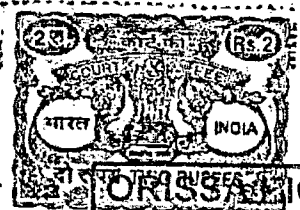
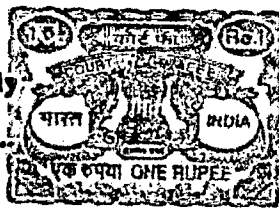
Fee Receipts :

#	Transaction Number	Transaction Date	Court Fee	Uploaded On	hash(SHA256)
Fee not paid					

eVerified By : TARUN PATNAIK On Date : 15-02-2022 02:32:00 PM Using Mobile : ***99.**

Notarial fee Stamp Affixed Correctly

Sl. No. 864 Dt. 11-2-22



IN THE HIGH COURT OF ODISHA: CUTTACK.
W.P. (C) PIL No. 22421 of 2015

2ND.

15 FEB 2022

CLEARANCE

Petitioner: G. S. PRAN

IN THE MATTER OF:

Dwija Dalpati

versus

State of Odisha & Others

Opposite Parties

AFFIDAVIT ON BEHALF OF OPPOSITE PARTY NOS. 2 & 4
IN REPLY TO THE CONVENIENCE NOTE DATED
04.10.2021 SUBMITTED BY THE PETITIONER

I, Nitish Kumar, aged about 34 years, son of Sri Meherpal Singh, at present working as Divisional Forest Officer, Bolangir Forest Division do hereby solemnly affirm and state as follows:

1. That, I am working as Divisional Forest Officer, Bolangir Division. I have been duly authorized by the Opp. Party No. 2 to swear this affidavit on their behalf.
2. That, it is relevant to state that the Petitioner in the present PIL, has, inter alia, prayed for reliefs for passing



11-2-22

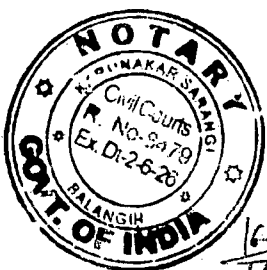
NITISH KUMAR

directions to prevent wild life especially the elephants from straying into the human habitat in the Loisingha-Sonepur range and implementation of the Project Elephant scheme in Loisingha-Sonepur range.

3. That in so far as the elephant human conflict present in the district of Bolangir is concerned and having observed the magnitude of the elephant depredation in the Loisingha - Sonepur belt, the Division Administration, Bolangir has taken up the following precautionary measures to minimize the elephant death and human-animal conflict;

a. As a part of anti-depredation measures to minimize man-elephant conflict in the Loisingha - Sonepur belt, anti-depredation squads have been formed. These squad comprises of 10 persons and an elephant squad consisting of 3 persons and four nos. of elephant trackers have been engaged throughout the year in 24 x 7 basis. Along with the villagers, the squad members and field staff are engaged for driving out the elephant from human habitation through safe passage to the

NITISH KUMAR

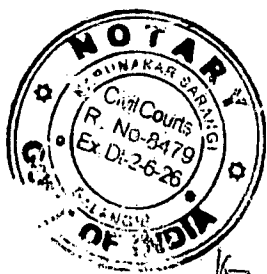


16
11.2.22

forest whenever movement of the elephant herd is observed in or around human habitation. Further, the elephant trackers have also been engaged for tracking the movement of elephant throughout the year.

- b. In addition to above said, various types of technological interventions have been initiated in District of Bolangir such as drones, aniders, camera traps, red signal torch etc. The staff of the Bolangir division is using the iWLMS Portal extensively for the better tracking of the elephant movement.
- c. The squad members and the elephant trackers engaged by the administration have been provided with all types of logistical support like torch Light, bell, canon air gun, red signal torch etc to drive out the elephant from the human habitation through a safe passage to the forest with the help of villagers.
- d. To prevent the depredation activities in the locality, a special ear-marked vehicle has also

NITISH KUMAR



11:2-22

been provided and stationed at Loisingha headquarters for mobility of the squad members and villagers to the spot where they located the depredation activities.

- e. Awareness programmes are being conducted for the villagers to minimize the human-wildlife conflict.
- f. In order to prevent the movement of the elephant in the human habitation and to improve the visibility during nights in the elephant depredation prone villages, 2 solar lights each has been installed in Kadalipali, Bhalupali, Bhaliamunda and Badibahal villages.
- g. In order to prevent the movement of wild elephant and other wildlife to the nearby villages, six numbers of water bodies have been created inside the reserve forest of Loisingha Range in order to ensure drinking water for the Wildlife and for the enrichment of the wildlife habitat. Steps have been taken for the disinfection of water bodies inside the Reserve Forest and forest fringe villages in

NITISH KUMAR



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15 FEB 2022

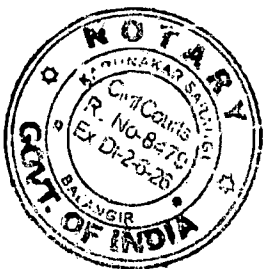
CLEARANCE

JUDICIAL REGISTRAR (JSE)

order to ensure that the elephants do not wander outside the reserve forest:

- h. Planting of fodder and fruit bearing species over 4 hectares area inside Ghati RF of Loisingha Range has been taken up during 2020-2021 to facilitate the elephant movement within the Reserve Forest and other forest area.
- i. Payment of 100 % compassionate grant for human death, injury and crop damage has been ensured in the locality on priority basis. Further, the services have been taken into the public domain through iWLMS Portal and the beneficiaries can track their application in the Anukampa portal. Use of iWLMS Portal, ANUKAMPA and GAJABANDU App has been made public and awareness measures on use of the above technologies are being taken up for the benefit of the public.
- j. Further, in order to avoid unnatural death of the elephant, regular meetings for coordinating with the electrical department and railway authority

NITISH KUMAR



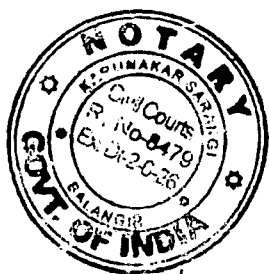
11-2-22

k. The electrical department has been requested to maintain a proper height for 11 KV line passing through different elephant movement villages and to repair the sagging line identified through joint verification of villagers, forest department staff and electrical department to avoid elephant deaths due to electrocution. Joint patrolling of electrical and forest staff along with the villagers are being taken up to check the hooking of 11 KV lines in different crop field.

NITISH KUMAR

4. That, it is also relevant to state that elephant movement in and around villages during harvesting season and man-animal conflict thereof is a primitive happening.

The Divisional Forest Officer, Bolangir Division office



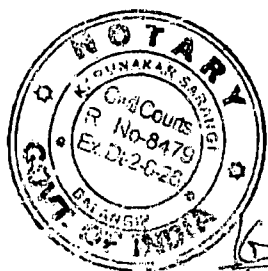
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has taken all possible steps to minimize the straying of elephants in order to safeguard the life and properties of people, into the human habitat in the Loisingha - Sonepur elephant belt in the Bolangir District.

5. That in order to take a holistic view of the problem relating to elephant and to reduce the man-animal conflict, the Government of Odisha in Forest & Environment Department vide their Notification No.FE-WL-WLF-0037-2017/16575/F&E dated 21.10.2020, have constituted a State Level Task Force under the Chairmanship of PCCF (WL) & CWLW, Odisha, involving all concerned department Heads. Copy of the Notification No. FE-WL-WLF-0037-2017/16575/F&E dated 21.10.2020 is enclosed herewith and marked as **Annexure- A/4.**

NITISH KUMAR

6. That an action plan based on a study by Asian Nature Conservation Foundation (ANCF) has been prepared and approved by State Government. This action plan is to be implemented in every 3 year period which provides for a holistic approach towards protection and



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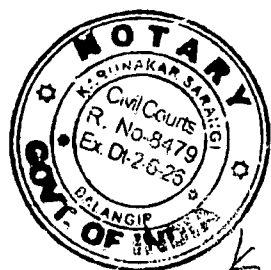
conservation of elephants in Odisha and to mitigate human elephant conflict. The strategy adopted in the action plan is based on following three points.

- a. Need to secure elephant habitat.
- b. Providing connectivity to habitat.
- c. Securing movement path of smaller and scattered population.

7. That it is relevant to state that based on report of ANCF, an area of two notified Elephant Reserves namely, Sambalpur ER and Mahanadi ER need to be increased to provide a secure habitat for elephants in Odisha. With this increase, about 75% of total population of elephants in the State and about 85% of total number of elephants assessed as per carrying capacity will get a secure habitat. As per the action plan, a proposal has already been formulated for the proposed increase in the area of two Elephant Reserves which is under due consideration of the Government.

NITISH KUMAR

The action plan has been formulated to provide connectivity to elephant habitats. As per action plan the distance between Mahanadi and Sambalpur Elephant



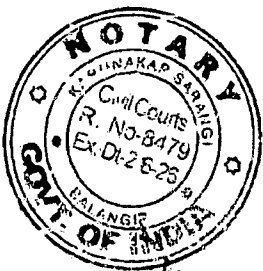
11-2-22

Reserves will be reduced by way of expanding the area and the same will come down from present aerial distance for about 65 km to about 15 km.

Due to change in the movement patterns of elephants, it is difficult to fix the boundaries of elephant corridors in the landscape between two expanded Elephant Reserves. Therefore, the entire landscape between the two expanded Elephant Reserves will be treated as 'movement area'. As suggested by ANCF report, this area would be made wildlife friendly and for this purpose, about 10 action points have been identified. After identification of the action points, the following actions have been taken;-

NITISH KUMAR

- a. Habitat enrichment activities by planting forest plants and water source augmentation have been initiated.
- b. As identified by Asian Nature Conservation Foundation ('ANCF') report, distribution canals of Manjore Dam are obstacles for movement of elephants in the areas between Mahanadi and

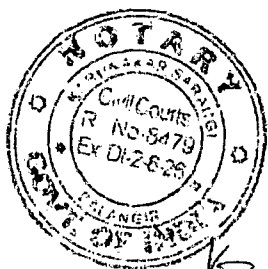


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Sambalpur Elephant Reserves. So, three crossing points have been identified on these canals and funds have been placed with Water Resources Department to construct overpass for elephants.

- c. ANCF report has also identified roads as potential barriers for elephant movement. So, crossing points for the elephants on roads have been identified and provision of under / over pass is included in the Site Specific Wildlife Conservation Plan. The National Highway of India has been asked to construct the same. Besides this, out of identified points on State Highway 62, the Works Department, Government of Odisha was asked to submit estimate for one such point and the same has been received which is under field verification by RCCF, Angul. Similarly, the Railway Authorities have also been asked to submit estimate for under pass construction in the identified crossing points on existing railway lines and the same is awaited.

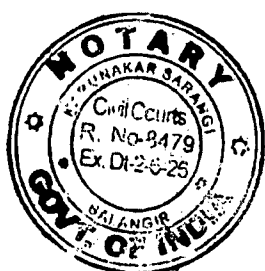
NITISH KUMAR



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- d. Voluntary village relocation scheme of the State has been amended to include areas connecting wildlife habitats in addition to the protected areas. This provision will be utilized to undertake voluntary village relocation from elephant movement areas to reduce human pressure.
- e. Scheme for maintaining wildlife friendly land use by the villagers in these areas is under preparation by RCCF, Angul and Sambalpur.
- f. Alternate livelihood like providing agricultural implements, flour mills, rice puffer machines etc. are being promoted in these areas to reduce the dependence of villagers residing on the periphery of the forest reserves with elephant population on the neighboring forest resources.
- g. Other measures like awareness of stakeholders, elephant proof trench, solar power fence, open well guards etc. are being implemented to save the life of elephants and other wild animals and to reduce human wildlife conflict.

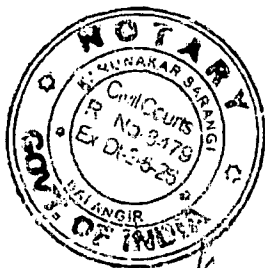
NITISH KUMAR



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8. That, as regards to the directions contained in the Order dated 18.02.2020 passed by the Hon'ble National Green Tribunal in O.A. No. 2/2019 and 3/2019 is concerned, steps have already been taken to declare the movement area between Hadgarh sanctuary and Kuldiha sanctuary within Mayurbhanj Elephant Reserve as Conservation Reserve.
9. That it is stated that to monitor the movement of smaller and scattered population of elephants, Circle Level Committees under the Chairmanship of Chief Wildlife Warden has been constituted after due approval of State Government. These Committees will review the movement of scattered population twice a year and will take necessary steps for ensuring their safety and security.
10. That it is also pertinent to mention that Government of India in Ministry of Environment, Forests & Climate Change vide their Letter F. No. 7-1/2021-PE dated 13.04.2021 has constituted a committee to identify and conduct the ground truthing of 101 elephant corridors

NITISH KUMAR

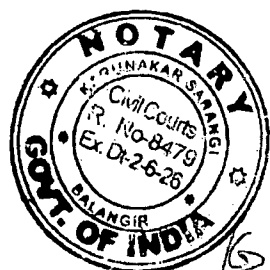


11-2-22

identified by Wildlife Trust of India to determine the boundaries of such elephant corridors. Copy of the Office Memorandum F. No. 7-1/2021-PE dated 13.04.2021 issued by the Govt. of India, Ministry of Environment, Forests & Climate Change is annexed herewith and marked as **ANNEXURE- B/4**.

11. That, as per guidelines issued by Government of India from time to time, for diversion of forest land, assessment as regards its potential impact on wildlife habitat is being done at Government level and mitigation measures wherever required are recommended before issuance of clearance of the project. Site specific wildlife conservation plan is prepared wherever required for any clearance of mining, infrastructure and industrial projects. The plan takes care of protection and conservation requirements of wildlife and improvement of their habitat in that very specific site. The implementation of site-specific plans will mitigate the human animal conflict issues of that area.

NITISH KUMAR

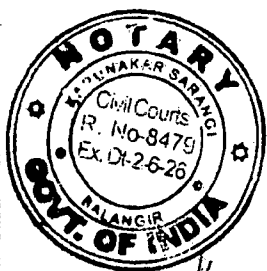


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12. That, in so far as the issue relating to electrocution of elephants is concerned, it is stated that regular coordination with the Energy Department is being held to prevent electrocution of elephants. Steps such as cabling of open transmission lines, maintaining height of transmission lines, rectification of sagging wires and joint patrolling along transmission lines with Energy Department staff to check illegal hooking are being taken. The matter is being reviewed at the level of Chief Wildlife Warden, Addl. Chief Secretary, Forest, Environment & Climate Change Department as well as by Chief Secretary, Odisha on regular basis.
13. That furthermore, toll free number has been issued for 24-hours reporting of wildlife related information by the public to the Control Room at State Wildlife Headquarters. Veterinary assistance has been provided to the captive elephants kept at different locations of the State. Dedicated veterinary unit have been established at Nandankanan, Kapilash, Satkosia, Keonjhar and Similipal for taking care of captive as well

NITISH KUMAR



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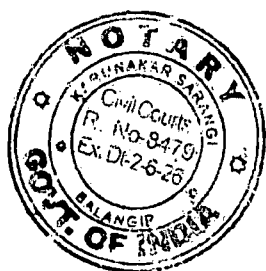
as free ranging wild animals. Training and capacity building of mahouts are being done on regular basis.

14. That it is relevant to state that a mobile application named "Anukampa" has been rolled out with effect from 01.06.2021 to expedite the process of settling claims of victims affected due to wild animal depredation and to bring in transparency in damage assessment and sanction of compassionate amount expeditiously.

Anukampa is a user-friendly software developed and launched by PCCF (Wildlife) & Chief Wildlife Warden, Odisha, State Wildlife Organisation, Department of Forest & Environment, Government of Odisha in association with Technical Partner, Odisha Space Application Centre (ORSAC), Bhubaneswar. The portal is to be used for claiming compassionate payment towards human kill, human injury, cattle kills, crop damage or house damage by wild animals as per provisions enumerated in Chapter-VAA of the Wildlife (Protection) (Orissa) Rules, 1974.

NITISH KUMAR

The objective of this initiative is to facilitate compassionate payment in a time bound and hassle-



11.2.22

free manner to citizens who are victim of wildlife depredation. The victims can apply online or through mobile app for sanction of compassionate payment. In case of any difficulty, the applicant may contact "Mo Sarkar Cell" in the concerned Range Office for necessary assistance

15. That, this deponent reserves the right to file further affidavit(s), if required by the Hon'ble Court at the time of hearing.

16. That the facts stated in the Affidavit are true to the best of my knowledge best on official records.

Identified by

NITISH KUMAR
11/02/2022
DEPONENT

AC., A.G's Office

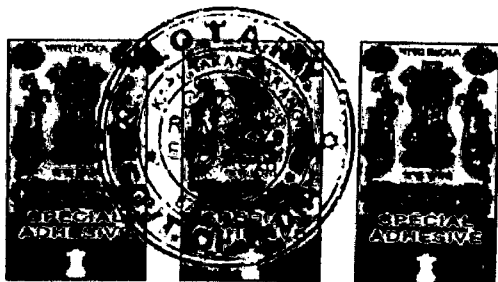
CERTIFICATE

Certified that cartridge Papers are not available.

CUTTACK

DATE 11/2/22

ADDL. STANDING COUNSEL



11.2.22




NOTES 2 **AFFIDAVIT** S/O - Meherkar Singh.

Having been identified by Mr. K. Sarang
Advocate, Solemnly affirmed before
me on this the 11th day of Feb. 2022
Readover and explained the Con-
tents to the deponent who admitted
to have understood correctly at the
time of making this affidavit

At place D. F. O. Bangalore

Po/PS/DPX Mallanpur.


Karunakar Sarang 2.22
Karunakar Sarang

(17)

ANNEXURE-A/4

18

GOVERNMENT OF ODISHA
FOREST AND ENVIRONMENT DEPARTMENT

Notification

No. FE-WL-WLF-0037-2017/ 16575 / F&E Dated 21-10-2020

A State Level Task Force under the Chairmanship of Principal Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden, Odisha is constituted with the following members for preparation of action plan for the next three years for reduction of man-animal conflict in the State and submit the same to the Government within six weeks.

1	PCCF (Wildlife) & Chief Wildlife Warden, Odisha	Chairman
2	Representative of South Eastern Railways	Member
3	Representative of East Coast Railways	Member
4	CEO, CESU	Member
5	CEO, WESCO	Member
6	CEO, NESCO	Member
7	CEO, SOUTHCO	Member
8	Chief Engineer (Roads), Works Department	Member
9	C.G.M(T) & RO, NHAI, Odisha, Bhubaneswar	Member
10	RCCF, Angul	Member
11	RCCF, Rourkela	Member
12	RCCF, Bhubaneswar	Member



True copy attached
Noted
11/10/2020
Divisional Forest Officer
Bolangir Forest Division

13	Save Elephant Foundation Trust	Member
14	NEWS, Angul	Member
15	Prof. Dr. Indramani Nath, H.O.D. Deptt. of Surgery & Radiology, Odisha Veterinary College, OUAT, Bhubaneswar	Member
16	DFO, Chandaka (Wildlife) Division	Member ✓
17	EIC, P&D, Water Resources Department or his nominee	Member
18	Addl. PCCF(Wildlife), O/o the PCCF (Wildlife) & Chief Wildlife Warden, Odisha	Member Convenor

The committee may co-opt any other member or consult any individual / institution for preparation of action plan for reduction of man-animal conflict in the State.

By order of the Governor

[Signature]
2/11

Additional Chief Secretary to Government

Memo No. 16576 / F & E, Dt. 21-10-2020

Copy forwarded to the Director, Printing & Stationery, Odisha, Cuttack for information and necessary action. He is requested to publish the Notification in the next issue of Odisha Gazette and furnish 100 copies to this Department for reference.

[Signature]
Special Secretary to Government

Memo No. 16577 / F & E, Dt. 21-10-2020

Copy forwarded to the all Members of the Committees for information and necessary action.

[Signature]
Special Secretary to Government

Memo No. 16578 / F & E, Dt. 21-10-2020

Copy forwarded to the PCCF, Odisha / PCCF (Wildlife) & Chief Wildlife Warden, Odisha for information and necessary action.

[Signature]
Special Secretary to Government

True copy attested.

[Signature]
Divisional Forest Officer
Bolangir Forest Division.

Memo No. 16579 / F & E, Dt. 21-10-2020

Copy forwarded to the P.S. to Minister, Forest & Environment for kind information of Hon'ble Minister, Forest & Environment.

d. 21/10/2020
Special Secretary to Government

Memo No. 16580 / F & E, Dt. 21-10-2020

Copy forwarded to the OSD to Chief Secretary, Odisha / PS to DC-cum-ACS for kind information of Chief Secretary / DC-cum-ACS respectively.

d. 21/10/2020
Special Secretary to Government

Memo No. 16581 / F & E, Dt. 21-10-2020

Copy forwarded to the P.S. to Additional Chief Secretary to Government, F & E Deptt. / P.S. to Special Secretary to Govt. (LO), Forest & Environment Department for kind information of Additional Chief Secretary to Government / Special Secretary to Govt. (LO).

d. 21/10/2020
Special Secretary to Government

Memo No. 16582 / F & E, Dt. 21-10-2020

Copy forwarded to the Head, State Portal, IT Centre, Odisha Secretariat, Bhubaneswar for information and necessary action.

d. 21/10/2020
Special Secretary to Government

(Guard files 10 spare copies)

True copy attested,

Nitin
11/10/2020
Divisional Forest Officer
Bolangir Forest Division.

2ND.

15 FEB 2022

ANNEXURE-B/4

CLEARANCE

F.No. 7-1/2021-PE

Government of India

Ministry of Environment, Forests & Climate Change
(Project Elephant Division)

Indira Paryavaran Bhawan,
Aliganj, Jor Bagh Road,
New Delhi-110003Dated 13th April, 2021**OFFICE MEMORANDUM**

Sub: Constitution of Committee to identify and conduct the ground truthing of 101 elephant corridors identified by the Wildlife Trust of India in consultation with State Forest Departments -reg.

A committee to identify and conduct the ground truthing of the 101 elephant corridors identified by the Wildlife Trust of India in consultation with State Forest Departments is constituted. The composition of the Committee is as follows:

- (i) Inspector General of Forests & Director (Project Elephant)- Chairman
- (ii) Dr. Sandeep Kumar Tiwari- Program Manager, IUCN AsESG & EMT, WTI- Member
- (iii) Dr. Anil Kumar Singh- WWF- India- Member
- (iv) Dr. K. M. Selvan- Scientist D, Project Elephant Division - Member
- (v) Dr. Prajna P. Panda- National Coordinator, Elephant Cell - Member
- (vi) CWLW, Karnataka or Nodal Officer, Project Elephant Division, Karnataka - Member
- (vii) CWLW Odisha or representative, Odisha - Member
- (viii) CWLW or representative, Assam - Member
- (ix) CWLW or representative, Uttarakhand - Member

2. The Committee shall have the following Terms of References:

- (i) To collate the information on the existing elephant corridors from the State Forest Departments.
- (ii) To submit the plan for groundtruthing of the elephant corridors identified by the State FDs.
- (iii) Conduct consultative workshops with State Forest Departments to finalize the list of identified elephant corridors.
- (iv) To prepare the document on the identified elephant corridors of the country and submit to the Ministry within the time limit prescribed.

3. The travelling allowance, daily allowance etc. will be payable to Non- official members of the Committee through RTGS as per SR-190 after submission of original bills of Airlines, Taxi etc. whereas official members will get TA/DA from their respective organizations.

True copy attached.
Nitin
 11/04/2021
 Divisional Forest Officer,
 Balangir Forest Division.

673

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4. The term of the Committee shall be for two years from the date of constitution.
5. All the expenditure related to meetings and consultative workshops with SFDs will be met by the Elephant Cell of Wildlife Institute of India, Dehradun.
6. This issues with the approval of the competent authority.

[Signature]
(Dr. K. Muthamizh Selvan)
Scientist 'D' (Project Elephant)
Email id: km.selvan@gov.in
Telephone No. 011-24695067

Distribution:

- All the members of the Committee.

Copy to:

- PPS to DGF&SS, MoEF&CC
- PPS to Addl. DGF (WL), MoEF&CC

True copy attached
Nitin
Divisional Forest Officer
Balangir Forest Division.

IN THE HIGH COURT OF ORISSA, CUTTACK

NOTICE

As directed, it is hereby informed that the following cases will be taken up before the Division Bench of Hon'ble The Chief Justice and Hon'ble Miss Justice S.Ratho at 12:00 P.M. today, the 19th November, 2024.

CHIEF JUSTICE'S COURT (2ND FLOOR)

AT 12:00 PM

THE HON'BLE THE CHIEF JUSTICE

THE HON'BLE MISS JUSTICE SAVITRI RATHO

<u>FRESH ADMISSION</u>			
1)	WP(C)/28706/2024 (Kind minutes of The Hon'ble The Chief Justice at flag-"X" may kindly be perused. Necessary paper cuttings at Flags - 'A' and "B" may kindly be seen.)	REGISTRAR (JUDICIAL),ORISSA HIGH COURT,CUTTACK Vs	ADV
<u>STATE OF ODISHA FOR ADMISSION</u>			
2)	WP(C)/14706/2022 (Order, Dtd.11.10.2023 may kindly be seen. With Counter by Ops.1 to 3. Affidavit by Ops. filed. Affidavit by intervenor petitioner no.2 filed on dtd.08.08.22. Further affidavit by intervenor petitioner no.2 filed no dtd.17.08.22. Affidavit filed by Op.4,copy not served. Affidavit filed by PCCF(Wild Life) on dt.24.08.22, copy not served. Affidavit filed by PCCF(Wild Life) on dtd.22.09.22, copy not served. Addl. affidavit filed by intervenor (Petitioner-2) on 24.09.22, copy not served and 2nd copy of this affidavit not filed. Affidavit filed by Addl.S.P., Member J.T.F. filed on dtd.10.11.22, copy not served. Affidavit filed by Chairman-cum-Convenor J.T.F. on dtd.20.10.22, copy not served. Affidavit filed by Chairman-cum-Convenor, JTF on dtd.21.12.22, copy not served. IA No.11195/22 at fl.B for appr. orders, copy not served. IA No.13325/22 at fl.C for appr. orders. Document filed by ld. counsel for petitioner on dt.05.07.22 is at fl.Y. A memo along with addl. document filed by the	GITA RCUT Vs	SHRI ASHIS KUMAR MISHRA,M/S.AFRAAZ SUHAIL,OMKAR DEVDAS M/S.AKHAYA BISWAL, D.R.CHOUDHURY

adv. for petitioner is at fl.Z.
Pendrive enclosed in envelope
fl.Q may kindly be seen.
Handouts of power point
presentation submitted by
Dr.Raman Sukumar kept below.
Affidavit by JTF dtd.17.01.23
filed in compliance of Order
dtd.22.12.22. Affidavit by
Chairman -cum- Convenor, JTF
in compliance of
Order dtd.18.01.23, copy
served. Affidavit filed on
dt.17.04.23 in compliance of
Order dtd.13.03.23 by ASP, JTF
filed on 18.04.23. Affidavit by
Chairman -cum- Convenor, JTF
in compliance to Order
dtd.13.03.23 filed on 18.04.23
is at fl.10. IA No.640/23 at fl.D
for intervention. Addl. affidavit
by
intervenor to the IA No.640/23
is at fl.G. IA No.3126/23 at fl.E
for intervention, copy not
served. Reply affidavit of Ops. 1
to 3 in IA 3126/23 is at fl.K. IA
No.3608/23 at fl.F for
intervention, copy not served.
Affidavit filed by chairman-cu-
-convenor, Joint Task Force in
compliance of Order
dtd.09.05.23, copy not served.
Reply affidavit in IA 640/23 of
Ops.1 to 3 to the Addl.Affidavit
of intervener is at fl.H, copy not
served. Reply affidavit in IA
640/23 of Ops. 1 to 3 is at fl.I,
copy not served. Rejoinder as
per Order No.15 dtd.09.05.23
not received. Notification
dtd.03.05.23 issued
by Addl.Chief Secretary to
Govt., Forest Dept. is at fl.20.
Report on Electrical Network
strengthening works in
elephant corridor and elephant
movement areas is at fl.30.
Proposal for Human-Wildlife
conflict mitigation in four
divisions of Odisha submitted to
Tata Power Ltd. submitted by
SNEHA NGO

is at fl.40, 2nd copy not received. Affidavit by ASP, JTF in compliance of Order dtd.09.05.23 and by TPCDOL are filed in Court and page marked , 2nd copy of affidavit by TPCDOL not received. IA No.10073/23 is at fl.L for appr. direction. Serial no. of Order dtd.19.07.23 may kindly be changed to serial no."16" instead of "15". Order No.20 dtd.25.09.23 may kindly be seen. A memo alongwith copies of the presentation dtd.11.10.2023 filed by the ASC is at fls.50 & 60. Receipt showing service of copy of Comprehensive Action Plan (CAP) alongwith a copy of the presentation on the advocate for the petitioner and other concerned counsels not received.)

STATE OF ODISHA

M/S.SRADHANJALI SAHOO
M/S.RITA
SINGH,M/S.SIDDHANT
MOHANTY, S.ROUT,
T.PRADHAN, ...
M/S.G.P.MOHANTY
S.MOHANTY,H.P.MOHANTY

WITH

WP(C)/9056/2013
(With Counter by Ops.1 to 4,
Counter by Ops.5, 7 & 8,
Counter by Op.9 (2nd copy of
counter not filed) and Counter
by Op.13. MC No.8490/13 is at
fl.A for appr. orders. MC
No.19123/15 is at fl.C for
interim direction. AD not back
from Ops.6,11 & 12. Receipt
showing service of consolidated
W.P. on Op.1 to 4 not filed. No
such affidavit has been
received. Common Order
dtd.29.08.23 passed in WP(C)
No.14706/22 may kindly be
seen.)

BALAGOPAL MISHRA
VS

STATE AND ORS.

MR N.K.BARIK
M/S.BIBHU PRASAD
TRIPATHY,
R.ACHARYA, N.BARIK,
S.HIDAYATULLAH,S.SAHOO,
M/S BIBHU PR. TRIPATHY,
R.ACHARY, N.BARIK,
S.HIDAYATULLAH,K.MOHAN
TY,S.PATANAIAK.,MR
D.R.RAY,M/S.B.K.PATANAIAK,
S.B.PARIDA

WP(C)/19625/2015

MRINALINI PADHI

MRINALINI PADHI

(MC No.19481/15 at fl.A for amendment filed on 23.11.15 (The above MC has been admitted vide Court's Order No.2 dtd.17.11.15 and granted to amend the petition to join the Electricity Distribution Companies as Ops.4 to 7) Reg: Disposal of the Misc Case. IA No.1737/23 at fl.B filed by the petitioner for amendment of the cause title of the writ petition. Affidavit filed by TPWODL is at fl.C. Mr. Lalit Kumar Moharana , learned counsel appears on behalf of TPSODL, TPWODL, TPNODL, TPCODL by filing V.nama with taking consent from the previous counsel. Submission on behalf of the petitioner kept on face of the record. Affidavit filed on behalf of TPSODL is at fl.D. Affidavit filed by TPNODL is at fl.E. Affidavit on behalf of TPCODL is at fl.F, copy not served, 2nd copy not filed. Submission on behalf of the petitioner dtd.18.09.2023 kept on the top of the record. Common Order dtd.29.08.23 passed in WP(C) No.14706/2022 may kindly be seen.)

VS

STATE OF ODISHA

MR.PRADIPTA KUMAR MOHANTY,M/S.BIJAY KU. DASH,S.R.DASH(TPCODL),,L ALIT KUMAR MOHARANA LALIT KUMAR MOHARANA(TPSODL,TPWODL,TPNODL,TPCODL),J. MOHANTA,S. MOHANTY, S. BEHERA,M/S.BIJAY KU. DASH, S.R.DASH, R.B.DASH,R.K.NAYAK,,M/S A.K.MISHRA,S.N.DASH,A.DA S,A.DASH,MR.B.K.NAYAK-
1.P.K.NAYAK,A.K.SAHOO,P.K.PASAYAT,M/S.D.N.MOHAPATRA

WP(C)/22421/2015

DWIJA DALPATI

M/S.GAUTAM MISRA

(MC No.20666/15 at fl.A for appr. orders. Affidavit filed by Ops. 2 and 4 is at fl.B. Common Order dtd.29.08.23 passed in WP(C) No.14706/22 may kindly be seen.)

VS

A.S.BEHERA,A.DASH,D.K.PATRA

STATE OF ORISSA

AGA

WP(C)/14057/2023
(IA No.6544/23 at fl.A for
further orders reg. stay. IA
No.6581/23 at fl.B for
dispensing with filing of c.copy
of order dtd.06.04.23. IA
No.6983/23 is at fl.C for further
orders and its Objection is at
fl.D. Reply not yet received
from AGA for the state.
Rejoinder not yet received.
Receipt received reg. extra
copy service on Ld. Deputy
Solicitor General of India.)

STATE OF ODISHA
VS

TARUN PATNAIK,A.S.C

WILDLIFE SOCIETY OF
ORISSA

M/S.SANKAR PRASDA
PANI,R.K.SARANGI

THE HIGH COURT OF ORISSA:


CUTTACK

DTD.19.11.2024

BY ORDER

DY. REGISTRAR (JUDL.)

(Copy forwarded to A.G.'s Office/ Secretary, High Court Bar Association/
Court's Notice Board for information.)


19/11/24
DY. REGISTRAR (JUDL.)

wp(c) No. 22421/2015

- 1 -

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 08TH DAY OF OCTOBER, 2013

PRESENT

THE HON'BLE MR. D.H.WAGHELA, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE B.V.NAGARATHNA

W.P.No.14029/2008 (GM-RES)

BETWEEN:

SUO MOTU.

... PETITIONER

(BY SRI: M.R.NAIK, SR. COUNSEL AS AMICUS CURIE)

AND:

1. THE STATE OF KARNATAKA,
REP. BY THE CHIEF SECRETARY,
VIDHANA SOUDHA,
BANGALORE.

2. PRINCIPAL SECRETARY,
DEPARTMENT OF ECOLOGY,
FOREST AND ENVIRONMENT,
M.S.BUILDING,
VIDHANA VEEDHI,
BANGALORE-01.

3. THE CHIEF CONSERVATOR OF FORESTS,
DEPARTMENT OF FOREST,
ARANYA BHAVAN, 18TH CROSS,
MALLESWARAM,
BANGALORE-3.

4. THE DEPUTY CONSERVATOR OF FOREST,
DEPARTMENT OF FOREST,
MYSORE.

5. KODAGU MODEL FOREST TRUST,
A REGISTERED TRUST,
COLLEGE OF FORESTRY CAMPUS,
PONNAMPET, PONNAMPET-571 216,
KODAGU DISTRICT,
BY ITS HONORARY SECRETARY,
V/O DATED 12/3/2009.

6. THE UNION OF INDIA,
THROUGH THE SECRETARY,
DEPT. OF ECOLOGY AND FOREST,
NEW DELHI.
V/O DATED 26/11/2010.

... RESPONDENTS

(BY SRI: R.G.KOLLE, AGA FOR R1 TO R4,
SRI.P.M.NAYAK, ADV. FOR R5,
SRI.UNNI KRISHNAN.M, CCC FOR R6,
SRI.S.S.HAVERI, ADV., FOR KARNATAKA
STATE BAR COUNCIL,
SRI.A.K.SUBBAIAH AS INTERVENER,

DR.RAMAN SUKUMAR,
CHAIRMAN, TASK FORCE COMMITTEE,

SRI.G.S.PRABHU, CHIEF WILD LIFE
WARDEN AND CHIEF CONSERVATOR OF
FOREST (WILD LIFE) KARNATAKA.

DR.C.H.BASAPPANAVAR, FORMER CHIEF
CONSERVATOR OF FOREST,
SRI.N.RAVINDRANATH KAMATH, ADV.,
SRI.B.R.DEEPAK, ADV. - MEMBERS OF
TASK FORCE COMMITTEE,

SRI.ASHOK.G.NIJAGANNAVAR, MEMBER SECRETARY
KARNATAKA STATE LEGAL SERVICES AUTHORITY)

THIS WRIT PETITION IS INITIATED SUO MOTO ON THE
DIRECTIONS OF THE HON'BLE CHIEF JUSTICE PERTAINING TO
THE DEATH OF FOUR ELEPHANTS IN MYSORE FOREST AREA

REPORTED IN 'THE HINDU' ENGLISH DAILY NEWSPAPER DATED 6/11/2008.

THIS PETITION BEING RESERVED AND COMING ON FOR PRONOUNCEMENT OF ORDER, THIS DAY, **NAGARATHNA J.**, MADE THE FOLLOWING:

ORDER

1. Being shocked and concerned over the news of death of four elephants under mysterious circumstances in Nanjangud Taluk, Mysore District and worried about the statistics that nine elephants had died in the past seven days and 25 elephants had died in the past six months around Bandipur-Nagarahole National Park and the concerned authorities had no clue about such a disaster being reported in the news papers, this Court Initiated this *suo motu* Public Interest Litigation in the year 2008. The State and the Union of India were directed to investigate into the case of death of the elephants and to take action against lapses on the part of the authorities and take remedial measures to prevent such disasters in future.

2. After hearing the learned counsel for the authorities and counsel, who have acted as *Amicus Curiae* and Dr.C.H.Basappaavar, Retired Chief Conservator of Forests, further directions were issued to file necessary reports and on 09/04/2009, the State Government submitted a Report and an Action Plan dated 11/03/2009 called "Elephant Landscape" before this Court, suggesting short-term and long-term measures and recommendations. The State Government filed a comprehensive Action Plan for conservation and protection of elephants and other wildlife on 17/04/2009 and Dr.C.H.Basappaavar, also filed an "Action Plan to Mitigate Human-Elephant Conflict" on the said date.

3. Placing reliance on certain decisions of the Hon'ble Supreme Court and reiterating Article 48-A of the Directive Principles of State Policy and Article 51-A(g), by order dated 25/05/2009, the following directions were issued:-

"37. Accordingly we pass the following order:

- (i) The Report and the Action Plan - Elephant Landscape dated 11/3/2009 filed on 12/3/2009; the Comprehensive Action Plan dated 11/3/2009 filed on 17/4/2009 for conservation of Elephants and other wildlife proposed by the State; and the Comprehensive Action Plan on 'Human-Elephant Conflict Mitigation' (scientific report) filed on 17/4/2009 by Dr.C.H.Bassappaavar, retired Forester and Wild-lifer, are taken on record.
- (ii) The State Government shall implement the short term measures mentioned in paragraphs 8.7.1, 8.7.2 and 32.2 (supra) as per the action plan proposed particularly; and shall complete the selection and recruitment process for filling up the vacancies of staffs and flying squads, within three months from the date of receipt of this order.
- (iii) The State Government shall also implement the long term measures mentioned in paragraphs 8.7.3 and 32.3

(supra) as per the action plan proposed by the State Government within a period of six months from the date of receipt of the copy of this order.

- (iv) This Court further deems it fit to include (1) the Member Secretary, Karnataka State Legal Services Authority, Bangalore, (2) Member Secretary, High Court Legal Services Committee, Bangalore, (3) Mr. Madhusudan R. Naik, senior counsel, (4) Dr. C.H. Bassappa Navar, retired Forester and Wildlifer as Members of the State Advisory Board for Wildlife constituted under Section 6(1) of the Wildlife (Protection) Amendment Act, 2002, and among them the Member Secretary, Karnataka State Legal Services Authority, who shall file periodical report before the High Court Legal Services Committee and the Karnataka State Legal Services Authority at least once in three months, for their constant monitoring, as to the implementation of short-term and long-term measures

framed and proposed to be framed, as undertaken by the Government referred to above, for conservation of elephants and prevention of unnatural death of elephants as well as other wildlife. The said Board shall study and implement the recommendations provided in the said report filed on 11/3/2009 and 17/4/2009 by the forest department and the report dated 17/4/2009 filed by Dr. C.H.Bassappaiah on Short-term and Long-term measures for conservation of elephants and to prevent the unnatural death of elephants. The High Court Legal Services Committee/Karnataka State Legal Services Authority is at liberty to refer the matter to the Green Bench for any further directions, if necessary.

- (v) The Board so constituted shall hold review meetings as and when required and at least once in three months.
- (vi) As and when required, the Board is also at liberty to approach this Court for

appropriate further directions in the matter.

(vii) The Press, Electronic media or any person, who come across the ill-treatment or death of elephants or wildlife whatsoever, are at liberty to bring the same to the notice of the Member Secretary, High Court Legal Services Committee/Member Secretary, Karnataka State Legal Services Authority, to take appropriate action in the matter.

(viii) Government shall take appropriate steps as to the prevention of raising commercial crops like Banana, Sugarcane and Maize, nearby forest area and the State and Central Government shall frame and implement appropriate crop-pattern policy for the lands in and around forest area, in order to avoid human-elephant conflict.

(ix) Wherever there are narrow passages, which the elephants are using as corridor touching the neighbouring states, the

Government is directed to take necessary steps to widen such corridors by appropriate acquisition proceedings, in the larger public interests.

38. *The Writ Petition is ordered accordingly."*

4. Subsequently, a Report containing recommendations submitted by the Karnataka State Legal Services Authority was taken on record on 27/10/2010. The matter was posted on several dates. Thereafter, on 16/11/2011, it was clarified that this Court had not given its *imprimatur* to the translocation of Elephants from Kodagu - Hassan border to an alternative site including Bhadra Wildlife Sanctuary, BRT Wildlife Sanctuary or Bandipur National Park. It was observed that the opinion of the experts including the officers from the Forest Department would have to be considered in greater detail before a conclusion as to translocation of the elephants could be ordered.

5. On 04/01/2012, learned Assistant Solicitor General stated that the names of the persons who could constitute

the Task Force would be submitted to the Court, as the Court felt that if a competent Task Force was constituted, reports in relation to short-term and long-term measures as contained in the Comprehensive Action Plan for the conservation of elephants and other wildlife prepared by the Government of Karnataka, would be comprehensively available. Accordingly, on 24/01/2012, this Court constituted the Task Force headed by Dr.Raman Sukumar, CES, Indian Institute of Science, Bangalore, as a Chairman and comprising of 11 members. The terms of reference for the Task Force were as follows:-

"1. To look into the entire gamut of issues related to human-elephant conflict in Karnataka with special reference to Hassan-Kodagu area and make recommendations to bring about a more effective conservation and management regime for the species and its habitat in Karnataka with due focus on participation of local communities.

2. To study the composition of the elephant population in Katteपुरa area and its movement pattern.

3. To examine and report on 'feasibility' of providing a proper Corridor and/or a habitat; if need be, by acquiring private lands/securing back - the un-authorisedly occupied/encroached lands within and on the periphery of Forest lands.

4. To consider the need, expediency or feasibility of translocation of elephants or the local inhabitants from the concerned habitats.

5. To examine and report on the present status/steps taken by Forest Authorities - in respect of 'electric fencing; trenching and/or such other 'Corridor formation'; if any; within and outside the Forests in Hassan - Kodagu Area and, whether such steps are 'ill advised'/or improperly implemented, and thereby have contributed to increase in elephants and human conflict.

6. To examine and report on achievements made/present status of/implementation of 'short' and 'long term' comprehensive action plan submitted to this Hon'ble Court.

7. To consider any other relevant issue.

8. Any other reference that this Hon'ble Court may deem fit to suggest in the circumstances of the above case."

6. The Task Force was to submit its Report on or before 15/04/2012 but in fact, in September 2012, the Task Force submitted its Report to this Court. After holding several meetings and field visits, the Task Force has made its recommendations on the following headings:-

"1. Establish a Karnataka Elephant Expert Group, within the State Wildlife Board, with a broad mandate to plan, advise, and assist in elephant conservation and management in the state.

2. Loss and fragmentation of elephant habitats due to ill-planned commercial infrastructure projects and natural resource extraction.

3. Legal consolidation of elephant habitats.

4. Improving connectivity between elephant habitats.

5. Managing land use in non-forest areas adjoining designated forests.

6. Reducing pressures on elephant habitat from large-scale human resource-use.

7. Mitigating and managing elephant-human conflicts.

8. Site Level Recommendation: Elephant-human conflicts in the Alur-Arkalgud region of Hassan District.

9. Site Level Recommendation: Acquisition of private lands in Sakaleshpur for the purpose of creating an 'elephant corridor.'

10. Minimising unnatural mortality of elephants.

11. Managing habitat in designated forests.

12. Strengthening and streamlining administration for elephant conservation.

13. Tourism in elephant areas.

14. Inter-state cooperation and coordination.

15. Research and monitoring for elephant conservation and management.

16. Welfare and management of captive elephants."

7. The background and the approach of the Task Force in the context of the terms of reference made by this Court

as stated in the Report can be usefully extracted as hereunder:-

"1.1. Background

Karnataka possibly has the distinction of harbouring the largest population of the Asian elephant (*Elephas maximus*) in India. About one-fifth of the country's estimated population of 28,000 wild elephants is found in Karnataka, mainly in protected and reserve forests in the southern part of the state. As such the elephant population of Karnataka is sufficiently large and does not warrant serious concern about the future prospects for its survival. The cultural association of the elephant with people is also ancient in the state, as seen from its prolific depiction in temple art from the Hoysala dynasty of the 12th and 13th century, through the ruins of the 14-16th century Vijayanagara kingdom at Hampi and the murals of the 18th century Dariya Daulat, to the modern-day Dasara festival at Mysore Palace. The elephant is thus an iconic species for the conservation of biological diversity and the cultural heritage of the state.

Nevertheless, Karnataka also typifies many of the problems that the elephant faces across the country. Although most of the elephants in the state are presently distributed across a single, contiguous landscape in the south and southwest (named as the Mysore Elephant Reserve), along with adjoining elephant habitats in the states of Tamil Nadu and Kerala, there are still threats to the integrity of this landscape through fragmentation. There are at least two completely isolated populations in the state, a small population in north-western Karnataka and a medium-sized one in the Malenad plateau. We lack clarity on the status and viability of a number of small, scattered elephant groups ranging over the Western Ghats. Karnataka also faces a serious problem of elephant-human conflicts, not only in the form of chronic crop raiding and occasional human deaths along the forest-agriculture interface of the major elephant habitats, but also a more severe manifestation of such conflict from dispersing groups of elephants or solitary bulls that range over a predominantly human-use landscape such as the

Alur/Arkalgud taluks in Hassan district or the Savandurga region of Tumkur district. Some of these problems of habitat fragmentation and elephant-human conflicts stem from the historical patterns of land-use in the state, exacerbated in recent times by developmental pressures of a rapidly growing economy.

The Government of India initiated Project Elephant during 1992-93 with these broad primary objectives:

1. Conserving and protecting the viable populations of wild elephants and ensuring the quality and integrity of the larger landscapes across the country of which they are a part.
2. Mitigating elephant-human conflicts through a number of measures including compensatory payments for crop losses, ex gratia payments for loss of human lives, barriers to prevent elephants from entering agricultural land, as well as capture and translocation of elephants where necessary and feasible.

3. Promoting ecologically sustainable development among local communities dependent upon forest resources to reduce pressures on the natural habitat.
4. Controlling the illegal killing of elephant especially the poaching of male elephants for ivory (that had become a scourge in southern India during the 1980s).
5. Ensuring the welfare of elephants in captivity.

These strategic objectives are still very much valid in the present-day context of elephant conservation, and we must keep this framework in mind when planning for conservation and management of elephants in Karnataka.

Presently, the management of elephants in the highly fragmented areas, isolated forest patches, or the human-dominated landscapes in the country consumes a disproportionate amount of financial and human resources, often at great cost to human life, property and agriculture, and with questionable returns in

terms of conservation gains. As compared to its neighbouring elephant-bearing states of Tamil Nadu and Kerala, whose elephant populations are largely concentrated within or confined to well-defined tracts of forests, Karnataka faces the problem of a small fraction of its elephant population being highly scattered over expansive forested and non-forested landscapes. Consequently, Karnataka faces a more serious problem of elephant-human conflicts, relatively speaking and thus greater challenges in formulating and executing an appropriate conservation paradigm.

The conservation of elephants must be based on these two overarching goals:

1. Ensure the long-term survival of viable (demographically and genetically) populations of elephants through land-use planning, regulation and consolidation in the larger natural landscapes of the state on the basis of sound scientific theory and social principles.
2. Substantially reduce the levels of elephant-human conflicts to relieve human

suffering from loss of crops, property and life, in a manner that would promote greater tolerance and acceptance of elephants in the larger landscape by local communities, protect their livelihoods, and ensure their effective participation in conservation.

If the above two goals are kept in mind, conservation could become a win-win strategy for elephants that would now be able to move within secure habitats and have lower chances of being injured or killed in conflicts with people, and for people whose lives and livelihoods would be more secure against the depredations of elephants.

1.2. Our approach

The Karnataka Elephant Task Force has thus taken a zone-based approach to make recommendations for the management of elephants in the state through conservation of habitat, protection of elephants, mitigation of conflict, strengthening of administrative structures and institutions, participation of local communities in this broader scheme, and scientific monitoring. It recognizes that conservation of elephants comes at a cost,

often a great one borne largely by marginalized communities of farmers and other rural people. This is neither a sustainable model of conservation nor desirable from the view-point of equity and social justice. KETF thus advocates a scientifically sound yet pragmatic scheme for the long-term conservation of elephants in the state. This approach, briefly outlined below, is elaborated in the subsequent chapter of this report.

1. **Elephant Conservation zone:**

This would encompass the larger and more-intact forested habitats that hold a large elephant population comprising a substantial proportion of the elephant population of the state. The emphasis within this zone would be maintaining habitat integrity at the landscape scale through protecting and strengthening corridors, preventing elephants from moving into agricultural land and settlements both along the periphery and within enclaves, and affording maximum protection to elephants against illegal killing.

2. **Elephant-human Coexistence**

Zone: Elephant populations numbering in the

several tens or perhaps over a hundred, either isolated or connected to the major conservation zone, but ranging over a restricted or a fragmented habitat in which conflicts are high, would qualify for experimenting with a model of coexistence with people.

3. **Elephant Removal Zone:** The elephant-removal zone would include places where small or isolated groups of elephants, with questionable viability, or solitary bulls range over a predominantly human-settled landscape, and the social and economic costs to maintaining the elephants here are unacceptably high.

In the course of implementing such a conservation plan, it would be inevitable that some elephants would come into captivity without compromising the continued survival and viability of the wild populations of the state. KETF thus also addresses basic issues relating to the welfare and use of captive elephants. It also recommends the setting up of a **Karnataka Elephant Expert Group**, within the State Board for Wildlife, to assist the

Chief Wildlife Warden in detailed technical planning and implementation of elephant conservation in the state."

8. The Task Force has noted that elephants are distributed over the Eastern and Western Ghats with the southern region of State of Karnataka having the maximum numbers at relatively high density. Wild elephants are found in 24 forest divisions of Karnataka and the total area of distribution is approximately 14,500 sq. kms, though the regular presence of elephants covers only about 10,000 sq. kms., which includes northern Karnataka, wherein a small elephant population ranges over a large diffused area. The State has notified Project Elephant Reserve, spread over 6,463 sq. kms., known as Mysore Elephant Reserve (MER) comprising of fifteen Forest Divisions from Bhandra in the Malenad plateau to Bandipur in the South and from Chamarajnagar to Bannerghatta along the Eastern Ghats. The MER holds over 98% of the wild

elephant population of the state. The population estimate of elephants based on sample block count done in May, 2010 gave an average population of 5,740 elephants across the 19 forest divisions, to which about 50 odd elephants of northern Karnataka would be added. The elephant population of the Mysore Elephant Reserve of Karnataka form part of a larger elephant population that ranges into the adjoining states of Kerala and Tamilnadu. The Task Force has also recorded that the birth rates and mortality rates indicate that the elephant population of Karnataka is unlikely to decrease and most likely to be either stable or growing. Thus, the need to plan for appropriate management of dispersing elephant groups in the State is an imminent necessity, according to the Report.

9. Further the Report of the Task Force, states that the elephant's penchant for feeding on cultivated crops brings it into direct conflict with

people. The most obvious patterns and reasons of crop raiding, supported by the scientific studies, are the following:

- a) The rapid loss of natural habitat through conversion to agriculture would result in escalated conflict as elephants continue to treat the converted land as part of their traditional home range. Habitat loss directly impacts only those clans or males within whose home ranges the changes have taken place.
- b) The fragmentation of habitat increase the chances of this long-ranging species to make contact with cultivated land and indulge in crop raiding.
- c) The elephants having tasted crops would continue to prefer this source of food, irrespective of the availability of natural forage in their habitat.

- d) Sub-adult and adult male elephants typically have a higher propensity as compared to female-led groups to raid crops by moving out from their native range.
- e) Elephants may disperse from their native range due to local habitat pressures, significant reduction in forage through proliferation of unpalatable weeds or large-scale fire, overabundance in relation to carrying capacity, or adverse climatic events.
- f) Due to strong inter-clan hierarchies, the elephants tend to disperse into unoccupied areas which are general human use areas.

10. Dealing with elephant-human conflict, the Task Force has stated that two aspects need to be addressed in order to minimize the problem on a lasting basis. First, to address the causative factors for conflicts and the second,

to think of "out-of-the-box" or unconventional solutions and have a pragmatic approach to eventually erase the conflict. The Task Force has suggested that conflict mitigation has to be a three step process viz., (i) stopping the causative factors; (ii) Reversing some of past land use changes that are the cause for severe conflict today; (iii)Containing whatever residual conflict that remains after the first two steps.

11. The State has filed its response and given its opinion on the recommendations of the Task Force. The same is appended as Annexure "RR-1" to the affidavit of the Secretary, Government of Karnataka (Forest), filed on 02/07/2013.

Legal Frame Work:

12. Before we voice our opinion on the recommendations made by the Task Force and the response of the State to them, it would be useful to delineate the legal framework on the subject.

13. Article 48-A, which is a Directive Principle of the State Policy and Article 51-A(g), which is a fundamental duty enshrined in the Constitution, guide the State as well as the citizen in the matter of protection of environment including wildlife. They read as follows:-

"48A. Protection and improvement of environment and safeguarding of forests and wild life:- The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

51A. Fundamental duties:- It shall be the duty of every citizen of India.

(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;"

14. Article 48A was inserted by the 42nd amendment made to the Constitution to protect and improve the environment and to safeguard the forest and the wildlife of

the country. Article 51A states that it shall be the duty of every citizen of India to protect and improve natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.

15. The Stockholm Declaration, the Declaration of United Nations Convention on Human Environment signed in the year 1972, to which India is a signatory, have laid down the foundation for sustainable development and urged the nations to work together for the protection of environment. Conventions on Biological Diversity, signed in the year 1992 at Rio Summit, has recognized that the conservation of biological diversity is "a common concern of human kind" and it is an integral part of the development process. The Parliament has enacted the Biological Diversity Act in the year 2002 followed by the National Biodiversity Rules in the year 2004. The main objective of the Act is conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the utilization of genetic resources. The

International Union for Conservation of Nature (IUCN) has calculated the percentage of endangered species as 40% of all organisms. The IUCN adopted a resolution resulting in a treaty drafted as the Washington Convention and known as the Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973. The Forest Conservation Act is enacted in the year 1980 with a view to check further de-forestation which would result in ecological imbalance. The aforesaid enactments enacted in the light of Article 48A and 51A(g) of the Constitution and the Conventions have enabled the Government of India to lay down various policies and action plans such as the National Forest Policy (NFP) 1988, National Environment Policy (NEP) 2006, National Bio-diversity Action Plan (NBAP) 2008, National Action Plan on Climate Change (NAPCC) 2008 and the Integrated development of wild life habitats and centrally sponsored scheme framed in the year 2009 and integrated development of National Wild-life Action Plan (NWAP) 2002-2016.

16. The Wildlife (Protection) Act, 1972 (the 'Act' for short) provides for protection of wild animals and birds with a view to ensuring the ecological and environmental security of the country. The Act provides for setting up of protected areas such as national parks, wildlife sanctuaries, conservation reserves and community reserves. The Schedules list names of endangered species of mammals, amphibians, reptiles, birds, crustaceans and insects. For the possession, transportation, translocation etc., of these species permission from the Government of India is needed. Penalties for contravention of the Act in respect of Schedule I species are very stringent. Under the said Act, the National Board for Wildlife and the State Boards for Wildlife have been constituted having specific functions to carry out the objects of the Act.

17. Section 9 of the Act expressly bars hunting any wild animal specified in Schedules I to IV except as provided under Sections 11 and 12 of the Act. The expression 'hunting' includes:

- (a) killing or poisoning of any wild animal or captive animal and every attempt to do so;
- (b) capturing, coursing, snaring, trapping, driving or baiting any wild or captive animal and every attempt to do so;
- (c) injuring or destroying or taking any part of the body of any such animal or, in the case of wild birds or reptiles, damaging the eggs of such birds or reptiles, or disturbing the eggs or nests of such birds or reptiles;

18. Section 11 of the Act states that, notwithstanding anything contained in any other law for the time being in force and subject to the provisions of Chapter IV, the Chief Wild Life Warden may, if satisfied that the wild animal specified in Schedule I has become dangerous to human life or is so disabled or diseased as to be beyond recovery, by order in writing and stating the reasons therefore, permit any person to hunt such animal or cause such animal to be hunted, but no wild animal could be ordered

to be killed unless the Chief Life Warden is satisfied that such animal cannot be captured, tranquilized or translocated. Also no such captured animal can be kept in captivity unless the Chief Wild Life Warden is satisfied that such animal cannot be rehabilitated in the wild and the reasons for the same have to be recorded in writing. The process of capture or translocation of an animal in Schedule-I has to be made in such a manner as to cause minimum trauma to the animal. Indian Elephant is found in Entry 12-B of Schedule-I of the Act.

19. Some of the recent decisions of the Hon'ble Supreme Court on the topic under consideration could be referred to at this stage.

a) In ***Sansar Chand V/s. State of Rajasthan (2010) 10 SCC 604***, it is held that all efforts must be made to preserve the wildlife of the country by taking stringent action against those who are violating the provisions of the Act, in order to maintain the ecological chain and balance in our country.

b) In **Lafarge Umiam Mining Private Limited V/s. Union of India & others (2011) 7 SCC 338**, the Court has held that the National Forest Policy 1988 has to be read along with Forest (Conservation) Act, 1980 as the same provides the road map to ecological protection and improvement under the Environment (Protection) Act, 1986. Both have to be read together having regard to the objects sought to be achieved under them.

c) On similar lines, in **Centre for Environment Law, WWF-1 V/s. Union of India (2013 AIR SCW 2317)** it has been held that the integrated Development of Wildlife habitats under the Centrally Sponsored Scheme of 2009 and the NWAP (2002-2016) have to be read with the provisions of the Wild Life (Conservation) Act. NWAP (2002-2016) has recognized that with the mounting agricultural, industrial and demographic pressures, wilderness areas, which are the richest repositories of wildlife and biodiversity have either shrunk or disappeared and their continued existence is crucial for the long term

survival of the biodiversity and the ecosystems supporting them. Keeping in view the protection of wildlife outside the protected areas and initiating recovery programmes for saving critically endangered wildlife habitats, a comprehensive Centrally Sponsored Scheme entitled "integrated development of wildlife habitats" has been enforced since the year 2009. In *Lafarge* case, it has been held that NWAR 2002-2016 and the Centrally Sponsored Scheme 2009, relating to integrated development of wildlife habitats are schemes which have statutory status and have to be implemented in their letter and spirit.

Further, the Hon'ble Supreme Court has explained the distinct approaches while dealing with the rights of various species of animals which have their habitat on earth. 'anthropocentrism' focuses on human interest and gives precedence to human beings over other species, while 'ecocentrism' is nature-centred and life-centred where nature includes both human being and animal species. Having regard to the objects sought to be

achieved, the distinctive approach would have to be adopted while finding a solution to an ecological problem. In the said case, while examining the necessity of a second home for Asiatic lions, the Hon'ble Supreme Court adopted an eco-centric and not anthropocentric approach.

In the said case, the Hon'ble Supreme Court also observed that no State, organisation or person can claim ownership or possession of animals in the forest. Under Section 2(36) of the Wild Life (Protection) Act, 1972 wild animals specified in Schedules I to IV are found wild in nature. Animals in the wild are properties of the nation and it is the State's duty to protect wild life and conserve it, for ensuring the ecological and environmental security of the country.

(d) In ***T.N.Godavarman Thirumulpad V/s. Union of India & others (2012) 3 SCC 277***, the Hon'ble Supreme Court observed that human-wildlife conflict is fast becoming a critical threat to the survival of many endangered species, like wild buffalos, elephants, tigers,

lions etc., such conflicts affect not only its population, but also has broadened environmental impacts on ecosystem equilibrium and biodiversity conservation. Man-animal conflict often results not because animals encroach human territories but vice-versa. It is said that such conflict is due to human population growth, land use transformation, species' habitat loss, degradation and fragmentation, increase in eco-tourism, access to natural reserves, increase in livestock population etc. Recognising that there is likelihood of anthropocentric bias towards man, and rights of wild animals often tend to be of secondary importance but in the universe, man and animal are equally placed. However, human rights approach to environmental protection in case of conflict, is often based on anthropocentricity. The Hon'ble Supreme Court stated that conservation education for local population, resettlement of villages, curbing grazing by livestock and domestic animals in forest, provision for availability of natural water, less or no disturbance from tourists are the

steps which have to be taken by the State in order to eradicate human-wild life conflict.

20. The Hon'ble Supreme Court has opined that environmental justice could be achieved only if we drift away from the principle of anthropocentric to ecocentric. It held that National Wildlife Action Plan 2002-2012 and the Centrally Sponsored Integrated Development of Wildlife Habitats Scheme 2009 are centred on the principles of ecocentrism. The National Wildlife Action Plan (2002-2016) is intended to provide adequate protection to wildlife in multiple use areas such as Government forests outside protected areas, various Community Conserved Areas like sacred groves, community and panchayat forests, identified private forests such as interspersed forests in tea, coffee and cardamom gardens and other protected landscapes, farm lands, wastelands, wetlands, coastal habitats etc. Under the Centrally Sponsored Integrated Developmental of Wildlife Habitat Scheme, 2009, the States and Union Territories have to propose an

action plan for restoration of habitats, eco-development and community oriented activities etc., in order to qualify for the financial assistance under the scheme:

21. A few words on the steps taken by the Union Government for Conservation of Wild elephants. The wildlife wing in the Ministry of Environment and Forests, Government of India, has three divisions i.e., Project Tiger Division, Project Elephant Division and Wildlife Division, which are headed by an officer designated as Inspector General of Forests. These three Divisions look after the national policies and projects, international co-ordination, Centrally Sponsored Schemes and State level implementation of activities relating to the conservation of wildlife in Tiger Reserves, Elephant Reserves, national parks and wildlife sanctuaries of India, wildlife laws, wildlife conservation etc.

22. Project Elephant is a Centrally Sponsored Scheme for wildlife conservation aimed at a species which, because of its large rangeland requirements and on account of

fragmented range elements, often comes in conflict with human population. The main thrust of the Project is improvement of elephant habitats and mitigation of conflict of interest with human communities. The Project was launched in February, 1992 for providing the required support to twelve elephant range States of India, Karnataka, being one of them, keeping in view the requirements of elephant reserves, and it was approved by the Central Government. Major activities under the Project include: habitat improvement, fire protection, land acquisition for consolidation of habitats and establishment of corridors, procurement of equipment for protection, census of elephants, immunization of cattle on the forest fringe, payment of *ex-gratia* grant for damage to human life and property by elephants etc. It is found that the main threat to elephant populations arise from the conflict for land, food and water with the people and their livestock and the main thrust of the Project is, therefore, on mitigation of man-elephant conflict and habitat enrichment. The Project also deals with the captive

elephants and better maintenance of elephants in captive conditions.

23. Man-animal conflict is bound to be an inevitable issue to be dealt with by not only the experts in the field, but also by involving citizens. Large animals, such as elephants need extensive space to move, breed and feed. When their habitat is fast shrinking, they come in conflict with human beings. Human development interfering with the elephants' migratory paths, breeding grounds and core habitats, would result in an obvious conflict with the elephants. Elephants being migratory wild animals, they require large habitats connected by well-established movement paths called "corridors".

24. It is found that man-elephant conflict could be addressed and mitigated in four ways: (1) Introducing barriers such as trenches, fences or repellants such as crackers, watcher squads etc., between the elephant and man; (2) Change in cropping patterns around elephant populated areas to include non-palatable crops, which do

not attract elephants; (3) securing corridors for elephant movement; (4) Capture of rogue and problem herds. The first method is only a temporary solution and ought not to impede migration. The second and third measures are critical long-term measures that need to be pursued for finding a permanent solution to man-elephant conflict. The last measure should be resorted to only after identifying rogue animals which could be captured and translocated. The issue of translocation of herds of elephants from one habitat to another is a matter which would require careful and comprehensive consideration. [Source: Law of Forests in India - by R.N.Choudhary - 3rd Edition].

25. Thus, what emerges is that the order dated 25/05/2009 herein, issuing certain directions remains in tact. In fact, the writ petition was disposed of by the said order. Subsequently, the matter was re-listed on the recommendation submitted by the Karnataka State Legal Services Authority. It is in that context, that on

24/01/2012, the Task Force headed by Dr. Raman Sukumar and comprising of eleven members was constituted with specific terms of reference. The Task Force has submitted its report on 15/04/2012 with recommendations under sixteen different headings. The responses of the State Government to these recommendations are also placed on record. Some of the recommendations have been accepted by the State while some others have been accepted with certain observations and certain other recommendations are not accepted by the State. The recommendations and the views of the State Government have been considered in the light of the legal frame work on the subject as has been delineated above, that is, in the light of the provisions of the Constitution, Wildlife (Protection) Act, 1972, Project Elephant, which is a Centrally sponsored scheme and also the decisions of the Hon'ble Supreme Court referred to above. The approach of this Court on the recommendations as well as the response to them by the

State has to be in consonance with the decisions of the Hon'ble Supreme Court.

26. In ***Samaj Parivartana Samudaya V/s. State of Karnataka (2013 AIR SCW 2633)***, the Hon'ble Supreme Court, while dealing with large scale illegal mining, had constituted the Central Empowered Committee. That Committee had submitted several Reports. While considering the Report of the committee, it has opined that *"inter-generational equity and sustainable development have come to be firmly embedded in our constitutional jurisprudence as an integral part of the fundamental rights conferred by Article 21 of the Constitution. In enforcing such rights of large number of citizens who are bound to be adversely affected by environmental degradation, this Court cannot be constrained by the restraints of procedure. The CEC which has been assisting the Court in various environment related matters for over a decade now was assigned certain specified tasks which have been performed by the said body giving sufficient justification*

for the decisions arrived and the recommendations made. If the said recommendations can withstand the test of logic and reason, then the same would have to be accepted by the Court."

27. The recommendations and the response of the State Government along with our views on them are as follows:

Opinion of the Karnataka Government on the Recommendations of the Karnataka Elephant Task Force (KETF)

Sl. No.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
1.	Establish a Karnataka Elephant Expert Group, within the State Wildlife Board, with a broad mandate to plan, advise and assist in elephant conservation and management in the state.	As per section-6 of Wildlife (Protection) Act, 1972, the State Board for Wildlife was constituted and it has advisory role concerning conservation and management of wildlife, including that of elephants.
1.1	<i>Composition:</i> This Group must include ecologists/wildlife biologists and social scientists who can bring in sound knowledge of	Management plans and working plans of the protected areas and territorial divisions falling in the elephant

	elephant ecology and human society needed to assist the Chief Wildlife Warden in this complex exercise.	reserves are prepared, keeping in view the objectives of elephant conservation and management and are approved by the competent authorities. Therefore there is no need to establish any separate expert group of recommended by the Karnataka Elephant Task Force (KETF).
1.2	<p><i>Planning Phase:</i> In the planning phase (say, two years), the Group shall undertake a rigorous effort to compile (and, where needed generate) data on elephant ecology and behaviour, land use and land cover and socioeconomic factors among others, and map them on to forest administrative boundary maps to propose a zonation of elephant's range across Karnataka into <i>Conservation, Coexistence and Removal Zones</i>. Further, they shall propose a Karnataka Elephant Conservation and Management Plan comprising detailed zone- and site-specific strategies, as well as crosscutting state-wide strategies to enable elephant conservation at the level of Forest Divisions. The Group should develop clear guidelines on the</p>	<p>In case Principal Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden requires specific inputs on certain issues from experts/ scientists/ NGOs etc., he may consult or assign such work to such experts/ institutions at his level, keeping the holistic view of the issues to be dealt with. It is better to strengthen the existing institutional arrangements for more meaningful and effective conservation and management of elephants. State Board of Wildlife may take stock of the situation</p>

	<p>management of each zone (including the corrective action to be taken for measures that are not yielding the expected results), which should become the basis for the management approach to be taken by KFD. In doing this we urge the Group to also take into account the action plan and recommendations of the first Task Force set up in 1990 by Government of India to prepare the blueprint for Project Elephant at the national level, as well as the Elephant Task Force in its 2010 report, <i>Gajah</i>. The Group must also make recommendations on relevant legal and financial mechanisms needed at the State level to implement the Plan.</p>	<p>from time to time and advise the Government on all such issues.</p> <p>Hence, the first recommendation is not accepted.</p>
1.3	<p><i>Implementation Phase:</i> After the planning phase, we recommend that the State Government create the necessary mechanisms and allocate financial resources to support the implementation of this Plan. In the first phase of</p>	

	implementation (say, three years following the planning phase), the Group shall itself provide guidance and, where necessary, also help the process of implementing the Plan.	
1.4.	<i>Review and Course Corrections:</i> We recommend that detailed annual reviews of implementation are held at the field and state-level. Further, the Plan itself must be subject to five-yearly technical reviews, and revised as appropriate. The entire planning and implementation must involve public processes, and at the end of the fifth year, be subject to both open expert reviews, as well as public audits of process and outcome.	

The recommendation to establish a Karnataka Elephant Expert Group (KEEG), within the State Wildlife Board, has not been accepted by the State Government,

placing reliance on Section 6 of Wildlife (Protection) Act, 1972. However, the State Government has an open mind to seek specific inputs on certain issues from experts, scientists etc., in case of necessity. We think that the opinion of the State Government in this regard has to be accepted.

Sl. No.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
2	<p><i>Loss and fragmentation of elephant habitats due to ill-planned commercial infrastructure projects and natural resources extraction.</i></p> <p>In the course of its field visits, the KETF encountered many instances of mini-hydel projects at various stages of creation and operation such as in Sakaleshpur and Malavalli taluks, as well as quarrying operations in and around key elephant habitats. In our considered view, if the location of such projects is ill-advised, and</p>	<p>Recommendation 2 is accepted with the following observations:</p> <p>Review of clearances granted to various projects should be limited to only those cases where prima facie any violation of conditions as set, is reported.</p> <p>Regarding recommendation 2.2, disciplinary action against the concerned officials will be taken as per the rules only in those cases where violations of laws/rules</p>

	<p>the highest diligence is not exercised in ensuring their compliance with existing laws and regulatory processes, they can pose serious threats to elephants and the integrity of their habitats. In view of this, we recommend that:</p>	<p>are reported.</p> <p>As regards recommendation 2.3, PCCF (HOFF) may seek opinion of PCCF (WL) on file on specific cases.</p>
2.1	<p>An immediate, time-bound review of clearances granted or pending in areas lying within the distribution range of the elephant in Karnataka be undertaken. Where such clearances are found to be granted <i>prima facie</i> without full compliance with the letter and spirit of all applicable laws, statutes and court rulings, they must be withdrawn immediately and such projects cancelled forthwith. The State Government may be directed to file a report on the action taken in this regard to the Honourable High Court within a stipulated time.</p>	<p>Mining and quarrying activities in and around the Forest areas including the elephant habitat corridor will be regulated.</p>
2.2	<p>The State Government be directed to prosecute officials who have <i>Prima facie</i> misrepresented facts</p>	

	about presence of elephants and other wildlife while recommending project proposals, thereby undermining laws and regulatory processes established to ensure ecologically-responsible development.	
2.3	The Honourable High Court direct the State and Union Governments that, with immediate effect, all proposals for diversion of forest lands (as defined under WP (Civil) No.202 of 1995 of the Supreme Court) in the elephant's range in Karnataka be compulsorily referred to the State's Chief Wildlife Warden for assessment of potential impact, if any, on Elephants and other wildlife. This is currently not the practice.	

The State Government is of the opinion that only where there is report of violations of the conditions of approval given to various projects, review of clearances of the projects will be required. That where there is report of breach of law in the approval given to various projects,

disciplinary action would be initiated and that mining and quarrying activities in and around the forest areas would be regulated. If the latter aspect is taken into consideration, then there could be no mining or other non-forest activities in and around various areas including elephant habitat or corridor. Therefore, regulation is not the solution. Under the circumstances, the State needs to be directed to review all clearances given to various projects in the elephant habitat and corridor and also in the areas on the periphery of the forest areas as well. Also diversion of forest lands falling within the elephant corridor must be referred to the Chief Wildlife Warden for assessment of the potential impact, if any. This salutary practice must be put in place at the earliest.

SL. NO.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
3	<i>Legal consolidation of elephant habitats</i>	Recommendation 3 is accepted with the following observations:

3.1	<p>A process of reconciling land records of the Forest and Revenue Department is long overdue in the State. In the absence of this large and very important measure, it is neither possible to effectively enforce conservation laws, especially against encroachments, for the benefit of elephants or other wildlife, nor is it possible to pursue development programmes for people without impediments at every stage. We therefore recommend that a high-level effort be taken up by the State Government in this direction.</p>	<p>As regards recommendation 3.1, the process of reconciliation of land records of the Forest and Revenue Departments is already on and the same will be continued.</p> <p>As regards recommendation 3.2, the process of elevating the legal status of lands (to forest) has to be done on case-by-case basis and keeping in view the present land use and its impact on conservation.</p>
3.2	<p>Meanwhile, where existing parts of the elephant range currently extend outside notified forest areas, we recommend that a process of elevating the legal status of such lands that qualify as 'deemed forests' should be taken up in a manner that is consistent with law and reason. Currently available options include the notification of such areas as Reserved, Protected or Village Forest under the Karnataka Forest Act, 1963. While it may be prudent to</p>	<p>As regards recommendation 3.4, joint management plan with adivasies (tribals) people should be limited to only that portion of the protected area which is inhabited by the adivasies and not for the overall management of the protected area.</p>

	<p>first consider Village Forest status, which provides for local management under the regulation of the KFD for areas that may be under fairly intensive use by local communities, areas without such intensive resource use may be notified as protected or Reserved Forests as appropriate to a given situation.</p>	
3.3	<p>Further, the KETF has noted that there are continuing leases and other concessions on forest land within key elephant habitats, including protected areas such as Cauvery Wildlife Sanctuary and BRT Tiger Reserve. For instance, we were made aware of the existence of leases for coffee estates and a tourism facility within the recently-notified BRT Tiger Reserve, tourism leases inside Cauvery WLS, as well as rubber plantations in Kodagu district. We recommend that the Hon'ble High Court direct the State to prepare, on a time-bound basis, an inventory of all such concessions and leases within designated forests in the elephant range and initiate necessary process, also in a</p>	

	<p>time-bound manner, to restore as much of these lands as elephant habitats as necessary and possible.</p>	
3.4	<p>In certain key areas within the elephant range in Karnataka (e.g., BRT Tiger Reserve), we note that <i>adivasis</i> have been conferred individual and community forest rights (including the right to conserve) under the Forest Rights Act, 2006. The conferring of these rights currently results in a regime of overlapping rights and authority between the <i>adivasis</i> and the Karnataka Forest Department. Currently, there is no clarity on how this overlap and potential conflicts arising from it would be addressed. We are inclined to see this overlap as a potential opportunity for new models of conservation rather than as a threat. Hence, we recommend that, in the present circumstances, the State and the <i>adivasis</i> jointly draw up management plans compatible with the goals of conservation, in consultation with experts, clarifying their respective rights, roles and responsibilities to further conservation through a</p>	

	democratic process, and to hold each other accountable to that commitment.	
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With regard to constitution of any land, which is the property of the Government, as reserved forest, Chapter II of the Karnataka Forest Act, 1963 prescribes the procedure and the manner in which the same has to be done. Wherever notifications have been issued under Section 4 of the said Act declaring to constitute any land as a reserved forest, the State Government is required to take further steps, so as to complete the process of constituting the reserved forest. Judicial notice has to be taken of the fact that several notifications issued by the State Government under Section 4 of the Act remain in cold storage on account of steps being not taken to complete the process of constitution of the reserved forest. In this regard, a direction requires to be issued to the State Government to take all necessary steps for the constitution of the reserved forest, wherever notifications have been issued under Section 4 of the said Act, especially where such lands fall

within elephant corridors in the State. The same cannot be done on a case-to-case basis. Also a direction ought to be issued, in terms of recommendation 3.3, that there be a review of all concessions and leases granted for coffee estates and tourism in the elephant range in order to restore those lands as elephant habitats within a time bound manner.

SL. No.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
4	<i>Improving connectivity between elephant habitats</i>	Recommendation 4 is accepted with the following observations:
4.1	Currently, a listing of the major elephant corridors of the Mysore Elephant Reserve of Karnataka, as recorded before 2005, is available in the publication <i>Right of Passage: Elephant Corridors of India</i> . The KETF recommends that the Karnataka Elephant Expert Group, with the help of scientific institutions as necessary, be entrusted the task of preparing more comprehensive documentation and plans for management of critical	As regards Recommendation 4.1, as already explained, there is no need to have any separate Karnataka Elephant Expert Group. The issue of documentation and plans for management of critical corridor lands across the State may be examined by the Principal Chief

	<p>corridor lands across the state that may need to be protected, or even purchased, under the due process of law for the purposes of maintaining/enhancing connectivity between key elephant habitats.</p>	<p>Conservator of Forests (Wildlife) and Chief Wildlife Warden. After examining the issue, he may entrust such work to deserving reputed institutions/experts/ NGOs etc, if necessary. Measures as deemed fit will be taken to protect critical elephant corridors.</p>
4.2	<p>Further, we recommend that such lands that provide connectivity between key habitats be given greater legal cover. Where they lie entirely within Reserved Forests, the State may consider bringing them under the Wild Life (Protection) Act, 1972 whereas, if such lands lie outside legally-designated forests, they could be notified as Ecologically Sensitive Areas under the Environment Protection Act, 1986, in accordance with recommendations made in the National Wildlife Action Plan and Strategy 2002-2016, as well as keeping in mind directions from the Government of India's Project Elephant Directorate.</p>	<p>Recommendation 4.2 is accepted. However, in respect of lands lying outside legally designated forests, the matter will be examined on case-by case basis and keeping in view the present land use and its impact on conservation.</p>

Recommendation 4.1 is not accepted by the State Government as it feels that the Chief Conservator of Forest (Wildlife) and Chief Wildlife Warden could decide on the

manner in which the elephant corridors have to be protected. As the State Government has stated that experts would be consulted, whenever necessary, we express no further opinion on the same.

Recommendation 4.2 has been accepted by the State Government and therefore, a direction is issued to the State to review the user of land on the periphery of the forests falling within the elephant habitats and corridors and take requisite steps for its conservation and preservation.

SL. No.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
5	<i>Managing land use in non-forest areas adjoining designated forests</i>	
5.1	To draw a delicate balance between two key priorities at the State level-of conserving a wide-ranging and large-bodied animal such as the elephant on the one hand, and meeting the genuine developmental needs of people on the other-the KETF believes that it is necessary to	The recommendations 5.1, 5.2 and 5.3 are accepted. However, Ecologically Sensitive Area (ESA) monitoring committee for each ESA will lead to large number of such committees and may create more confusion and will also need a lot

	<p>foster ecologically-responsible land-use in privately-owned lands in the immediate neighbourhood of the elephant's current distribution range. Therefore, we recommend that a socially-inclusive process be initiated at the scale of protected areas/forest divisions at the fringe of the elephant's distribution to evolve land-use practices that best reconcile local land-use goals with long-term ecological concerns. Such reconciliation must also be managed under a broad-based institution that represents both ecological and societal concerns.</p>	<p>of time for their management. Therefore, it is better that all the issues concerning the ESAs may be discussed in the State Board of Wildlife which is a fairly broad based institution and will be able to address the ecological and societal concerns.</p>
5.2	<p>In particular, the KETF was pleased to note a recent exercise to establish and notify one such <i>Ecologically Sensitive Area</i> (ESA, under the Environment Protection Act, 1986) around Bandipur Tiger Reserve. This exercise, undertaken with the participation of local elected representatives, forest and revenue officials, and non-governmental organizations, identified a</p>	

	<p>range of land-uses to be regulated by a broad-based ESA Monitoring Committee in the long-term interest of both ecology and society. We therefore recommend that this may be followed as a model for the notification of other ESAs in the State.</p>	
5.3	<p>In particular, we also note with concern that despite the existence of clear provisions under Section 41(2) of the Karnataka Forest Rules, 1969, against the grant of land for occupancy by the Deputy Commissioner within 100 metres of reserved and protected forests, there are multiple examples of such grants being made, in many instances for stone quarries, in recent years, especially adjacent to elephant habitats in Kollegal and Ramanagara Forest Divisions. We recommend that State seriously review and cancel diversions that are not in keeping with the law.</p>	

This recommendation has been accepted by the State Government, which has, however, not been in favour of establishing Ecologically Sensitive Area Monitoring Committee. Even in the absence of such a Committee, State is directed to review all non-forest activities and land user in the areas adjoining designated forest having elephant habitat and corridor and take appropriate action in that regard in case there is any violation of law.

SL. NO.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
6	<i>Reducing pressures on elephant habitat from large-scale human resource-use</i>	
6.1	Reducing the footprint of large numbers of rural poor on the Elephant's habitat is a critically important but complex issue. Hitherto, it has been addressed as an issue of law enforcement that has simply not worked. On the other hand, newer models of social enterprise built on a better understanding of the socioeconomic realities of rural	The recommendation 6.1 is accepted. Karnataka Forest Department has already been taking a number of measures in this direction to reduce pressure on elephant habitats.

	<p>landscapes have offered greater hope in addressing these complex problems. A non-Government Organisation called Namma Sangha outside Bandipur (also supported by the State And Central Governments) has, over the last 8 years, helped move over 30,000 villagers off forest-based firewood to cooking gas, and greatly reduced their impact on the elephant habitats of Bandipur. We recommend that the State and Central governments create seed funding for such social enterprise approaches founded on solid socio-ecological understanding, to reduce the pressures of large-scale human use of elephant habitats by the rural poor. At the same time, the best practises in other efforts by KFD such as social forestry and Joint Forest Management may also be incorporated into these schemes.</p>	
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Recommendation 6.1 has been accepted by the State Government. Necessary steps have to be taken by the State to reduce pressure on the elephant habitat by ensuring that people who are either residing in or utilizing the elephant habitat are re-located/re-habilitated in accordance with law.

SL. No.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
7	<i>Mitigating and managing elephant-human conflicts</i>	Recommendations 7.1 to 7.9 are accepted with the following observations.
7.1	While the recommendations (Paras 2-6, above) may be seen as long-term measures to address some key drivers of elephant-human conflict, more proximate measures of managing conflicts on day-to-day and local scales are also essential. In this regard, physical barriers remain one of the main strategies to minimize elephant-human conflict. We note that a	Regarding recommendation 7.2, the work of comprehensive site specific strategy on physical barriers in areas such as Kodagu and Sakaleshpura may be entrusted by the Principal Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden to the Chief Conservator of Forests and Field Director, Project Elephant and senior jurisdictional officers of the Department, experts/

	<p>systematic effort to create effective barriers in the past 1-2 years at Bandipur Tiger Reserve have helped demonstrably in reducing crop losses. Where unbroken interfaces exist between farming and elephant habitats, as along Bandipur's northern fringe, we recommend that the KFD be supported more actively in the creation of such barriers.</p>	<p>institutions and other stakeholders.</p> <p>In respect of recommendation 7.8, in case there is any necessity to designate any more area as removal zone, Principal Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden will examine the issue and will take necessary action.</p> <p>Regarding recommendation 7.3, creation of barriers is a specific work and a separate head of account cannot be given for it since budgeting is a macro level exercise. Funds as required can be provided under the existing budget head of account 2406-02-110-01-01-139.</p> <p>Regarding recommendation 7.6, it is observed that payment of ex-gratia in a timely manner is undoubtedly required but opening a separate PD account for this purpose for the DCF is not possible as the Accountant General has</p>
7.2	<p>However, in situations where the farm-forest fringe is more dissected/broken (e.g., Kodagu and Sakaleshpur), the creation of physical barriers without first understanding patterns of elephant movement may aggravate conflicts as these barriers could impede elephant movement and temporarily restrict them within cultivated areas. We recommend therefore that a more comprehensive site specific strategy on</p>	

	physical barriers in such complex landscapes be a high priority focus of the Karnataka Elephant Expert Group.	repeatedly raised the audit and accounting issues of various PD accounts. Therefore, over a period of time, these accounts have been minimized. Government assures that the payment of ex-gratia relief will be streamlined and its disbursement will be expedited to provide timely relief to people.
7.3	The KETF emphasizes that while the State and Centre have, in general, made allocations for the creation of barriers, there has been meager resources available with the KFD to maintain these barriers. We therefore strongly recommend that additional funds be made available to the KFD under a separate budget head for the regular maintenance of these barriers. Together with this, the KFD may be asked to set up a system of auditing the effectiveness of these maintenance measures.	
7.4	We also note that physical barriers installed to reduce conflict are only as effective as the local communities want them to be. Local people,	

who seek protection for their crops from elephants, themselves routinely undermine these barriers by breaking fences or filling trenches to access forests for firewood and grazing. Therefore, involving local communities in the creation and maintenance of these barriers is often vital in ensuring its effectiveness and durability. We recommend that, wherever possible, the KFD partner with local eco-development committees (EDCs), or even *Panchayat raj* institutions to secure farm landscapes from elephants. This would also inject funds into local communities, ensuring greater sense of ownership of such barriers and participation in their maintenance. Such initiatives to empower local institutions must also go hand-in-hand with reviews/audits that expect a greater accountability from them

	as well.	
7.5	Toll free helpline telephones may be set up at the level of Forest Ranges to provide timely assistance to people who may be injured by elephant attacks, or send the anti-depredation squads to areas where elephants may have entered for depredation of crops.	
7.6	The payment of <i>ex-gratia</i> relief has been an important <i>post-facto</i> means of alleviating the impact of crop loss to people. Yet, there are many.	
7.7	The budget head in the office of the Chief Wildlife Warden for payment of <i>exgratia</i> should be managed on the lines of the Calamity Relief Fund (as is being managed in the office of the Deputy Commissioner of the district) and availability of funds in this budget	

	head should be always ensured in order to make quick payments to people for incidents involving injury or loss to human lives in encounters with elephants.	
7.8	We note that certain extreme situations of intense human-elephant conflict may warrant extreme mitigatory measures such as the removal elephants from a given landscape. As with any extreme measure, this option needs to be deployed with great judgment, care and consideration. We leave it to the Karnataka Elephant Expert Group to identify the actual areas to be designated as Removal Zones, but in the interim, we recommend this option only for the elephants of Alur-Arkalgud taluks and the Savandurga region of Tumkur.	
7.9	Once elephants are removed from an area,	

the next question would be whether to retain them in captivity or release them in the natural habitat at another location. This is not easy to answer as it depends on the specific conflict situation and its history. If dispersing elephants have remained for several years outside their native habitat, it may be best to capture and retain these elephants in captivity. KETF also carefully considered the option of translocation of captured elephants to other suitable natural habitat as one option to mitigate conflicts. However, the KETF cautions that this management action does not guarantee that the elephants would successfully settle down in the alternative habitat. The experience with translocation adult male elephants in Karnataka since the mid-1980s has generally been a failure, with the elephants usually going back to the original place of capture.

Translocation of entire family groups has not been attempted so far in the state or, indeed, in the country, but the limited experience in Sri Lanka suggests that such elephants also tend to either go back to the place from where they have been driven or captured, come into conflict with people at the place of release, or even starve to death when confined by barriers such as electric fences along protected area boundaries because of competition from the social exclusion by the local elephant groups. KETF does not recommend translocation of elephants as an option to address elephant-human conflict in Alur-Arkaigud (see Para 8 below), but underlines that it must remain an option for elephant management in the State. Given the risks involved if attempted, translocation must be seen as an experimental management tool, and should invariably be

	<p>accompanied by close monitoring through radio- and GPS-collaring of at least one individual per group to observe its behaviour and movement so that corrective action such as removal into captivity could be taken in the case of continued conflicts.</p>	
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The opinion of the State Government with regard to this recommendation is reasonable and would not call for any further observations.

Sl. No.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
8	<p><i>Site Level Recommendation: Elephant-human conflicts in the Alur-Arkalgud region of Hassan District</i></p>	<p>Recommendations 8.1 to 8.3 are accepted. These recommendations, although apparently harsh to the wild animals, may have to be considered in view of the present circumstances in which the animals find themselves in human habitations with very limited forest area as shelter.</p>
8.1	<p>The Task Force undertook site visits, studied available information on elephants and people in this region, and duly considered options for</p>	

	<p>in-situ conservation of elephants as well as the scope for more effective mitigation of existing conflict in this region. After deliberating in detail upon this issue, the majority of KETF members concluded that the conflict in this region is not only of an extreme nature, but also causes chronic suffering and extreme fear psychosis among people and, therefore, merits the decisive application of extreme measures. Thus, we recommend that:</p>	
8.1.1	<p>All elephants in this region, currently estimated to number 25, be removed as soon as possible through capture, taking all due precautions and care to minimize trauma to animals during capture and subsequent training.</p>	
8.1.2	<p>The captured animals be retained in captivity, and not returned to the wild, and recommend steps to strengthen welfare of</p>	

	captive elephants (Chapter 6).	
8.1.3	Concurrently with the capture of these elephants, the KFD, in consultation with experts, install suitable barriers along the boundary of a <i>Conservation</i> or <i>Co-existence</i> zone here as the case may be, to ensure that there is no further dispersal of elephants into the Alur-Arkalgud region.	

With regard to elephant-human conflicts in Alur-Arkalgud region of Hassan District, though the State Government has accepted the recommendations, we would direct that the State Government ought to review the matter at various stages and from various angles and then come to a considered decision with regard to capture of the elephants at Alur-Arkalgud region by keeping in mind the balance of convenience from the point of view of the elephant as well as the human populace.

Sl. No.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
9.	<i>Site Level Recommendation: Acquisition of private lands in Sakaleshpur for the purpose of creating an 'elephant corridor'</i>	Recommendation 9.1 is accepted.
9.1	Following site visits, consultations with local communities, examination of forest and revenue land records, and all available information on elephants and their habitats, we strongly recommend against spending public money on this proposal, as it will have little positive impact on elephant conservation, reduce elephant-human conflicts very marginally, benefit a small number of people, and come at a very high cost to the treasure, all for a small population of elephants which is, in any case, disturbed by other factors such as developmental projects.	

This recommendation with regard to private lands in Sakaleshpur for the purpose of creating an 'elephant corridor' being to the effect that any acquisition would not have a positive impact on elephant conservation, being accepted by the State Government, would not call for any orders from this Court.

Sl. No.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
10	<i>Minimising unnatural mortality of elephants</i>	
10.1	We note that, over time, the Karnataka "Forest Department has worked commendably to reduce threats of ivory poaching to the State's wild elephants. Nevertheless, we appreciate that this threat will remain, and perhaps even intensify, as the demand for and value of ivory rise in illegal markets both regionally and internationally. Therefore, we recommend that the highest level of	

	<p>support be continued to anti-poaching vigil, support to frontline forest staff to avert poaching as well as by building greater capacity to swiftly investigate and effectively prosecute offenders.</p>
10.2	<p>We also note that, in recent times, elephants continue to perish in incidents of retaliation against crop losses. Most often, such retaliation involves the misuse of electricity from live wires (11 K.V. or 220 volts domestic supply) to electrify the boundaries of farms, and in some cases, also involves the shooting or possible poisoning of elephants that raid crops or perceived as being a threat to human lives. While prosecution may indeed be necessary in such cases, we emphasize that these extreme measures are usually symptomatic of a deep resentment among farmers against the persistent inability of the State to effectively address the debilitating losses they face.</p>

	<p>Therefore, we emphasize that decisive affirmative action to reduce losses to farmers (discussed under Para 7) must go hand-in hand with such prosecutions.</p>	
10.3	<p>During field visits, we also noted many instances of elephant electrocution from low-hanging electricity transmission lines. Electricity companies appear to have repeatedly ignored requests by some coffee plantations and the KFD to raise the minimum height of power transmission pylons in elephant habitats to over feet. We recommend that the Honourable High Court issue directions to the defaulting power companies to rectify this situation, in accordance with the guidelines on roads and power-lines in natural areas being developed by the National Board for Wildlife, and report on action taken, within a stipulated period of time.</p>	

10.4	<p>In all cases of elephant mortality, we recommend that, as is being done now by the National Tiger Conservation Authority, all post mortem examinations be held with external observers, and the KFD create a separate section on its website on which to record and display post-mortem reports. Further, a more scientific process of carrying out and recording post mortems, such as maintaining photographic evidence of the carcass, GPS location, and collection and preservation of tissue samples for diagnosis of cause of death would enhance the quality of elephant mortality records and, ultimately, help in management decisions.</p>	
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This recommendation has been accepted by the State Government subject to certain observations. Necessary steps would have to be taken by various electricity supply agencies and institutions so as to raise the

height of the high-tension and low-tension power lines above the ground level, making them safe for the elephants. In this regard, a direction will have to be issued to the Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden to monitor the steps taken by various electricity supply agencies and institutions in the State with regard to construction and maintenance of power distribution lines, keeping in mind protection of wildlife including elephants and having regard to the interim orders dated 19/7/2012 and 6/9/2012 passed herein.

In this context, the ban of electric fences in elephant areas, particularly surrounding tea or coffee estates has to be taken note of. In the letter dated 11/11/2009 written by the Inspector General of Forests and Director (Project Elephant) to the Chief Wildlife Warden of all Project Elephant States including Karnataka, it is stated that, due to unregulated voltage in the fencing erected around the plantations and estates, there have been death of elephants due to electrocution, which tantamounts to willful hunting as

per Section 16(b) and thus, it is in violation of Section 9 of the Wildlife (Protection) Act, 1972. The competent authorities under the said Act have to take appropriate legal and practical steps in that regard, such as permitting solar energy fencing.

Sl. No.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
11	<i>Managing habitat in designated forest.</i>	The component of habitat management is carried out as per the provisions of management plan (in case of protected areas) and workin plans (in case of territorial divisions) falling in the elephant reserves. These plans are prepared, scrutinized and approved by the competent authorities. The same arrangements need to be continued in this regard. Therefore, there is no need to create any separate scientific oversight mechanism.
11.1	Several activities have been traditionally undertaken for 'improving' the quality of habitats for elephants and other wildlife. Examples of this include the seeding of bamboo, removal of invasive plants such as <i>lantana camara</i> in order to restore natural vegetation, and the creation/maintenance of artificial water sources. As some of these measures, especially artificial water provisioning, may have	Similarly, there is no

	<p>unintended long-term consequences for elephants and their habitats (including local overabundance of elephants and increased pressure on natural vegetation), these are best done after careful scientific discussion and endorsement. We recommend that the KFD create such a scientific oversight mechanism under which to pursue such habitat 'improvement' activities.</p>	<p>need to have any role of Karnataka Elephant Expert Group for the restoration of teak plantation to mixed natural forests. Forest Department can handle such issues. Presently thinning works are not carried out in teak plantation in the National Parks and Sanctuaries, due to the order of Hon'ble Supreme Court in this regard.</p> <p>In view of this, recommendations 11.1 and 11.2 are not acceptable.</p>
11.2	<p>In the course of the field visits, it emerged that large scale replacement of natural forest with monoculture plantations of teak (<i>Tectona Grandis</i>), with virtually barren undergrowth, may also have contributed to the degradation of natural habitat and lack of fodder for elephants. Based on past experience of KFD in silvicultural treatment of teak plantations to promote the growth of native trees, the</p>	

	Kartnataka Elephant Expert Group, in consultation with reputed scientific institution, should advise on restoration of mixed natural forest within teak plantations, with a view to genuinely improving the habitat for elephants.	
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The recommendations of the Task Force have not been accepted by the State Government. All that we can say is that the concerned authorities would have to ensure that the elephant habitat is not destroyed on account of unscientific management or by taking measures which would not be in the interest of preserving the elephant corridor. Steps taken for the restoration of forests should be holistic and keeping in mind the growth and preservation, and healthy growth of wildlife and other fauna and flora. Therefore, only general directions can be given in this regard to the concerned authorities.

Sl. No.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
12	<i>The Strengthening and streamlining administration for elephant conservation.</i>	The recommendations in 12 are accepted in principle with the following observations.
12.1	While we feel that it would be ideal to manage the key elephant habitats of Mysore Elephant Reserve under a coherent set of management priorities under uniform legal provisions, we recognize that, in some situations it may not be possible to implement such measures immediately. In the interim, we recommend that such territorial divisions/ranges administratively attached to wildlife circles/divisions/ranges. Such measures, already implemented in the case of Gundlupet Range, which was transferred from Kollegal Territorial Division to Bandipur Project Tiger Division,	However, as regards transfer of management of elephant habitats to wildlife circles / divisions (recommendation 12.1), each case will be examined on merit. Government has already taken number of steps in conformity with the recommendations. Regarding recommendation 12.2.2 it is stated that the PCCF (Hoff) is empowered to post Range Forest Officers during the transfer period and during the rest of the year, the Government will fill vacant posts based on the recommendations of the PCCF (Hoff).

	would help further a more coherent management of key elephant habitats.	Regarding 12.2.3, Government will examine the feasibility of implementing the recommendation.
12.2	In the course of consultations with the KFD, we noted many examples of administrative streamlining that would assist in conservation and better management of elephants and their habitats. Taking these into account, we recommend that:	As regards 12.3, the Government will consider the need for the extra financial outlays in an objective manner on a case by case basis.
12.2.1	Additional posts of forest watchers and guards are sanctioned for areas of high elephant-human conflict.	
12.2.2	The State's PCCF (Head of Forest Force) is empowered to post Range Forest Officers to vacant positions, especially in Forest Ranges where elephant-human conflict is a serious concern.	
12.2.3	Incentives are provided	

	<p>to staff who serve 5 years in high conflict Ranges. This may be done by strictly implementing an already available government order that permits such staff to provide options for a posting of their choice upon completion of 5 years.</p>	
12.2.4	<p>The available government order for making timely payments of salary as well as extra allowances to all staff, including temporary watchers, into bank accounts is fully utilized and implemented in all Ranges.</p>	
12.3	<p>We note that many of the steps recommended by the KETF are not possible to implement with existing financial outlays. Hence, we recommend that the Honourable Court direct the State to create the additional financial outlays needed to implement key recommendations.</p>	

The opinion of the State Government in respect of the above recommendations has to be considered keeping in view the feasibility of implementation of the recommendation having regard to the financial outlays and availability of manpower. However, we observe that recruitment and training of sufficient staff and a stable administrative set-up are of critical importance for protection of wild life in general and the government ought to make adequate provision for the purpose.

Sl. No.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
13	<i>Tourism in elephant areas</i> In the last decade, the State has witnessed a huge expansion of tourism as disposable incomes have increased, especially among its growing middle class. As a result, there has been intensification in recreational tourism to wildlife areas. This growth in tourism has	Recommendations 13.1, 13.2 and 13.3 are accepted.

	<p>also led to a spiraling market participation in this sector, especially in terms of growth of new hotels, resorts and home-stay facilities in and around natural areas. The KETF recognizes the value of providing better opportunities for citizens to experience nature and the outdoors, but also strongly underlines the importance of thoughtful and effective regulation of tourism so that its potentially adverse impacts on wildlife and their habitats are minimized.</p>	
13.1	<p>We note with concern that in many areas, ill-planned and large tourism infrastructure has the potential to sever habitat connectivity and create serious disturbances to elephants and other wildlife. Therefore, we first recommend that</p> <p>measures are initiated to ensure that commercial tourism infrastructure is located</p>	

	<p>only in designated areas. One measure that we strongly recommend here is that the State make the fullest use of land-use regulation provisions of the Environment Protection Act, 1986 by notification of Ecologically Sensitive Areas (also see Para 4.2) around key wildlife habitats so that threats posed by ill-planned tourism infrastructure are minimized.</p>	
13.2	<p>We also recognize that the activity of tourism within wildlife areas can itself grow to an extent where it may cause direct disturbance to wildlife, as well as pose challenges to management. By and large, KFD has regulated tourism in most of its protected areas very sensibly. However, problems still remain in certain areas such as in Cauvery Wildlife Sanctuary and adjoining areas of Mandya and Kollegal Forest Divisions</p>	

	<p>where unregulated influx of tourists along certain sections of the road skirting River Cauvery causes direct disturbance to elephants, impedes their access to the river, and creates a severe problem of solid-waste disposal, especially in places like Muthathi. In such situations, we recommend the creation of designated areas outside the sanctuary, especially along the banks of the Cauvery where tourists are provided required facilities and better nature interpretation, and alongside, there is a stricter regulation of tourist entry into areas located within key wildlife habitats.</p>
13.3	<p>In addition, we also recommend that measures to regulate tourism are in consonance with evolving Central Government policy on ecotourism in wildlife areas, especially in terms of ensuring that</p>

	the benefits of tourism are more equitably shared with marginal local stakeholders such that this important activity is carried out with greater ecological and social responsibility.	
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The State Government to implement the aforesaid recommendations in an effective and time bound manner as the same are accepted by it.

Sl. No.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
14	<i>Inter-state co-operation and co-ordination</i>	Recommendation 14.1 is accepted.
14.1	We note that key elephant habitats of the State currently abut similar, high-value elephant habitats of Kerala and Tamil Nadu. Greater co-ordination between the states can go a long way in controlling poaching, managing conflict, as well as in the maintenance/enhancement	

	<p>of habitat connectivity. We suggest that a co-ordinating mechanism be set up to ensure that cohesive landscape-level management plans are developed and effective inter-state co-ordination in elephant management and conservation achieved at the scale of each Project Elephant Landscape as recommended by the Ministry of Environment and Forests, Government of India.</p>	
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The State Government to implement the aforesaid recommendations in an effective and time bound manner as the same are accepted by it.

Sl. No.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
15	<i>Research and monitoring for elephant conservation and management.</i>	Recommendations 15.1 and 15.2 are accepted.
15.1	We note that a solid understanding of elephant ecology and behaviour is the bedrock of knowledge-	

	<p>based management and conservation of this species. We therefore recommend that the State take active measures to foster research about this species, and ensure that its management utilizes the highest standards of science. We also suggest the following priority areas of research: elephant population estimation, monitoring elephant demography, regular monitoring of the status of elephant habitats, social behaviour and ranging patterns, foraging ecology and impacts of elephants on habitats, understanding elephant-human conflicts and evaluating mitigation measures, studying the impact of management practices on the species, as well as long-term research into key populations.</p>
15.2	<p>Systematic record keeping for efficient information retrieval is a key prerequisite to making informed management decisions. Current systems of recording information on a range of</p>

	issues, including human-elephant conflicts, creation and maintenance of barriers, proposals for habitat diversion in key elephant habitats are highly fragmented. We therefore strongly recommend that the KFD develop capacity, in partnership with non-governmental agencies if needed, to centralize the recording of such information that will help management at both the state and the field-level.	
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The State Government to implement the aforesaid recommendations in an effective and time bound manner as the same are accepted by it.

Sl. No.	Recommendations of Karnataka Elephant Task Force	Opinion of the Government of Karnataka
16	<i>Welfare and management of captive elephants</i>	Recommendations 16.1 to 16.7 are accepted. However, the recommendation 16.1 of building a separate cadre of veterinarians will have administrative
16.1	Given the inevitability of some wild elephants coming into captivity because of serious conflicts with people,	

	<p>it is essential that we pay adequate attention to the use and welfare of elephants in captivity. This would require a suite of measures including strengthening the captive elephant establishment, maintenance of service registers for individual elephants, building a cadre of veterinarians with expertise in captive elephant biology and treatment of ailments and diseases, preserving some of the traditional skills in capture of elephants, and introducing the art of humane training and management.</p>	<p>problems. The present system of deputation of veterinary doctors to the Forest Department with certain modifications will serve the purpose. The required doctors to the Forest Department may continue for longer deputation periods, based on the approval of Principal Chief Conservator of Forests (HoFF) and willingness of the veterinary doctors.</p>
16.2	<p>Elephants in captivity should undergo regular health screening, not only for body condition, parasites and general diseases, but in particular, for tuberculosis.</p>	
16.3	<p>The welfare of captive elephants is closely tied to the health and well-being of elephant <i>mahouts</i> and <i>kavadis</i> whose dignity and service conditions must be ensured. <i>Mahouts</i> and <i>kavadis</i> should also be provided regular health</p>	

	screening, especially for tuberculosis.	
16.4	<p>The management of forest camp elephants is presently regulated under Rules 88-111 of Chapter II of the Karnataka Forest Code, 1976. Based on the present requirement of captive elephant management, the provisions of the above code have to be revised by a team of experts on captive elephants. Indeed, there is urgent need for rules to be drafted for the maintenance of all captive elephants, including those in temples, zoos, circuses and private ownership and their compliance monitored.</p>	
16.5	<p>Captive elephants should be used only by the department for purposes such as patrolling forests, tourist rides, biological research and elephant-human conflict management or exchanged with other state forest departments for similar use. Newly captured elephants should not be given to temples, circuses or other commercial use.</p>	

16.6	<p>The welfare of captive elephants in the state should be regularly monitored by the Chief Wildlife Warden with the assistance of a group of experts and officials specifically constituted for this purpose.</p>	<p>Recommendation 16.8 is not accepted.</p>
16.7	<p>Micro-chipping of all captive elephants should be made mandatory in order to ensure that illegal trade in such captive animals is curtailed.</p>	
16.8	<p>KETF notes that the Dasara festival involving the display of elephants at Mysore is a grand expression of Karnataka's rich cultural heritage that merits preservation. Nevertheless, as a demonstration of the State's commitment to addressing issues in the conservation of its wild elephants, as well as the welfare of its captive elephants, we suggest that the heavy 750 kg. golden howdah carried by the lead elephant in the Mysore</p>	

	Dasara procession be replaced with a much lighter replica or carried in a chariot drawn by the elephant. Such a symbolic gesture, especially as something that crowns a series of measures to further elephant human coexistence in Karnataka, could make the state a national and international leader in elephant conservation.	
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The State Government to implement the recommendations at 16.2 to 16.7 in an effective and time bound manner. As far as recommendation 16.1 is concerned, it is left to the wisdom of the State Government to take appropriate measures. Recommendation 16.8 is not accepted by the State Government. It is within the wisdom of the State Government to have its own vision regarding the display of elephants at the Dasara Festival held at Mysore. However, during the course of arguments, it was pointed out that any use of elephant by the State Government for any festival or other event should avoid causing cruelty to the

animal. Therefore, we direct that the provisions of the Prevention of Cruelty to Animal Act 1960 shall be observed while putting captive elephants to any use or display.

28. In the result, the following directions are issued:-

i) *the State or the Union of India, as the case may be, to renotify the areas of elephant habitat and Corridors having regard to the areas notified under the Project Elephant areas, Mysore elephant Reserve and the areas mentioned in the Report of the Task Force within a period of two months from the date of receipt of certified copy of this order.*

ii) *the State is directed to review all clearances given to various projects in the elephant habitat and corridor in a time bound manner;*

iii) *wherever there is a diversion of forest lands falling within the elephant habitat and corridor, the same must be referred to the Chief Wildlife Warden for assessment of the potential impact,*

before issuance of any approval or clearance by the State;

iv) the State is directed to take, as early as practicable, all necessary steps for constitution of the Reserve Forests, wherever notifications have been issued under Section 4 of the Karnataka Forest Act, 1973 where such lands fall within the elephant habitat and corridor through out the State,

v) the State is directed to review the non-forest activities in the elephant habitat and corridor and take appropriate action in that regard, in case there is any violation of law;

vi) the State Government shall review the user of the land on the periphery of forests falling within the elephant habitat and corridor and take requisite steps for its conservation and preservation.

vii) the State shall take necessary steps to reduce pressure on the elephant habitat by people who utilize the elephant habitat illegally and re-locate or re-habilitate them in accordance with law;

viii) with regard to human-elephant conflicts in Alur-Arkaigud Taluk, Hassan District, the State shall review the matter at various stages and from various angles periodically so as to capture elephants in the said region, bearing in mind the balance of convenience from the point of view of elephants as well as from the point of view of human populace and also bearing in mind the recommendation of the Task Force Committee as well as the dissent notes in that regard;

ix) the State is directed to issue necessary directives to various electricity supply agencies and institutions in the State so as to raise and maintain the height of high tension and low

vii) the State shall take necessary steps to reduce pressure on the elephant habitat by people who utilize the elephant habitat illegally and re-locate or re-habilitate them in accordance with law;

viii) with regard to human-elephant conflicts in Alur-Arkalgud Taluk, Hassan District, the State shall review the matter at various stages and from various angles periodically so as to capture elephants in the said region, bearing in mind the balance of convenience from the point of view of elephants as well as from the point of view of human populace and also bearing in mind the recommendation of the Task Force Committee as well as the dissent notes in that regard;

ix) the State is directed to issue necessary directives to various electricity supply agencies and institutions in the State so as to raise and maintain the height of high tension and low

tension power lines above the ground level, so as to make it safer for the elephants in the elephant habitat and elephant corridor; The Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden of the State shall monitor the steps taken in this regard;

x) the State to issue directives to electricity supply agencies and institutions to ensure that fencing around plantations and estates would not be a threat to the life of the elephants by any electrical installations, supply lines, theft of power or otherwise;.

xi) as Recommendation Nos.13, 14 and 15 have been accepted by the State Government, a direction is issued to implement the same in an effective and time bound manner;

xii) the State shall implement the Recommendations No.16.2 and 16.7 referred

hereinabove in an effective and time bound manner. As far as Recommendation 16.1 is concerned, it is left to the wisdom of the State to take a decision with regard to the utilization of the elephants on festivals including Dasara Festival at Mysore. However, in case the elephants are involved in such festivals, then the State must ensure that elephants are protected and that there would be no violation of the provision of the Prevention of Cruelty to Animals Act, 1960 and the Rules made thereunder;

xiii) the statement of the Chief Wildlife Warden is recorded to the effect that an Action Plan would be put in place and timely action would be taken to ameliorate the dangers faced by the citizens on account of elephant menace or death caused by wild elephants. In case any representation is made by the citizens bringing to the notice of the Chief Wildlife Warden or other

designated officers about the elephant menace, then immediate steps must be taken under the provisions of the Act. Therefore, the Chief Wildlife Warden is directed to formulate an Action Plan to be taken in order to meet grave situation of elephant menace and to circulate the same to all the Forest Divisions in the State;

xiv) the State shall take effective and adequate measures with regard to the safety and well being of captured elephants, such as giving training to mahots and other care givers and deploying veterinary doctors, where and when necessary;

xv) the State is at liberty to seek guidance on the recommendations made by the Task Force Committee and also consult the Committee for any of its future course of action concerning elephants in the State so as to implement the recommendations accepted by the State in their true letter and spirit;

xvi) the State shall implement the Policy and Action plan of the Union concerning Project Elephant in its true letter and spirit;

xvii) if any of the aforesaid directions have to be complied by the Union of India, then the same are applicable mutatis mutandi.

29. The Writ Petition is again disposed in the aforesaid terms, along with all pending applications, with the additional directions summarized hereinabove.

30. We place on record our appreciation of the time and devotion of the learned Amicus Curiae, learned Senior Counsel, Sri.M.R.Naik, Sri.N.Ravindranath Kamath and Sri.B.R.Deepak, the Chairman and members of the Task Force and Sri. Basappanavar who have been intensively involved in making of the Report and also all other counsel including Law Officers appearing on behalf of the State and Union of India and Officers of various departments who have appeared and made their presentations at various stages and all

others who have assisted the Court in the matter. We conclude with the hope that the commendable efforts put in by well-meaning legal-fraternity of counsel, experts and officials of various departments, including the legal department will go a long way in not only protecting the majestic mammal of great historic and environmental importance, but engender a culture of sustainable co-existence with all species of animals.

Sd/-
CHIEF JUSTICE

Sd/-
JUDGE

mvs/S

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IN THE HIGH COURT OF ORISSA: CUTTACK

W.P. (C) PIL No. 22421 of 2015

In the matter of:

Dwija Dalpati

.....Petitioner

-Versus-

State of Odisha and others

....Opp. Parties

CONVENIENCE NOTE ON BEHALF OF THE
PETITIONER

PRAYERS IN THE WRIT PETITION:

1. The petitioner has filed the present PIL with the following prayers inter alia:

- (a) take appropriate measures to prevent the wild life especially the elephants from straying into the human habitat in the Loisingha-Sonepur range in the District of Balangir;
- (b) direct the opposite parties to take adequate measures to have an elephant do not enter human habitat;
- (c) direct the opposite parties to take concrete steps to implement the 'Project Elephant' scheme in the Loisingha-Sonepur range in the District of Balangir in letter and spirit;
- (d) direct the opposite parties to pay compensation to the persons concerned in the Loisingha-Sonepur range in the District of Balangir who have suffered losses due to the straying of elephants in the human habitat;
- (e) direct the Opposite Parties to notify the areas of elephant habitat and their corridors and make

necessary land acquisitions in that regard if required”

LIST OF RELEVANT DATES: Present Case

A. 26.05.2013- Mass scale movement of elephants into human habitation and the subsequent death of an eight month old elephant calf in the village Budulae in Agalpur block on 24.05.2013 was reported in ‘The Pioneer’.

[Annexure-1 series at page 20 may kindly be seen]

B. 08.10.2013- The Hon’ble High Court of Karnataka, vide its decision in the case of SuoMotu v. State of Karnataka & others, [W.P. No. 14029/2008 (GM-RES)], issued several directions to be implemented by the Union and State Governments, in order to prevent human-elephant conflicts.

C. 20.10.2013- The death of an adolescent female elephant after accidentally falling into a gorge near Khalipali village in Loisingha forest range of Bolangir division was reported in The New Indian Express.

[Annexure 1-Series at page 18 may kindly be seen]

D. 22.11.2015- The death of two female elephants due to Electrocutation at Tithipali Reserve Forest in Subarnapur was reported in the Odishatv.in. The report also mentioned the deaths of three other elephants which had been caused due to electrocution in the previous month.

[Annexure 1-Series at page 17]

E. August, 2017 The Ministry of Environment, Forest and Climate Change, Government of India came up with the synchronized elephant population for the entire country

wherein Orissa is slated to have 1976 elephants. Copy of the said report is appended to the present note.

F. 14.10.2020 The Hon'ble Supreme Court disposed of the case **Hospitality Association of Mudumalai v. In Defence of Environment and Animals and others** [(2020) 10 SCC 589] which deals with the issue of elephant corridors. (Paras 31 to 35)

G. 17.8.2021 The National Green Tribunal, Eastern Zone Bench, Kolkata disposed of **O.A. No. 129/2016/EZ** which deals with the issue of notification of 14 elephant corridors in the State of Odisha. (Para 18)

RELEVANT PROVISIONS

CONSTITUTION OF INDIA

- Article 48A
- Article 51A

ENVIRONMENT (PROTECTION) ACT, 1986

- Section 3

WILDLIFE (PROTECTION) ACT, 1972

- Section 9
- Section 11
- Indian Elephant is found in Entry 12-B of Schedule-I of the Wildlife (Protection) Act, 1972

Submissions

2. The present PIL seeks to prevent the conflict between elephants and human beings in the District of Balangir. The same is for the benefit of the local population as well as for the benefit of the revered animal. The lackadaisical attitude of the State Government towards the said issue is making matters worse day by day at the ground level.

3. The petitioner is a farmer belonging to the District of Bolangir and out of concern for the local people as well as the elephants of the Sonepur – Loisingha Range he has filed the present PIL.

4. To fortify the stand of the petitioner he has relied on “Newspaper Reports” of varied dates under Annexure-1 Series which basically mention about the problems of the conflict in the said local area in the Dist. Of Bolangir.

5. The petitioner also seeks to bring to the kind notice of this Hon’ble Court the directions of the Karnataka High Court in the case of *Suo Motu v. The State of Karnataka Rep. by the Chief Secretary and ors.*, [W.P.(C) No. 14029/2008 (GM-RES)]

6. In the aforesaid matter, the following directions may kindly be issued as far as the State of Orissa is concerned keeping in mind the principles laid down in the case of *Suo Motu v. State of Karnataka & others*, [W.P. No. 14029/2008 (GM-RES)] and *Hospitality Association of Mudumalai v. In Defence of Environment and Animals* [(2020) 10 SCC 589]:

Possible Directions

A. The State of Odisha may take necessary steps to reduce pressure on the elephant habitat by people who utilize the elephant habitat illegally and relocate or re-habilitate them in accordance with law;

B. With regard to human-elephant conflicts the State shall review the matter at various stages and from various angles periodically so as to capture elephants in the said region, bearing in mind the balance of convenience from the point of view of elephants as well as from the point of view of human populace.

Such steps be immediately taken in the Districts of Balangir, Sonepur, Angul, Dhenkanal and the Chandaka Reserve Forests;

C. The State may immediately constitute a Task Force / Committee comprising of the Principal Chief Conservator of Forests, Chief Wild Life Warden and the Member Secretary, Orissa State Legal Services Authority. The said Task Force / Committee shall constantly monitor the situation regarding human-elephant conflicts, formulate short-term and long-term measures and enforce implementation. The Task Force/Committee should strive for conservation of elephants and prevention of unnatural death of elephants as well as destruction of crops. The aforesaid body shall hold review meetings as and when required and at least once in three months.

D. The Member Secretary, Orissa State Legal Services Authority is at liberty to refer the matter to the concerned bench for any further directions, if necessary.

E. The State or the Union of India, as the case may be, may renotify the areas of elephant habitat and Corridors having regard to the areas notified under the Project Elephant areas within a stipulated period.

F. The State may be directed to review all clearances given to various projects in the elephant habitat and corridor in a time bound manner.

G. Wherever there is a diversion of forest lands falling within the elephant habitat and corridor, the same must be referred to the Chief Wildlife Warden for assessment of the potential impact, before issuance of any approval or clearance by the State.

H. The State is directed to review the non-forest activities in the elephant habitat and corridor and take appropriate action in that regard, in case there is any violation of law.

I. The State Government shall review the user of the land on the periphery of forests falling within the elephant habitat and corridor and take requisite steps for its conservation and preservation.

J. The State is directed to issue necessary directives to various electricity supply agencies and institutions in the State so as to raise and maintain the height of high tension and low tension power lines above the ground level, so as to make it safer for the elephants in the elephant habitat and elephant corridor; The Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden of the State shall monitor the steps taken in this regard;

K. Toll free helpline numbers be provided for people injured in elephant attacks and for people seeking help of anti-depredation squads. Appropriate compensation should be paid to affected people within a period of one month of the event.

L. The State shall take effective and adequate measures with regard to the safety and well being of captured elephants, such as giving training to mahots and other care givers and deploying veterinary doctors, where and when necessary;

M. The State is at liberty to seek guidance on the recommendations made by the Task Force Committee and also consult the Committee for any of its future course of action concerning elephants in the State so as to implement the recommendations accepted by the State in their true letter and spirit;

N. The State shall implement the Policy and Action plan of the Union concerning Project Elephant in its true letter and spirit;

O. If any of the aforesaid directions have to be complied by the Union of India, then the same are applicable mutatis mutandi.


JUDGMENTS

Wildlife Society of Orissa (Elephant Corridors) v. State of Odisha and others [O.A. No. 129/2016/EZ decided on 17.8.2021 by the National Green Tribunal, Eastern Zone Bench, Kolkata] (paragraph 18)

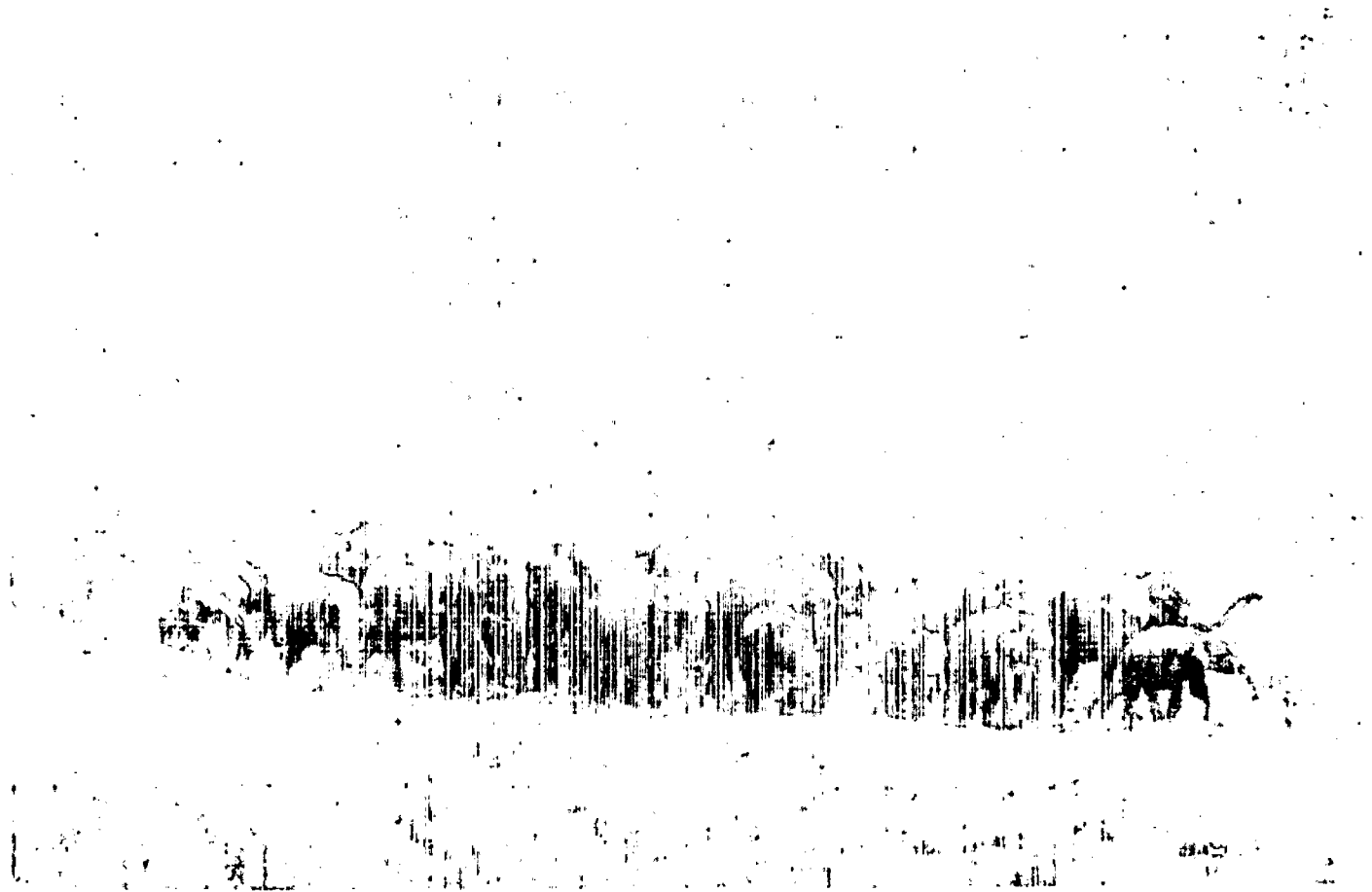
Hospitality Association of Mudumalai v. In Defence of Environment and Animals [(2020) 10 SCC 589] (paragraphs 31-35)

Date: 04.10.2021

Cuttack


Advocate for Petitioner

Synchronized Elephant Population Estimation India 2017



August 2017

Project Elephant Division

Ministry of Environment, Forest and Climate Change

Government of India



Synchronized Elephant Population Estimation India 2017

Project Elephant Division
Ministry of Environment, Forest and Climate Change
Government of India



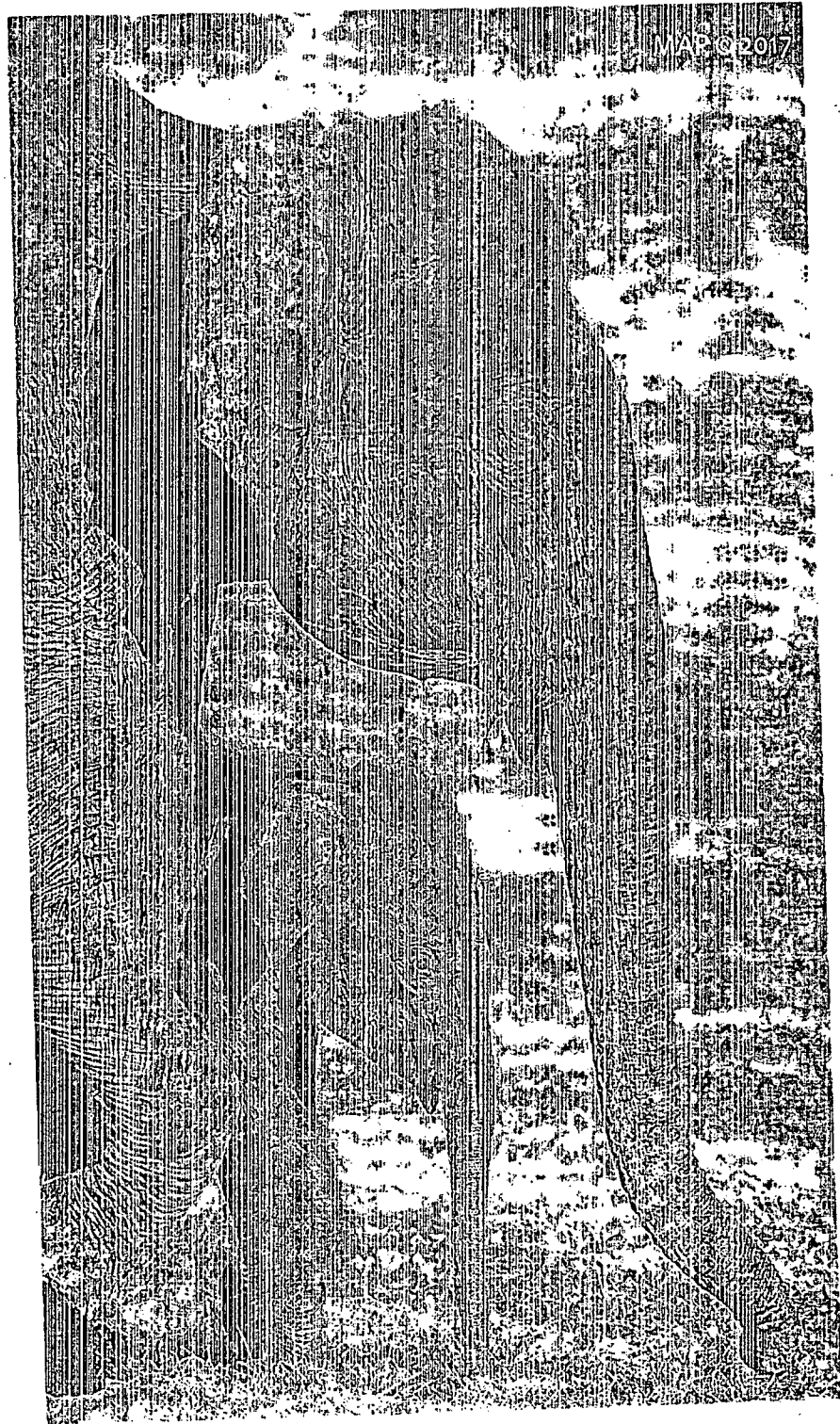
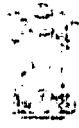


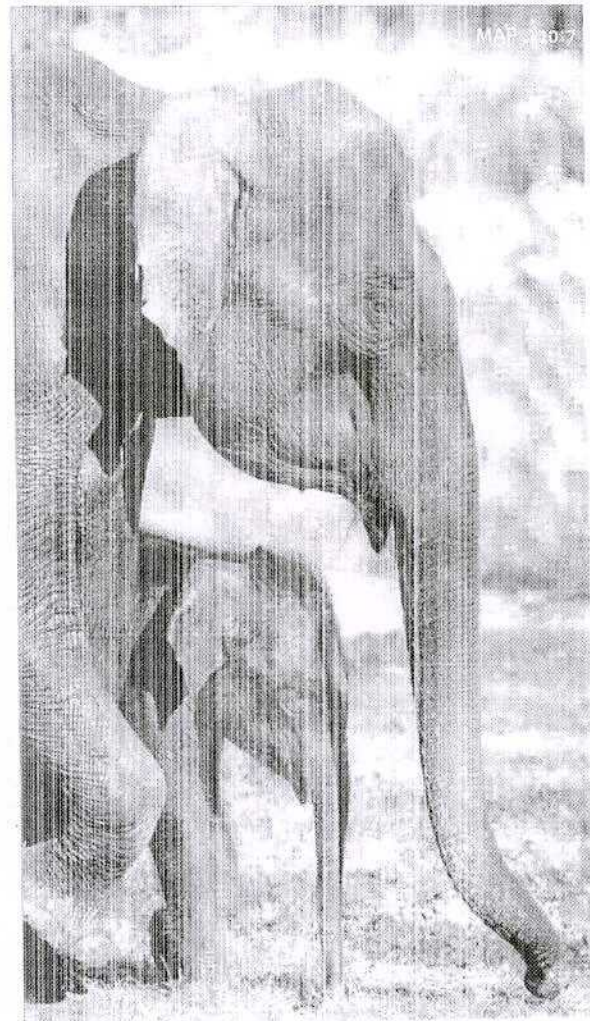
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(all other photographs)

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Introduction

Wild elephants in India have been recorded in the following geographical regions of the country:

- 1) Northern region (Uttarakhand, Uttar Pradesh, Haryana, Himachal Pradesh)
- 2) East-Central region (Odisha, Jharkhand, Bihar, southern Bengal and Chhattisgarh)
- 3) Northeastern region (Assam, Arunachal Pradesh, northern Bengal, Meghalaya, Nagaland, Tripura, Mizoram and Manipur)
- 4) Southern region (Karnataka, Kerala, Tamil Nadu, Andhra Pradesh, Maharashtra and Andaman & Nicobar)

As elephants are long ranging animals and distributed across landscapes covering different states in India, it is important to carry out synchronized elephant population estimation within each of the four geographical regions in order to minimize bias in estimation that may arise from significant movement of elephants across state boundaries. In recent years, wild elephants have also been dispersing from forests into agricultural landscapes, and into states where they have not been present in past years.

Nation-wide elephant population estimation exercise has been conducted every five years by the forest departments of elephant range states. With the exception of the southern states, the "census" conducted by other states has generally used total direct count method. There has been a pressing need to improve and harmonize the population estimation methods along more scientific lines in various states across India. In the southern states, the indirect dung count method was introduced in 2002, while the conventional "total count" method, that has limited or no scientific basis for large landscapes and elephant populations, was modified to "sample block counts" with restricted area (about 5 km²) to maximize the probability of detection of elephants by a small team of enumerators.

The choice of population estimation methods should be broadly uniform across the country or at least within the elephant distribution region. It should also give scope for adequately training a large number of frontline forest staff quickly. It is also desirable to maintain some level of continuity with the previous population estimations in order to make meaningful comparison with the past figures to infer broad trends. Newer statistical methods will require field testing, considerable training of forest ground staff, and should be introduced in stages with the help of research institutions.

Most states have used the direct so-called "total count" method to "census" elephants over the past several decades. This has serious limitation when applied across large forested tracts without any measure of "detection probability"; hence, this method will not be recognized as scientific (except in the case of small groups of elephants or solitary individuals known to be present in an isolated range). Direct count using "sample block count" has been adopted in southern India since 2002 in order to ensure maximum detection.

Planning for the all-India synchronized population estimation exercise began in 2016 itself with a national-level meeting held at New Delhi on 15th July 2017. Officials from Ministry of Environment, Forest and Climate Change, Chief

Wildlife Wardens from various states, and scientists working on elephant biology agreed that a uniform set of four activities would be undertaken for the 2017 estimation. These were the following:

1. Developing an elephant distribution map at forest division, forest range, forest beat/compartments and village level. For this purpose, state forest departments agreed to provide geospatial maps that could be analyzed using GIS (Geographical Information System) software.
2. Estimating the elephant population density (and size through extrapolation to the elephant distribution area) and statistical confidence limits using a direct count method. This exercise was to be carried out during the dry season, using sample block counts for the larger populations, and total count for small scattered elephant groups and solitary individuals.
3. Estimating elephant population density using an indirect count method. For this purpose, the indirect dung count method follows the standards prescribed in Hedges & Lawson (2006) by the CITES secretariat under the MIKE (Monitoring the Illegal Killing of Elephants) programme. It requires, in addition to estimates of dung density through line transects, an estimate of dung decay rate specific to a given area or region as well as the defaecation rate of elephants.
4. Characterizing elephant population structure and assessing its demography. This is done through classifying elephants in broad age groups (Adult, Sub-adult, Juvenile & Calf) and determining the ratio of males to females for the older (Adult and Sub-adult) age categories only. This is best achieved through observing elephants in open areas, water holes, and salt licks where better visibility makes it possible to more accurately determine the sex and age class of elephants.

The above methods have been selected for the 2017 population estimation on the basis of their relative simplicity in being implemented by frontline field staff of the forest department, and the fact that the entire exercise would be carried out within a few days rather than over weeks or months.

Following this, two rounds of regional workshops were conducted during 2016, the first round of workshops to initiate the dung decay rate experiments, and the

second round of workshops to provide training on all the population estimation methods prior to the actual "census" exercise.

The census operations were conducted in each region during the following periods:

1. Northeastern region: 26th to 29th March 2017
2. East-central region: 8th to 12th May 2017
3. Southern region: 16th to 19th May 2017
4. Northern region: 23rd to 26th May 2017

The present "first report" of the elephant population estimation 2017 presents **results only from the direct count method**. The figures provided below have been arrived at in many cases by the state forest departments or have been computed by researchers at the Asian Nature Conservation Foundation (based at Indian Institute of Science, Bengaluru) on the basis of the data made available by the state forest department. This is ongoing work that would require more inputs from the states, detailed analyses, and interpretation. In particular, mapping elephant distributions in a GIS domain, analyzing data from the indirect dung count method, and compiling more accurate population structure data from photographs would require several months of work as large volumes of data have to be collated, corrected and processed. Even for the direct count method, reliable information on elephant distribution area is lacking in the case of some states or forest divisions within a state.

The results presented here should therefore be interpreted with caution. At this stage, comparisons should not be made between results from the 2017 census and the earlier 2012 census, the reason being that the earlier census results were based on a mixture of direct and indirect count methods as reported by different states. In particular, no trend information should be made for individual forest divisions or states from these results. In 2017 there were major shifts in dry season habitat use by elephants in the south because of a severe drought in the previous year.

Other population estimation methods (line transect direct count, camera trapping using a mark-recapture framework, DNA-based profiles, occupancy models and so on) require substantial research and development and cannot be implemented within a short period across the entire country. However, it is important to initiate the use of one or more of these research methods, with the help of scientific institutions, for regular monitoring of elephant population in selected areas of each of the four regions.

A population of 27312 elephants has been estimated from 23 states in India by direct count method using random block sampling and the results for individual states are given in Table 1.

Table 1: Elephant population estimated for India by direct block count method during March-May 2017

	INDIA	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
				<i>Northeast Region</i>
1	Arunachal Pradesh	0.23	7000	1614
2	Assam	0.38	4050	5719
3	Meghalaya	0.16	11119	1754
4	Tripura*	0.10	987	102
5	Nagaland*	0.45	1000	446
6	North Bengal	0.25	1933	488
7	Manipur			9
8	Mizoram			7
				Total: 10,139
				<i>East Central Region</i>
9	Odisha			1976
10	Jharkhand	0.16	4156	679
11	Chhattisgarh			247
12	Bihar			25
13	Madhya Pradesh			7
	South Bengal			194
				Total: 3128
				<i>Northwest Region</i>
14	Uttarakhand	0.45	4087	1839
15	Uttar Pradesh			232
16	Haryana			7
17	Himachal			7
				Total: 2085
				<i>Southern Region</i>
18	Karnataka	0.67	8976	6049
19	Kerala	0.32	9875	3054
20	Maharashtra			6
21	Andhra Pradesh			65
22	Andaman & Nicobars*	0.14	133	19
23	Tamil Nadu			2761
				Total: 11960
				Total 27312

*Results are based on indirect (dung) count method as direct counts could not be carried out.

Asian Elephant distribution in India

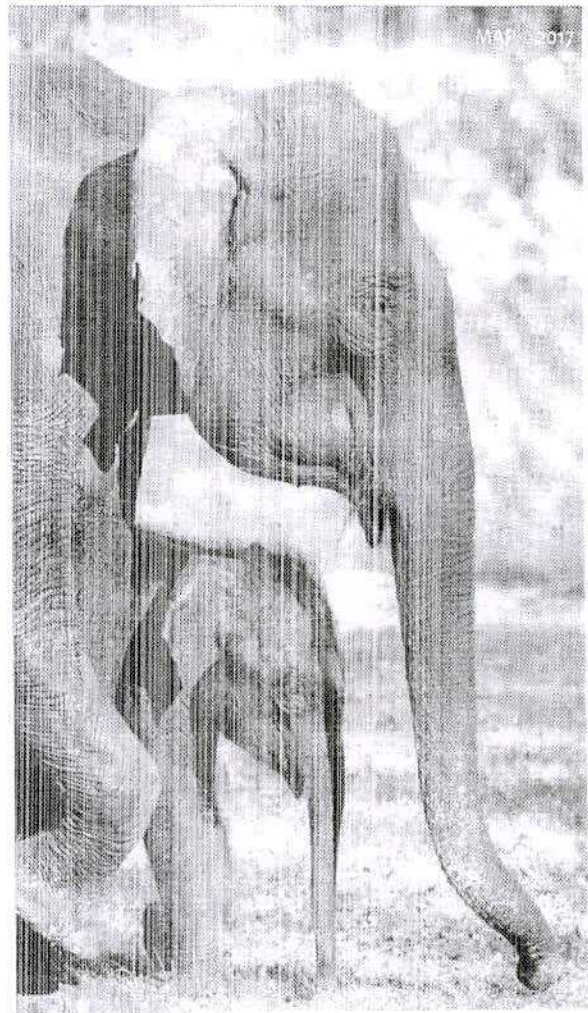


Elephant distribution for India in 2017

- 1: Bihar, 2: Haryana, 3: Himachal Pradesh, 4: Madhya Pradesh, 5: Maharashtra, 6: Manipur, 7: Andhra Pradesh, 8: Arunachal Pradesh, 9: Assam, 10: Chhattisgarh, 11: Goa, 12: Jharkhand, 13: Karnataka, 14: Kerala, 15: Meghalaya, 16: Nagaland, 17: Odisha, 18: Tamil Nadu, 19: Tripura, 20: Uttar Pradesh, 21: Uttarakhand, 22: West Bengal, 23: Andaman & Nicobar.

A small group of elephant also moves into Mizoram seasonally.

Region and State wise Elephant Number



Northeast Region

A total of 10,139 elephants are estimated in Arunachal Pradesh, Assam, Mizoram, Manipur, Meghalaya, Nagaland, north Bengal and Tripura of northeast region of India

Arunachal Pradesh

Elephants are distributed over 22 forest divisions in Arunachal Pradesh, and 30-60% of the elephant distribution area from each division was selected for sampling by the direct count method. A total of 139 sample blocks were randomly selected and enumerated in Arunachal Pradesh. Analysis of the above indicated an overall elephant density of 0.23 elephants/km² for this state. The actual elephant distribution area for Arunachal Pradesh is yet to be determined; for the present a figure of 7000 km² has

been obtained based on the information published from the website <http://www.wildlifefindia.org/projectelephant.htm>. This gives a population 1614 elephant for the state (Table 2).

Table 2: Elephant population estimated for Arunachal Pradesh

Arunachal Pradesh	Elephant density/km²	Elephant distribution area in km²	Elephant Population
Arunachal Pradesh	0.23	7000	1614
<i>Arunachal Pradesh (without Pakke TR)</i>	0.18		
<i>Pakke TR</i>	0.48		
<i>Shergaon, Bomdila, Itanagar, Khelong, Sagalee & Banderdawa</i>	0.29		
<i>Along, Anjaw, Dering, Daporijo, Dibang, Hapoli, Kamlang WLS, Lokabali, Lohu, Mehao WLS, Nandapha TR, Nampang, Pasighat WLS, Deomali, Khonsa & Chamlong forest divisions</i>	0.10		

Assam

Elephant are found in 35 forest divisions in Assam. A total area of 11601 km² was sampled for block count direct method for the state. Elephant density of 0.38 animals/km² was estimated for this state. The total elephant area for the state, estimated by the Assam Forest Department is 15,050 km², indicating an elephant number of 5719 elephants for the state (Table 3).

Table 3: Elephant population estimated for Assam

Assam	Elephant density/km²	Elephant distribution area in km²	Elephant Population
Assam (Overall)	0.38	15,050	5719
<i>Nameri-Sontpur-Dhemaji</i>	0.33		
<i>Kamrup W & E- Golpara</i>	2.20		
<i>Kaziranga- Karbianglong- Nagaon</i>	0.16		
<i>Mamas-Ripu-Chirang</i>	2.50		

Meghalaya

Much of the elephant habitat area in Meghalaya is under community forest. A total of 232 blocks were sampled in the state and the same ranged from 2.6km² to 8.8km² sampled. This translated to an overall density of 0.16 elephants/km². The elephant distribution area for Meghalaya is estimated by the forest department to be 11,185km² and the population estimate is 1754 elephants (Table 4).

Table 4: Elephant population estimated for Meghalaya

Meghalaya	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
Meghalaya	0.16	11118	1754
Balpakaram NP	0.54		
Jaintia Hills	0.03		
Khasi Hills	0.12		
Garo Hills	0.02		

Tripura

Results of elephant numbers estimated by indirect dung indirect count is presented in the Table 4. Indirect count results are reported as the block count method did not provide sufficient sample size. Dung density estimation was carried out by indirect line transect dung method in the three forest divisions of Tripura and dung decay rate estimated from the experiment carried out in Meghalaya. The daily elephant defecation rate of 18.1/day was used from a study carried out at Dehing, Patk. Wildlife sanctuary, Assam. Based this, an elephant density of 0.10/km² was estimated for the state and the same was extrapolated to 987km² of the elephant distribution area. This provides an estimate of 102 elephants for the state (Table 5).

Table 5: Elephant population estimated for Tripura

Tripura	Elephant Density/km ²	Elephant distribution area in km ²	Elephant Population
	0.10	986	102

Nagaland

For Nagaland state also the results from indirect count method was used. Dung decay rate results are from the experiments carried out in Wokha Forest Division in Nagaland and the daily defecation rate from Indraprastha Wildlife S. Assam. An elephant density of 0.45 elephants is estimated and the same was extrapolated to an elephant distribution area of 1000km². This gives a population estimate of 446 elephants (Table 6).

Table 6: Elephant population estimated for Nagaland

Nagaland	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
	0.45	1000	446

North Bengal

Elephants are distributed over 9 forest divisions in north Bengal. A total of 153 blocks were sampled for the direct count method for north Bengal. An elephant density of 0.25 km^{-2} was estimated for this region and a total number of 488 elephants estimated using 1933 km^2 area of elephant distribution for north Bengal (Table 7).

Table 7: Elephant population estimated for North Bengal

North Bengal	Elephant Density/ km^2	Elephant distribution area in km^2	Elephant Population
	0.25	1933	488
Buxa TR East	0.10		
Buxa TR West	0.37		
Jaldapara	0.26		
Gorumara	1.06		
Jalpaiguri	0.15		
Baikunthapur	0.27		
Darjeeling	0.12		
Kurseong	0.08		

Mizoram

A group of 5-7 elephants is reported to move into Mizoram on a seasonal basis. This group moves between India (Assam and Mizoram) and Bangladesh across the international border. However, this group was not enumerated during the 2017 census operations.

Table 8a: Elephant population estimated for Mizoram

Mizoram	Elephant Density/ km^2	Elephant distribution area in km^2	Elephant Population
			7

Manipur

A group of 8 to 9 elephants reported along the eastern banks of Barak River, bordering Nagaland. This group appeared to be isolated without having any habitat connectivity. However, this group was also not enumerated during the 2017 census operations.

Table 8b: Elephant population estimated for Mizoram

Manipur	Elephant Density/ km^2	Elephant distribution area in km^2	Elephant Population
			9

East-Central Region

A total of 3128 elephants are estimated in Odisha, Jharkhand, Chhattisgarh, Bihar, Madhya Pradesh and south Bengal of east-central region of India.

Odisha

Odisha Forest Department estimated a population of 1976 elephants in the state by the direct count method. State and Elephant Reserve (ER) wise elephant numbers estimated are given in Table 9. Apart from the Elephant Reserves the remaining elephants are found in other territorial forest divisions and revenue lands.

Table 9: Elephant population estimated for Odisha

Odisha	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
Odisha			1976
Mayurbhanj ER			635
Mahanadi ER (proposed)			694
Sambalpur ER (proposed)			207

Jharkhand

Elephants are found in 12 forest divisions in the state. A total of 311 blocks were sampled for Jharkhand. Based on an overall elephant density of 0.16 km² a population of 678 elephants for the state was estimated (Table 10). A more precise figure of elephant distribution area in the state is needed.

Table 10: Elephant population estimated for Jharkhand

Jharkhand	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
Jharkhand	0.16	4155	678
Palamau TR	0.22		
Sarama	0.44		
Chaibusa	0.17		
Saraikela (Dhalbhum & Dalma)	0.10		
Ranchi, Lohardaga & Khunti	0.67		
Gumla	0.03		
Dhanbad	0.54		
Jamshedpur	0.06		

Chhattisgarh

Chhattisgarh state has been divided into six forest circles, namely, Raipur, Bilaspur, Surguja, Durg, Kanker and Jagdalpur. These circles are further divided into 34 territorial divisions and 13 Protected Areas. Out of these, elephant movement has been reported from 22 territorial divisions and 7 Protected Areas, during the last five years.

Out of 22 territorial divisions and 7 Protected Areas with elephant presence, elephants were sighted in 7 territorial divisions and 2 Protected Areas during the population estimation exercise. A total of 247 elephants were recorded by the forest department (Table 11).

Table 11: Elephant population estimated for Chhattisgarh

Chhattisgarh	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
Chhattisgarh			247
<i>Surguja</i>			108
<i>Bilaspur</i>			122
<i>Raipur</i>			17

Bihar

According to the state forest department, the forests in State of Bihar are not inhabited by wild elephants on a regular basis. Earlier, occasional instances of wild elephants moving from the source areas of Jharkhand, West Bengal, Odisha and Chhattisgarh India and from the forest regions around Kosi Tappu and Parsa Wildlife Sanctuary in Nepal were reported.

These elephants stayed for short durations in the border districts of Bihar. However, recently elephants from Jharkhand and Nepal are more frequently moving into the districts of Bhagalpur, Banka and Jamui (bordering Jharkhand), and Supaul, Araria, Kishanganj and West Champaran (bordering Nepal). An elephant number of 25 elephants has been made by the forest department (Table 12).

Table 12: Elephant population estimated for Bihar

Bihar	Elephant Density/km ²	Elephant distribution area in km ²	Elephant Population
			25

Madhya Pradesh

Seven elephants (Table 13) are visitors to Sanjay Tiger Reserve of Madhya Pradesh from adjoining Guru Ghasidas National Park (GGNP) of Chhattisgarh. They first appeared in 2005, later in 2008, in 2013 and recently in 2017. During these years they are reported only in the Mohan Range of Sanjay Tiger Reserve.

Table 13: Elephant population estimated for Madhya Pradesh

Madhya Pradesh	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
			7

South Bengal

Elephant groups in southern west Bengal area are primarily "migratory" elephants from Jharkhand since about 1986-87. There are 3 to 4 different groups and several solitary bulls that move into West Medinipur, Bankura, Purulia, Birbhum and Jhargram regions. Over time the numbers have increased and several elephants seem to have become resident in south Bengal.

Up to 200 elephants have been reported in recent years, but making an estimate is difficult because of changes in the migration patterns. During elephant population estimation period of a total of 47 elephants were encountered in 57 beats. However, a density estimate of 0.05/km² gives a figure of 194 elephants during the census period in 2017 (Table 14). This number will have to be fine-tuned based on results from the dung count as well as better estimate of elephant habitat area in this region.

Table 14: Elephant numbers estimated for South Bengal

South Bengal	Elephant Density/km ²	Elephant distribution area in km ²	Elephant population estimation
	0.05	4067	194

Northern Region

A total of 2085 elephants are estimated in Uttarakhand, Uttar Pradesh, Haryana and Himachal Pradesh in northern India.

Uttarakhand

Elephants are distributed over 12 forest divisions in Uttarakhand. A total of 585 blocks were sampled for block-count method in Uttarakhand. An overall elephant density of 0.45 elephants/km² was estimated for the state by this method. Based on the 4087km² elephant distributions area estimated by Varma and Sukumar (2012), a population number of 1811 elephant can be made for the state (Table 15).

Table 15: Elephant population estimated for Uttarakhand

Uttarakhand	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
Uttarakhand	0.45	4087	1811
Corbett TR	0.83		
Haridwar	0.17		
Rajaji NP	0.58		
Lansdowne	0.22		
Kalugarn	1.32		
Ramagar	0.17		
Terai Central	0.07		
Halduwani	0.14		

Uttar Pradesh (UP)

Number of elephants estimated for Uttar Pradesh during the 2017 population estimation period for regions of Nazibabad, Bijnur, Shivalik and Dudhwa Tiger Reserve is 232. Another 30 elephants are also reported to move seasonally from Nepal to Katarniyaghat region of U.P. (Table 16).

Table 16: Elephant population estimated for Uttar Pradesh

Uttar Pradesh	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
Uttar Pradesh			232
Nazibabad			102
Bijnur			64
Shivalik			24
Dudhwa TR			42

Haryana

Elephants from Uttarakhand and U.P. are known to cross the Yamuna river and move to Kalsar WLS and NP regions of Haryana, according to the forest department field staff, since 1988. Initially 3 to 4 elephants used to be seen in this region, with the number going up to 12 sometimes (in 2015). In 2017, seven elephants were reported to be found in this state (Table 17).

Table 17: Elephant population estimated for Haryana

Haryana	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
			7

Himachal Pradesh

Elephants from Kalsar WLS and NP regions of Haryana enter Simbalbara WLS in Himachal Pradesh. Out of 6 forest beats this WLS, elephants are found in 5 beats and 2 beats among these are very extensively used by elephants. Their first visit to the sanctuary was in 2015. A total of 7 individuals are reported by the forest field staff (Table 18).

Table 18: Elephant numbers population for Himachal Pradesh

Himachal Pradesh	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
			7

A total of 11960 elephants are estimated in Karnataka, Kerala, Tamil Nadu, Andhra Pradesh, Maharashtra and Andaman & Nicobar Islands of southern region of India.

Karnataka

Elephants are found in 33 forest divisions in Karnataka. A total of 654 blocks were sampled for the block count based population estimation for Karnataka state. The results show an overall density of 0.67 elephants/km² which, extrapolated to an elephant distribution area of 8976 km², gives a total estimate of 6049 elephants for the state (Table 18). Thus, during the 2017 population estimate, Karnataka retains its position as the state with the highest elephant population in the country.

Table 19: Elephant population estimated for Karnataka

Karnataka	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
Karnataka	0.67	8976	6049
Hassan	0.15		
Hunsur	0.62		
Nagarahole TR	1.54		
Dandeli	0.04		
Madikeri WL	0.24		
Dandeli WL	0.04		
Kollegal	0.24		
Mangaluru	0.08		
Bannerghatta NP	0.63		
Bhadra TR	1.12		
Chickmagalur	0.29		
Caavery WL	0.50		
Biligiri Rangaswamy Temple TR	0.98		
Bandipur TR	1.13		

Kerala

Elephants are found in 37 forest divisions in the state. A total of 673 blocks were sampled for the block count in Kerala. An elephant density of 0.32 animals/km² was estimated and this density was extrapolated to a elephant distribution area of 9670km² for a total of 3054 elephants in the state (Table 20). We must mention here that during the 2012 census, the figures reported by Kerala to the national census figure were 6117 based on the indirect dung count method. However, the direct count results for 2012 gave an estimate of only 2735 elephants. Thus, the 2017 census results from direct count method for Kerala

should not be compared to the 2012 census results from the indirect count method that would otherwise result in erroneous conclusions.

Table 20: Elephant population estimated for Kerala

Kerala	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
Kerala	0.32	9670	3054
Anaimudi ER	0.41		
Periyar ER	0.31		
Wayanad ER	0.25		
Nilambur ER	0.25		

Tamil Nadu

Tamil Nadu Forest Department estimated a population of 2761 elephants by sample block count method and the results of number estimated for the state and some of the important elephant divisions for the states are given in Table 21. These numbers will have to be interpreted with caution when compared to the 2012 estimate because the severe drought of 2016 had resulted in large numbers of elephants from Tamil Nadu moving into adjoining states with moister forests. These elephants began to move back to Tamil Nadu only with the onset of the monsoon in mid-2017.

Table 21: Elephant population estimated for Tamil Nadu

Tamil Nadu	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
Tamil Nadu			2761
Dharmapuri			184
Heisar			499
Coimbatore			97
Nilgiri North			180
Nilgiri South			54
Gudalur			60
Mudumalai TR			294
Satyamangalam TR			772
Erode			113
Srivilliputhur WLS			74
Tirunelveli			70
Kalekad Mundanthurai TR			58
Anaimalai TR			237
Dindigul			8
Kodaikanal			19
Megamalai			27
Kanniyakumari			14
Tirupattur			1

Maharashtra

In Maharashtra elephant population estimation was carried out in southern region where six elephants were counted in Kolhapur and Sawantwadi divisions of Kolhapur Forest Circle (Table 22). These elephants have moved in recent times from Karnataka into Maharashtra.

Table 22: Elephant population estimated for Maharashtra

Maharashtra	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
			6

Andhra Pradesh

A total of between 55 and 65 elephants are reported for the state of Andhra Pradesh. Elephants regularly move between Tamil Nadu and Karnataka in southern region of the state (area belonging mainly to Chittoor West division) and also from Odisha into northeastern Andhra Pradesh (Srikakulam Division). In Chittoor West division, elephant numbers range from 25 to 30 elephants. In Tirupati Circle a video captured 24 elephants near Kalyani Dam, Chamala Range. In addition to this, 4 elephants are estimated in Pathapatnam Range, Srikakulam Division (Table 23).

Table 23: Elephant numbers estimated for Andhra Pradesh

Andhra Pradesh	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
			65
Chittoor West			30
Tirupati			24
Srikakulam Division			4

Andaman & Nicobars

Feral elephants are found on Interview Island and Diglipur Forest Division in northern Andamans. The indirect (dung) count method was employed in Interview Island, and direct count method in Diglipur. Dung density was estimated based on line transects, and an exclusive dung decay rate experiment carried out in Interview Island. This translates into an elephant density of 0.14 elephants/km² and a population of 19 elephants in Interview Island. In addition, 6 elephants were counted in Diglipur (Table 24).

Table 24: Elephant population estimated for Andaman Islands

Andaman Islands	Elephant density/km ²	Elephant distribution area in km ²	Elephant Population
			25
Interview Island	0.14	133	19
Diglipur			6

Elephant population estimates over the past decade (2007-2017)

State	2007	2012	2017
Northeast Region			
Arunachal Pradesh	1690	890	1614
Assam	5281	5620	5719
Meghalaya	1811	1811 *	1754
Tripura	59	59	102
Nagaland	152	212	446
North Bengal	325-350	647	488
Manipur			9
Mizoram			7
East Central Region			
Odisha	1862	1930	1976
Jharkhand	624	688	679
Chhattisgarh	122	247	247
Bihar			25
Madhya Pradesh			-
South Bengal			194
Northwest Region			
Uttarakhand	1346	1346 *	1839
Uttar Pradesh	380	291	232
Haryana			7
Himachal			7
Southern Region			
Karnataka	4035	5648-6488	6049
Kerala	6068	5942-6422	3054
Maharashtra	7	4	6
Andhra Pradesh	28	41	65
Andaman & Nicobars			25
Tamil Nadu	3867	4015	2761
Total	27657-27682	29391 - 30711	27312

1. Uttarakhand and Meghalaya did not carry out elephant population estimation in 2012 and therefore only the 2007 results have been reported.
2. Karnataka's elephant population estimates for 2012 reflect the direct count (5648) as the lower estimate and the indirect dung count (6488) as the upper estimate.
3. Kerala's figures of 6068 elephants in 2007 and 5942-6422 for 2012 are based on the indirect dung count method. The estimate from the direct count method for 2012 was only 2735 elephants. It cannot be therefore inferred that the elephant population of Kerala has declined since 2012.

Appendix 1:

Sample block count method

Sample block count involves direct sighting of elephants by the survey team in each selected block and is conducted simultaneously across different regions of India on a given day. During the training workshop conducted in various regions and states, it was emphasized that block sizes should ideally be about 4-6 km². This was based on data from the Karnataka elephant census during 2012 that indicated maximum detection probability for the above range of block areas. The number of blocks sampled would depend on the size of the forest division; the goal was to sample 30-50% of the area of a forest division and at least 20-30 blocks within a division. It should be noted that block size would be approximate as there are no boundary markers to separate them in the field though the area was marked on maps using natural features such as streams, ridges and roads. In each block, two to three personnel perambulated the area carefully trying to locate the presence of elephants from sounds of animals feeding, moving through the forest, or vocalizing. Care was taken to avoid double counts and making sure all elephants detected were counted and, if possible, age-sex classified.

Data Analysis: Data collected from the field exercise includes details of number of elephants counted (y_i), the area sampled (x_i) and total area of the division (X). Estimates of variance for sample blocks of unequal sizes are provided in Caughley (1977) and by Indian Statistical Institute in Lahiri-Choudhury 1991. The variance estimates for the 2017 census have not been calculated because of incomplete information received from some of the states. This would be provided in future reports.

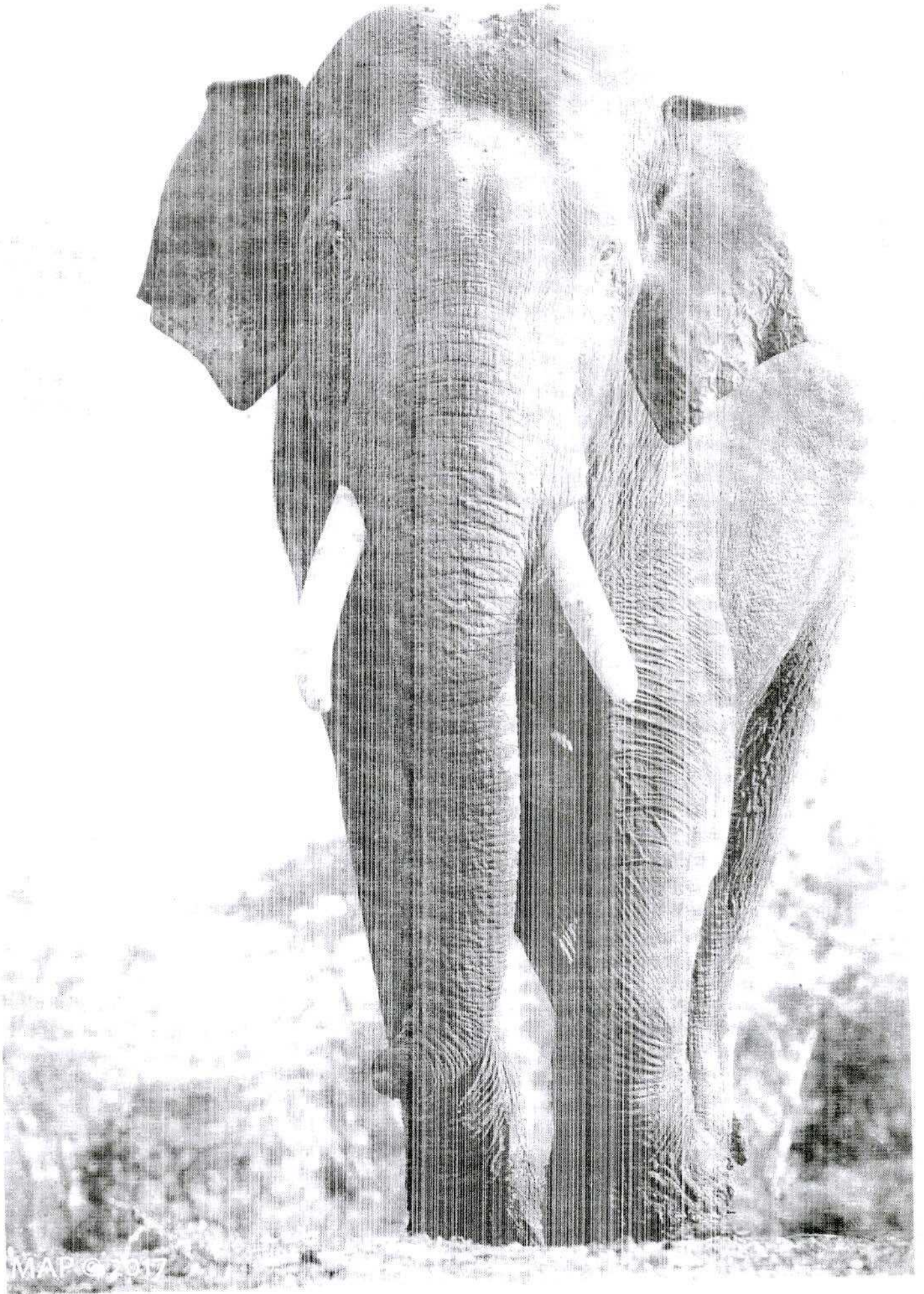
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(2020) 10 Supreme Court Cases 589 : 2020 SCC OnLine SC 838**In the Supreme Court of India**

(BEFORE S.A. BOBDE, C.J. AND S. ABDUL NAZEER AND SANJIV KHANNA, JJ.)

HOSPITALITY ASSOCIATION OF MUDUMALAI . . Appellant;

*Versus*IN DEFENCE OF ENVIRONMENT AND ANIMALS AND OTHERS . .
Respondents.Civil Appeals Nos. 3438-39 of 2020¹ with Nos. 3437, 3440, 3442-77 of 2020, decided
on October 14, 2020

A. Constitution of India — Sch. VII List III Entries 17-A and 17-B, Arts. 21, 47, 48-A and 51-A(g) — T.N. Government Noti. GO(Ms) No. 125, dt. 31-8-2010 notifying “elephant corridor” and in view thereof direction to resort owners and other private landowners to vacate and hand over vacant possession of the lands falling within the notified elephant corridor — Validity — Statutory power of State Government for creating/recognising of new corridors — Existence, Nature and Scope of such power — Explained

— Held, State Government is empowered to take measures to protect forests and wildlife falling within its territory in light of Entries 17-A “Forest” and 17-B “Protection of wild animals and birds” in the Concurrent List of the Constitution and the power of the State Government under the Wildlife Act to notify sanctuaries and other protected areas — In regard to private forest land, the State Government is empowered to protect the habitats situated on the land in dispute by notifying an elephant corridor thereupon — Arts. 21, 47, 48-A and 51-A(g) give a clear mandate to the State to protect and improve the environment and to safeguard the forests and wildlife of the country — The “precautionary principle” which is a part of the law of the land makes it mandatory for the State Government to anticipate, prevent and attack the causes of environmental degradation — In this view of the matter, held, in order to protect the elephant population in region in dispute, it was necessary and appropriate for the State Government to limit commercial activity in the areas falling within the elephant corridor — Hence, Noti. GO(Ms) No. 125, dt. 31-8-2010 cannot be said to be invalid — Wildlife (Protection) Act, 1972 — Ss. 36-A and 35 — T.N. Preservation of Private Forests Act, 1949 (27 of 1949) — Ss. 3 and 6 — Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), Ss. 3, 4 and 5

B. Constitution of India — Sch. VII List III Entries 17-A and 17-B, Arts. 21, 47, 48-A and 51-A(g) — T.N. Government Noti. GO(Ms) No. 125, dt. 31-8-2010 notifying “elephant corridor” — Whether notification valid when the dimensions as well as the location of the single corridor identified in report of Expert Committee constituted by High Court at odds with authoritative scientific publications

— Aforesaid contentions were dealt with by the High Court which held that there was material to show presence of elephants as well as a past incident of human-elephant conflict in the region in dispute — High Court also held that any absence of elephants from the areas surrounding the appellants' resorts was due to the construction activities whereby access of the elephants has been restricted through erection of electric fencing — Above factual findings of the High Court cannot be interfered with and also there is no fault in the State Government's adoption of the recommendations of the High Court appointed Expert Committee, through the impugned G.O.

— However, as there were some factual objections of appellants as to acreage of elephant corridor notified by the G.O. and actions taken by District Collector concerned thereunder, three-member Inquiry Committee constituted to decide the individual objections of the appellants and any other persons claiming to be aggrieved by the actions of the District Collector —

Environment Law — Forests, Wildlife and Zoos — Ecocentrism, Conservation and Preservation of Forests and Wildlife

The "elephant corridor" allows elephants to move between secure habitats freely, without being disturbed by humans. Further, elephants are genetically programmed by nature to never inbreed within their birth family and thus need to move around between gene pools to reproduce. These corridors aid this process by helping different elephant populations to intermingle, which is essential for retaining the vigour of the species and ensuring its long-term survival. By identifying and nurturing such corridors, deadly confrontations between humans and elephants can be avoided, in addition to safeguarding the welfare of the wildlife. To prevent such conflict and protect elephants, the Government of India through the then Ministry of Environment and Forests launched a centrally sponsored scheme "Project Elephant" to provide financial and technical support to the wildlife management efforts by States for their free ranging populations of wild elephants. The "Project Elephant" was to provide financial and technical support to major elephant-bearing States in the country. The project aims to ensure long-term survival of viable conservation reliant population of elephants in their natural habitats by protecting the elephants, their habitats and migration corridors. Other goals of the "Project Elephant" are addressing issues of human-animal conflict and providing for welfare of captive elephants.

In the context of elephant preservation in Tamil Nadu, the State's Principal Chief Conservator of Forests and Chief Wildlife Warden ("PCCF") had requested that the private/patta lands forming the traditional movement corridors of elephants between the Mudumalai Wildlife Sanctuary and National Park to other parts and also between Eastern and Western Ghats be brought under the control of the Forest Department, by acquiring the lands after paying compensation to the owners. Similarly, the Ministry of Environment and Forests, Government of India, by its Letter dated 11-8-2006 to the State Government of Tamil Nadu had noted that 88 elephant corridors had been identified by the Wildlife Trust of India's book titled *Right of Passage-Elephant Corridors of India* and requested that necessary action be taken for notification and protection of the elephant corridors situated in Tamil Nadu, as identified in the aforesaid publication. Pursuant to this communication, the Government of Tamil Nadu issued a Government Order dated 21-8-2007, appointing an Exploratory Committee for exploring the possibility of acquiring

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the patta lands with the willingness of farmers who could spare their lands for acquisition for elephant corridors.

During this period, an organisation filed writ petition before the High Court seeking issuance of a writ of mandamus directing the official respondents therein to keep the elephant corridors free from encroachment and to prevent any other disturbances to the free movement of elephants and other animals. It was the specific case of the petitioner therein that the elephant corridor was being disturbed by some encroachers and builders. Due to mushrooming of resorts, elephant corridors were either closed or becoming narrow. It was further contended that the Forest Department had not taken any stringent action to evict the encroachers from the elephant corridor. On 2-2-2009, the High Court passed an interim direction to the District Collector, to file a status report showing the steps taken to remove the encroachers from the lands falling under the elephant corridor.

Certain other writ petitions were filed by the Scheduled Tribes and other traditional forest dwellers contending that they were not encroachers and that they had a right to occupy the land in question under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. These writ petitions were clubbed together for hearing before the Madras High Court. At this stage, the Hospitality Association of Mudumalai, the appellant herein, filed an impleadment application in the said case. It was contended that this association had been providing hospitality services to tourists who visit the area to see the wildlife and that there was a misguided sense of hostility towards the people who own and run guesthouses in this area from the authorities and self-proclaimed environmentalists dwelling outside the area. It was also contended that the members of the said association had been living in the said area for more than 50-60 years and that there had been virtually no human-animal conflict in the area since there is little to no agriculture and the elephants can freely move around throughout the area.

Considering the rival contentions of the parties, on 30-9-2008, the High Court issued the certain directions. In pursuance of the directions of the High Court, an Expert Committee was constituted by the State Government. The Expert Committee visited the elephant corridor area in the Nilgiris twice, enquired with the field officers and tribals of the area and obtained opinions from experts before submitting its report on 4-11-2009. A map of the elephant corridor in the Sigur Plateau in Nilgiris region was also filed by the said Expert Committee before the High Court. Noting that the State Government was responsible for notifying elephant corridors within its territory, the High Court on 1-12-2009 directed the State

Government to choose one of the maps for the elephant corridor out of either the one identified by the Expert Committee or the one identified by the Wildlife Trust of India's publication *Right of Passage- Elephant Corridors of India*, which was referred to in the Central Government's abovementioned Letter dated 11-8-2006. This order also directed the State Government to file an affidavit disclosing the actions it intends to take against resort owners and residents of the elephant corridor. In accordance with the High Court's directions, the State Government came forward with a decision that it will ensure that no illegal construction takes place in the area shown as "elephant corridor" in the report of the Expert Committee and that no person will be allowed to put up fresh solar/electrical fencing within the proposed area of the elephant corridor.

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Taking into account the materials on record, the High Court passed a fresh order dated 3-12-2009 directing the State Government to decide as to which elephant corridor has to be identified i.e. corridor identified by the Central Government in the Letter dated 11-8-2006, with the help of the State Forest Department and NGOs, or the proposed elephant corridor as identified by the Expert Committee in the present cases. On such finalisation, the High Court held that it would be open for the State to decide:

(a) Whether the private lands which are falling within the elephant corridor, do not belong to Scheduled Tribes and other traditional forest dwellers, who have a right under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, and whether such lands should be acquired. If the decision is taken to acquire the lands, they will follow the regular procedures as laid down under the provisions of the Land Acquisition Act.

(b) If the State Government, in the meantime, wants to take over the management of the private forest, it may do so in terms of Section 3 of the Tamil Nadu Private Forest (Assumption of Management) Act (55 of 1961), so as to enable the elephants to pass through the corridor without any hindrance till the lands are acquired.

In pursuance of the directions of the High Court, the State Forest Department issued a public notice dated 7-1-2010, thereby publishing a proposed elephant corridor, as identified by the Expert Committee, and requiring the persons whose private lands are falling within the proposed corridor to submit objections. Public hearings were also held by the authorities concerned and the objections raised by various persons were rejected. Thereafter, the State Government issued the impugned G.O., thereby confirming the elephant corridor map as published on 7-1-2010 and also specifying the boundaries of the elephant corridor and the survey numbers falling within the said corridor.

Conflicting maps of the corridor in dispute were presented before the High Court, which thus directed the State Government to choose between: (i) the elephant corridors identified in the Wildlife Trust of India's book titled *Right of Passage* and the single elephant corridor identified by the Expert Committee appointed by the High Court. The State Government, vide the impugned G.O., notified this single elephant corridor, along the lines of the recommendations made by the Expert Committee.

The High Court by the impugned judgment upheld the validity of the Tamil Nadu Government Notification GO(Ms) No. 125, dated 31-8-2010 which had notified an "elephant corridor" in the Sigur Plateau of Nilgiris District and has further directed resort owners and other private landowners to vacate and hand over the vacant possession of the lands falling within the notified elephant corridor to the District Collector, Nilgiris within three months from the date of the judgment.

The issues for determination before the Supreme Court were:

(i) Whether Tamil Nadu Government Notification GO(Ms) No. 125, dt. 31-8-2010 notifying "elephant corridor" and in view thereof direction to resort owners and other private landowners to vacate and hand over the vacant possession of the lands falling within the notified elephant corridor is valid and whether State Government has any statutory power for creating/recognising of new corridors.

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(ii) Whether GO(Ms) No. 125, dt. 31-8-2010 can be said to be valid when the dimensions as well as the location of the single corridor identified in Expert Committee's Report are at odds with

authoritative scientific publications.

Dismissing the appeals, the Supreme Court

Held :

There is no merit in the contention that there is no statutory power for creating/recognition of new corridors by the State Government. It is undeniable that the State Government is empowered to take measures to protect forests and wildlife falling within its territory in light of Entries 17-A "Forest" and 17-B "Protection of wild animals and birds" in the Concurrent List and the power of the State Government under the Wildlife Act to notify sanctuaries and other protected areas. It is an admitted position that the land of the appellants has also been notified as private forest in 1991 under the Tamil Nadu Preservation of Private Forests Act, 1949, which prohibits cutting of trees in private forests. There is a decision of the Supreme Court wherein felling of trees in the State of Tamil Nadu was prohibited in all forests, including forests situated in privately-owned lands. The contesting respondents contended that the construction of the appellants' resorts must have necessarily run afoul of the above decision of the Supreme Court. Without commenting on the factual accuracy of this assertion, given that the classification of the appellants' land as private forest land is not in dispute here, it was held that the State Government was empowered to protect the habitats situated on the appellants' land by notifying an elephant corridor thereupon.

(Para 38)

Furthermore, since the impugned decision of the High Court, the Ministry of Environment, Forest and Climate Change vide its Notification SO 4498(E) dated 13-12-2019 has declared the entire area in question and adjoining areas around the Mudumalai Tiger Reserve as an eco-sensitive zone. Under this Notification, the State Government of Tamil Nadu has been expressly directed to regulate land use generally, as well commercial establishment of hotels/resorts specifically, in the eco-sensitive zone so established. As was held by the Supreme Court in *M.C. Mehta (Badkhal & Surajkund Lakes Matter)*, (1997) 3 SCC 715 "precautionary principle" has been accepted as a part of the law of our land. Articles 21, 47, 48-A and 51-A(g) of the Constitution give a clear mandate to the State to protect and improve the environment and to safeguard the forests and wildlife of the country. It is the duty of every citizen of India to protect and improve the natural environment including forests and wildlife and to have compassion for living creatures. The precautionary principle makes it mandatory for the State Government to anticipate, prevent and attack the causes of environmental degradation. In this light, it can be held that in order to protect the elephant population in the Sigur Plateau region, it was necessary and appropriate for the State Government to limit commercial activity in the areas falling within the elephant corridor.

(Para 39)

M.C. Mehta (Badkhal & Surajkund Lakes Matter) v. Union of India, (1997) 3 SCC 715, followed
State of Bihar v. Murad Ali Khan, (1988) 4 SCC 655 : 1989 SCC (Cri) 27, summarised
T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 SCC 267, referred to

As far as the scientific accuracy of report of the Expert Committee appointed by the High Court is concerned and contentions that the dimensions as well as the location of the single corridor identified therein are at odds with authoritative

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scientific publications, it was contended by the appellants that their resorts and other establishments do not fall within the historic corridors identified in these publications. These assertions were dealt with by the High Court which held that there was material on record to show presence of elephants as well as a past incident of human-elephant conflict, which resulted in the death of a French tourist, in the region where the appellants' resorts are located. The High Court also held that any absence of elephants from the areas surrounding the appellants' resorts was, in fact, due to the construction activities of the appellants whereby access of the elephants has been restricted through erection of electric fencing. There is no reason to interfere with the above factual findings of the High Court and also there is no fault in the State Government's adoption of the recommendations of the High Court appointed Expert Committee, through the impugned G.O.

(Para 40)

A. Rangarajan v. Union of India, 2018 SCC OnLine SC 3630; *In Defence of Environment & Animals v. State of T.N.*, WP No. 10098 of 2008, order dated 7-4-2011 (Mad), considered

In Defence of Environment & Animals v. State of T.N., WP No. 10098 of 2008, order dated 2-2-2009 (Mad); *In Defence of Environment & Animals v. State of T.N.*, WP No. 10098 of 2008, order dated 30-9-2008 (Mad); *In Defence of Environment & Animals v. State of T.N.*, WP No. 10098 of 2008, order dated 1-12-2009 (Mad); *Vishnu Ram Saravanel v. In Defence of Environment & Animals*, 2010 SCC OnLine SC 94; *A. Rangarajan v. Union of India*, (2019) 13 SCC 508; *A. Rangarajan v. Union of India*, (2019) 13 SCC 510, referred to

Appeals dismissed

RM-D/66185/C

Chronological list of cases cited

on page(s)

1. (2019) 13 SCC 510, *A. Rangarajan v. Union of India* 60:
2. (2019) 13 SCC 508, *A. Rangarajan v. Union of India* 602e
3. 2018 SCC OnLine SC 3630, *A. Rangarajan v. Union of India* 603g, 60:
4. WP No. 10098 of 2008, order dated 7-4-2011 (Mad), *In Defence of Environment & Animals v. State of T.N.* 594g, 594g-h, 601e, 602d-604g-h, 60
5. 2010 SCC OnLine SC 94, *Vishnu Ram Saravanel v. In Defence of Environment & Animals* 60:
6. WP No. 10098 of 2008, order dated 1-12-2009 (Mad), *In Defence of Environment & Animals v. State of T.N.* 59:
7. WP No. 10098 of 2008, order dated 2-2-2009 (Mad), *In Defence of Environment & Animals v. State of T.N.* 597f-g, 59:
8. WP No. 10098 of 2008, order dated 30-9-2008 (Mad), *In Defence of Environment & Animals v. State of T.N.* 59:
9. (1997) 3 SCC 715, *M.C. Mehta (Badkhal & Surajkund Lakes Matter) v. Union of India* 60:
10. (1997) 2 SCC 267, *T.N. Godavarman Thirumulpad v. Union of India* 607a
11. (1988) 4 SCC 655 : 1989 SCC (Cri) 27, *State of Bihar v. Murad Ali Khan* 60:

The Judgment of the Court was delivered by

S. ABDUL NAZEER, J.— Leave granted. The appellants in these appeals have assailed the final judgment and order dated 7-4-2011¹ of the High Court of Judicature at Madras, passed in Writ Petition (PIL) No. 10098 of 2008 along with several other writ petitions including Review Application No. 131 of 2010 and Writ Petition No. 23939 of 2010 filed by the Hospitality Association of Mudumalai. The High Court by the impugned judgment¹ has upheld the validity of the Tamil Nadu Government Notification GO(Ms) No. 125,

dated 31-8-2010 which had notified an "elephant corridor" in the Sigur Plateau of Nilgiris District and has further directed resort owners and other private landowners to vacate and hand over the vacant possession of the lands falling within the notified elephant corridor to the District Collector, Nilgiris within three months from the date of the judgment.

2. The appellant in Civil Appeals Nos. 3438-39 of 2020 [arising out of SLPs (C) Nos. 17313-14 of 2011], is the Hospitality Association of Mudumalai, registered under the Tamil Nadu Societies Registration Act, 1975, situated in the Nilgiris District of Tamil Nadu. The members of this association have established resorts/guesthouses in the Nilgiris forest area. The other appellants are either the owners of the resorts/guesthouses or the owners of the lands in and around the Nilgiris forest area. Some of them have built dwelling houses on their lands, some of them have encroached upon government lands and put up constructions thereon and some of them are cultivating the said lands.

3. Before referring to the proceedings before the High Court and this Court, as well as the submissions made by the learned counsel for the parties, it would be helpful to refer to the background facts and the prevailing ecological context in which the impugned G.O. was notified.

A. Background

4. Despite being a figure of traditional cultural reverence, today the elephant species is severally threatened in India. The crux of the problem is one that affects all wildlife in the country: land. As India's human population has grown exponentially in the past several decades, so has its demand for resources. At its essence, that demand boils down to the requirement for more land — for agriculture to grow more food and for construction of roads, dams, mines, railways and housing. This demand for land has led to the degradation and fragmentation of the country's forest cover. The elephant, being a large agrarian animal, may weigh up to 4-5 tons and requires about 200-300 kg of fodder comprising of various plant species daily. It, therefore, needs large areas, which it uses by rotation, so that it may not overgraze an area and in the process destruct it altogether. This allows the natural vegetation of the habitats a chance to regenerate.

5. However, the ever-growing need for land, infrastructure and energy requirements of our large population have slowly fragmented the elephant's natural spaces which are now surrounded by human habitation, agriculture, mining, roads and railways. The more forest habitat is fragmented, the farther an elephant herd has to roam in search of food and water. Increasingly, elephants have to move farther and farther afield, even from one forest area to another, often through small patches of forests called corridors. As forest lands continue to be lost, these relatively narrow and linear patches of vegetation form vital natural habitat linkages between larger forest patches. They allow elephants to move between secure habitats freely, without being disturbed by humans. Further, elephants are genetically programmed by nature to never inbreed within their birth family and thus need to move around between gene pools to reproduce. These corridors aid this process by helping different

elephant populations to intermingle, which is essential for retaining the vigour of the species and ensuring its long-term survival. By identifying and nurturing such corridors, deadly confrontations between humans and elephants can be avoided, in addition to safeguarding the welfare of the wildlife. Unfortunately, in most areas, the existing corridors are repeatedly being destroyed which will block migration routes of the elephants and would result in the fragmentation of the habitats as well as increased human-elephant

conflict.

6. To prevent such conflict and protect elephants, the Government of India through the then Ministry of Environment and Forests launched a centrally sponsored scheme "Project Elephant" to provide financial and technical support to the wildlife management efforts by States for their free ranging populations of wild elephants. The "Project Elephant" document was released in the year 1993. It admits that elephants are facing serious threat due to large-scale destruction and fragmentation of their habitat due to increase in human and cattle populations, felling of natural forest and replacing them with single species, commercial plantation, excessive grazing, forest fires and shifting cultivation, destruction or capture for crop raiding, human killings, encroachments and man-made barriers/destructions such as roads, railway lines, dams, canals, tea gardens, agriculture and industry, etc. The "Project Elephant" was to provide financial and technical support to major elephant-bearing States in the country. The project aims to ensure long-term survival of viable conservation reliant population of elephants in their natural habitats by protecting the elephants, their habitats and migration corridors. Other goals of the "Project Elephant" are addressing issues of human-animal conflict and providing for welfare of captive elephants. The main activities under this project include the following:

6.1. Ecological restoration of existing natural habitats and migratory routes of elephants.

6.2. Development of scientific management planning for conservation of elephant habitats and viable elephant populations in India.

6.3. Promotion of measures for mitigation of human-elephant conflict in crucial habitats.

6.4. Moderating impact of human and domestic livestock activities in crucial elephant habitats.

6.5. Strengthening of measures for protection of wild elephants from poachers and unnatural causes of death.

6.6. Research on elephant management related issues.

6.7. Public conservation education and awareness programmes about elephants.

6.8. Eco-development of elephant habitats.

6.9. Provision of improved veterinary care for elephants.

7. Specifically in the context of elephant preservation in Tamil Nadu, on 14-6-2006, the State's Principal Chief Conservator of Forests and Chief Wildlife Warden ("PCCF") had requested that the private/patta lands forming

the traditional movement corridors of elephants between the Mudumalai Wildlife Sanctuary and National Park to other parts and also between Eastern and Western Ghats be brought under the control of the Forest Department, by acquiring the lands after paying compensation to the owners. PCCF had highlighted the use of these patches of private forest land, which serve as vital migratory routes, for non-forestry use as a serious threat to free movement of elephants. PCCF addressed another letter dated 6-11-2006 to the State Government, proposing the survey numbers of the patta land to be acquired for the purpose of the elephant corridors. Similarly, the Ministry of Environment and Forests, Government of India, by its Letter dated 11-8-2006 to the State Government of Tamil Nadu had noted that 88 elephant corridors had been identified by the Wildlife Trust of India's book titled *Right of Passage — elephant corridors of India* and requested that necessary action be taken for notification and protection of the elephant corridors situated in Tamil Nadu, as identified in the aforesaid publication.

8. Pursuant to this communication, the Government of Tamil Nadu issued a

Government Order dated 21-8-2007, appointing an Exploratory Committee with Collector of Nilgiris as the Chairman and four other members consisting of District Forest Officer, Nilgiris North Division, Wildlife Warden, Ooty, Officer of the Revenue Department, Ooty and the Tahsildar concerned. This Committee was constituted for exploring the possibility of acquiring the patta lands with the willingness of farmers who could spare their lands for acquisition for elephant corridors.

B. Proceedings before the Madras High Court

9. During this period, an organisation called "In Defence of Environment and Animals", represented by its Managing Trustee "Elephant" G. Rajendran, filed Writ Petition No. 10098 of 2008 before the Madras High Court seeking issuance of a writ of mandamus directing the official respondents therein to keep the elephant corridors free from encroachment and to prevent any other disturbances to the free movement of elephants and other animals. It was the specific case of the petitioner therein that the elephant corridor was being disturbed by some encroachers and builders. Due to mushrooming of resorts, elephant corridors were either closed or becoming narrow. It was further contended that the Forest Department had not taken any stringent action to evict the encroachers from the elephant corridor. On 2-2-2009², the High Court passed an interim direction to the District Collector, Nilgiris to file a status report showing the steps taken to remove the encroachers from the lands falling under the elephant corridor.

10. Certain other writ petitions were filed by the Scheduled Tribes and other traditional forest dwellers contending that they were not encroachers and that they had a right to occupy the land in question under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. It

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was further contended that on the strength of the order dated 2-2-2009 in *In Defence of Environment & Animals v. State of T.N.*⁴, the District Collector had directed them to stop the cultivation of these lands and that they were being prevented from collection of minor forest produce and grazing their cattle. These writ petitions were clubbed together for hearing before the Madras High Court.

11. At this stage, the Hospitality Association of Mudumalai, the appellant herein, filed an impleadment application in the said case. It was contended that this association consisted of residents of the Masingudi Bokkapuram area and that they had been providing hospitality services to tourists who visit the area to see the wildlife and that there was a misguided sense of hostility towards the people who own and run guesthouses in this area from the authorities and self-proclaimed environmentalists dwelling outside the area. It was also contended that the members of the said association had been living in the said area for more than 50-60 years and that there had been virtually no human-animal conflict in the area since there is little to no agriculture and the elephants can freely move around throughout the area.

12. During the course of hearing, the District Forest Officer of Nilgiris North Division made a presentation before the High Court to highlight the importance of the forests and corridors in the region. The District Collector, Nilgiris also appeared before the High Court and showed certain slides on his computer depicting a map of the corridor of elephants. He stated that to allow the elephants to pass through the corridor, the unauthorised occupants had to be evicted. Similarly, the State's PCCF also made submissions before the High Court to highlight the necessity of preservation of the elephant corridor by acquisition of patta lands. Considering the rival contentions of the parties, on 30-9-2008³, the High Court issued the following directions:

"(i) Forest Department, which has the knowledge of movement of elephant in the corridor, may identify and inform the same;

(ii) the State Government may publish the information regarding the elephant corridor and the area, in leading newspapers and also by drum beating/tom-tom, calling for objections of locals, if any, in the area in question;

(iii) after hearing the locals, particularly those who may be affected, they may finalise the elephant corridor from which unauthorised occupants are to be evicted;

(iv) to ensure that Scheduled Tribes and other forest traditional dwellers are not affected, it is required to identify the other traditional forest dwellers in terms with the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Tribes) Rules, 2007;

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(v) only after the recommendation and recording their names in the appropriate register, they may proceed with eviction, by giving notice in the newspaper, by drum beating/tom-tom and by giving individual notice to the unauthorised occupants.

(vi) So far as the acquisition of the land is concerned, if any private land is required to be acquired, they will have to follow the procedure under the Land Acquisition Act. Prima facie, as the tribals and other forest dwellers cannot be evicted from the unauthorised lands, their lands need not required to be acquired, if it is a forest land. The learned counsel for the parties are requested to give further suggestion in the matter, in the interest of public and elephants."

13. Since there was opposition to the map prepared by the District Collector by the contesting parties, the Court felt it necessary that a team of experts of the Environment and Forest Department be constituted to identify the elephant corridor and submit a report after taking into consideration different books published with regard to elephant corridors.

14. In pursuance of the directions of the High Court, an Expert Committee was constituted by the Government. The Expert Committee visited the elephant corridor area in the Nilgiris twice, enquired with the field officers and tribals of the area and obtained opinions from experts before submitting its report on 4-11-2009. A map of the elephant corridor in the Sigur Plateau in Nilgiris region was also filed by the said Expert Committee before the High Court. Noting that the State Government was responsible for notifying elephant corridors within its territory, the High Court on 1-12-2009² directed the State Government to choose one of the maps for the elephant corridor out of either the one identified by the Expert Committee or the one identified by the Wildlife Trust of India's publication *Right of Passage — Elephant Corridors of India*, which was referred to in the Central Government's abovementioned Letter dated 11-8-2006. This order also directed the State Government to file an affidavit disclosing the actions it intends to take against resort owners and residents of the elephant corridor. In accordance with the High Court's directions, the State Government came forward with a decision that it will ensure that no illegal construction takes place in the area shown as "elephant corridor" in the report of the Expert Committee and that no person will be allowed to put up fresh solar/electrical fencing within the proposed area of the elephant corridor. Taking into account the materials on record, the High Court passed a fresh order dated 3-12-2009 as under:

"(i) The State Government will have to decide as to which elephant corridor has to be identified i.e. corridor identified by the Central Government in the Letter dated 11-8-2006, with the help of the State Forest Department and NGOs, or the proposed elephant corridor as identified by the Expert Committee in the present cases, preferably within one month.

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(ii) The publication of such map showing the elephant corridor, should be made by the State through the Forest Department, in two local newspapers, one in English and another in vernacular Tamil, giving the details of survey numbers of private lands which are falling within the proposed elephant corridor. The persons may be asked to submit their objections within a time-frame, say one month.

(iii) The intimation of such proposed elephant corridor along with a copy of the report of the Expert Committee, should be also forwarded to each local panchayats, which fall within the proposed elephant corridor, so that the local persons can have the knowledge of the corridor of their own, if they so choose.

(iv) No separate individual hearing is required to be given to any person, though a mass hearing may be given as generally given in the "land acquisition" cases and on hearing such objections, the proposed elephant corridor including the map containing the different survey numbers should be finalised and be also published at an early date, say maximum within six months.

(v) No individual or any association generally should intervene in the case. If they have any objection, they may raise before the authorities concerned.

23. On such finalisation, it will be open for the State to decide:

(a) Whether the private lands which are falling within the elephant corridor, do not belong to Scheduled Tribes and other traditional forest dwellers, who have a right under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, and whether such lands should be acquired. If the decision is taken to acquire the lands, they will follow the regular procedures as laid down under the provisions of the Land Acquisition Act.

(b) If the State Government, in the meantime, wants to take over the management of the private forest, it may do so in terms of Section 3 of the Tamil Nadu Private Forest (Assumption of Management) Act (55 of 1961), so as to enable the elephants to pass through the corridor without any hindrance till the lands are acquired."

15. Here, it may be noted that the aforesaid order of 3-12-2009 passed by the High Court was challenged before this Court through Special Leave Petitions (Civil) Nos. 14416-22 of 2010 which was disposed of vide order dated 30-4-2010² in the following terms: (*Vishnu Ram Saravanavel case*³, SCC OnLine SC paras 1-6)

"1. Permission to file special leave petitions is granted.

2. Delay condoned.

3. Heard the learned counsel for the petitioner and learned counsel for Respondent 1.

4. The learned counsel for the petitioner contends that if proposed Elephant Corridors is established, the petitioner would be seriously effected as his land falls in that area.

5. The petitioner would be at liberty to approach the Committee which is likely to finalise the Elephant Corridors and also would be at liberty to approach the High Court and seek intervention proceedings though the Division Bench has already indicated under other proceeding that no intervention is allowed.

6. With the above directions, the special leave petitions are disposed of."

16. In pursuance of the directions of the High Court, the State Forest Department issued a public notice dated 7-1-2010, thereby publishing a proposed elephant corridor, as identified by the Expert Committee, and requiring the persons whose private lands are

falling within the proposed corridor to submit objections. Public hearings were also held by the authorities concerned and the objections raised by various persons were rejected. Thereafter, the State Government issued the impugned G.O., thereby confirming the elephant corridor map as published on 7-1-2010 and also specifying the boundaries of the elephant corridor and the survey numbers falling within the said corridor.

17. Several writ petitions were filed before the High Court challenging the impugned G.O. These were clubbed with the other pending writ petitions and PIL and came to be decided by the High Court's impugned order dated 7-4-2011¹.

18. The High Court rejected the appellant's contentions regarding the propriety of constitution of the Expert Committee given that the Wildlife (Protection) Act, 1972 ("the Wildlife Act") does not envisage the same and rather provides for constitution of State and National Boards for Wildlife. It was held that the Expert Committee's mandate did not impinge upon that of the Boards under the Wildlife Act. The High Court also did not find merit in the appellant's contention that the State Government lacked the power to notify an elephant corridor. For this, the High Court relied upon Entries 17-A "Forest" and 17-B "Protection of wild animals and birds" in the Concurrent List and the power of the State Government to notify sanctuaries, national parks, conservation reserves and community reserves under Chapter IV of the Wildlife Act.

19. Before the High Court, the appellant had also contended that the impugned G.O. sought to create an "artificial corridor" in an area through which elephants do not traditionally pass. In rejecting this contention, the High Court held that the material on record clinchingly showed that the animals were already moving through the said area. The High Court observed that

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the appellant and others have constructed holiday resorts and are carrying on commercial activities in the area despite only holding permissions for construction of dwelling houses. The mushrooming of such resorts, which were bounded by electric fencing and barbed wires, had severely restricted the movement of elephants and caused an increase in incidents of human-elephant conflict. Accordingly, the High Court passed the following directions which are under challenge before us:

"The resort owners and other private landowners are directed to vacate and hand over the vacant possession of the lands falling within the notified "elephant corridor" to the District Collector, Nilgiris within three months from today. In the meanwhile, the Government of Tamil Nadu is permitted to go on with the implementation of the project as has been notified in GOMs No. 125, dated 31-8-2010, in the best interest of the wildlife, particularly elephants so as to notify and improve the elephant corridor."

20. The High Court also directed the State to strictly adhere with the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and in case any forest dwellers are evicted from the elephant corridor, they be provided alternate accommodation or compensation as per the procedure contemplated under law.

21. Review Application No. 157 of 2011 was filed against the above decision of the High Court. The same was dismissed by the High Court vide its order dated 16-11-2011 on the ground that the impugned judgment¹ was a reasoned order which did not suffer from any error apparent on the face of the record.

C. Proceedings before this Court

22. During the pendency of the present appeals, this Court was informed that large-scale construction was underway in the elephant corridor in Tamil Nadu. In its order dated 12-7-2018², this Court had made it clear that no construction is allowed in the elephant corridor in Tamil Nadu and directed the District Collector, Nilgiris to prepare and present a

plan of action on how to identify the constructions that have been made, when they have been made and for what purpose the constructions are being utilised. This plan of action was to be with respect to the elephant corridors as mentioned in the report of the Elephant Task Force titled "Gajah" as well as the elephant corridor as notified by the impugned G.O.

23. In compliance with this order, the District Collector, Nilgiris filed a plan of action report which identified the following constructions in the elephant corridor areas:

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Sl. No.	Nature of the construction	Total number of constructions
1.	Total no. of buildings within resort complexes (numbering 39)	309
2.	Houses	390
3.	Other common buildings (schools, water tank, community halls, temple, public toilet, etc.)	27
4.	No. of estates/plantations	9
5.	No. of cultivation fields	77
6.	Other constructions	9
	Total	821

Specifically in respect of the resorts, the District Collector submitted that all 39 of them were operating illegally as 27 of them had obtained approvals only for residential purpose whereas 12 of them had not obtained any approval at all.

24. At the next hearing on 9-8-2018², this Court noted that only advocates on behalf of 12 out of the 39 resorts were present before the Court and thus deemed that the remaining 27 resorts had accepted the Collector's abovementioned report. Accordingly, this Court directed that these 27 resorts be closed down/sealed by the Collector and granted 48 hours to the other 12 resorts to produce documents showing approvals and title for running of their resorts before the Collector. If the Collector were to find the documentation incomplete, she was directed to immediately close down/seal the premises. Further, the non-resort dwellers who were identified by the Collector's report to be occupying land in the corridor area, were granted a period of 2 months to produce necessary documents for verification before the Collector.

25. Thereafter, the District Collector, Nilgiris filed an Action-Taken Report dated 23-10-2018 stating that 27 resorts had been sealed as per this Court's above direction and documents were received from the other 12 resorts. The Collector submitted that out of these 12 resorts, only 1 resort owner could show proof of use of his premises for residential purpose while the remaining 11 resort owners did not have valid documents. Accordingly, these 11 resorts were also sealed by the Collector in accordance with the above order of this Court. In this report, the Collector additionally highlighted that the Forest Department had directed the sealed resorts to remove solar, electric and barbed wire fences erected around their premises as the same hinder the free movement of elephants in the corridor. However, only a few of the resort owners had complied with the Forest Department's directive. In this connection, on 24-10-2018⁴, this Court directed that electric fences and barbed wire, wherever installed by the resort owners, should be removed immediately. The District Collector, Nilgiris filed another Action-Taken Report dated 29-11-2018 reporting that she had ensured removal of electric fences and barbed wire from the premises of the aforesaid resorts in the corridor area.

26. During this time, in addition to the 12 resorts which were initially represented before this Court, several other owners of resorts/guesthouses as well as the owners of cultivated lands, dwelling houses and other constructions in and around the elephant corridor area have sought to be impleaded before us, being aggrieved by the actions of the District Collector, Nilgiris and also the impugned High Court decision.

D. Contentions of the parties

27. Appearing for the appellants, Shri Salman Khurshid, learned Senior Counsel argues that the appellants' lands do not fall within an elephant corridor and that the area notified under the impugned G.O. does not fall within any scientifically recognised elephant corridor and seeks to cover areas which are not traversed by elephants. It is further contended that the identification of elephant corridors is a scientific process and that the impugned G.O., which was issued in pursuance of the recommendations of the Expert Committee appointed by the High Court, was erroneous and untenable in law. The resort owners claim that they run small resorts which are compatible with the environment and are essentially for tourists who want to be close to nature and wildlife. It is also asserted that these resorts help tourists acquire sensitivity towards animals and the environment, while preventing any exploitation or damage by their presence. Some of the other appellants have also contended that their lands do not fall within the elephant corridor from which the removal of encroachment was sought.

28. It is further argued that the areas which have been notified as elephant corridor by the State Government through the impugned G.O., are in variance with all authoritative studies on historic elephant corridors in Sigur Plateau from 1972 till date. It is also submitted that there is a variance in acreage between the recommendations of the Expert Committee formed by the High Court and the impugned G.O. issued by the State Government. It is contended that the unilateral addition and deletion of private/government lands in the said G.O. is arbitrary and illegal. The expansion of the corridor areas under the G.O. amounts to creation of a new elephant corridor which does not presently exist and the same is unlawful.

29. The learned counsel for some of the other appellants have made similar submissions. It was argued that the lands of the appellants do not fall within the elephant corridor. It was also argued that the plan of Action Report filed by the District Collector, Nilgiris before this Court is clearly fallacious and the actions of the District Collector in pursuance thereof are illegal. Some of the appellants have further alleged that the District Collector, Nilgiris has illegally removed fencing from establishments outside the notified elephant corridor area as well.

30. On the other hand, the learned advocate appearing for the contesting respondents, has sought to justify the impugned judgment¹ of the High Court, so also the Plan of Action Report and Action-Taken Reports filed by the District Collector, Nilgiris. The learned advocate appearing as Amicus Curiae

has supported the submissions of the contesting respondents and the reports submitted by the District Collector, Nilgiris.

E. Our analysis

31. We have carefully considered the submissions of the learned counsel made at the Bar and perused the materials on record.

32. At the very outset, it must be noted that the Wildlife Trust of India terms elephants

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as a "keystone species" because their nomadic behaviour is immensely important to the environment. Herds of roaming elephants play several important roles in the ecosystem:

32.1. Landscape architects: Elephants create clearings in the forest as they move about, preventing the overgrowth of certain plant species and allowing space for the regeneration of others, which in turn provide sustenance to other herbivorous animals.

32.2. Seed dispersal: Elephants eat plants, fruits and seeds, releasing the seeds when they defecate in other places as they travel. This allows for the distribution of various plant species, which benefits biodiversity.

32.3. Nutrition: Elephant dung provides nourishment to plants and animals and acts as a breeding ground for insects.

32.4. Food chain: Apex predators like tigers will sometimes hunt young elephants. Further, elephant carcasses provide food for other animals.

32.5. The umbrella effect: By preserving a large area for elephants to roam freely, one provides a suitable habitat for many other animal and plant species of an ecosystem.

33. Elephant corridors allow elephants to continue their nomadic mode of survival, despite shrinking forest cover, by facilitating travel between distinct forest habitats. Corridors are narrow and linear patches of forest which establish and facilitate connectivity across habitats. In the context of today's world, where habitat fragmentation has become increasingly common, these corridors play a crucial role in sustaining wildlife by reducing the impact of habitat isolations. In their absence, elephants would be unable to move freely, which would in turn affect many other animal species and the ecosystem balance of several wild habitats would be unalterably upset. It would also eventually lead to the local extinction of elephants, a species which is widely revered in our country and across the world. To secure wild elephants' future, it is essential that we ensure their uninterrupted movement between different forest habitats. For this, elephant corridors must be protected.

34. Legal intervention in preservation of these corridors has been necessitated because wildlife corridors are threatened by various social, economic and anthropogenic factors, as noted above. Commercial activities such as running of private resorts and construction of new buildings with barbed and electric fences within elephant corridors pose a serious threat of fragmentation and destruction of habitats. The long-term survival of the species depends on maintaining viable habitats and connecting corridors which

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maintain variance in the species' gene pool and avoid other risks associated with habitat fragmentation and isolation of species.

35. Over time, several environmental legislations including the Forest Act, 1927 and the Wildlife Act have been enacted to provide for the protection of forests and wild animals, with a view to ensuring ecological balance and preserving natural habitats including such corridors. The object of the Wildlife Act was interpreted emphatically by this Court in *State of Bihar v. Murad Ali Khan*² in the following terms: (SCC pp. 660-61, paras 8 & 10)

"8. ... The policy and object of the wildlife laws have a long history and are the result of an increasing awareness of the compelling need to restore the serious ecological imbalances introduced by the depredations inflicted on nature by man. The state to which the ecological imbalances and the consequent environmental damage have reached is so alarming that unless immediate, determined and effective steps were taken, the damage might become irreversible. The preservation of the fauna and flora, some species of which are getting extinct at an alarming rate, has been a great and urgent necessity for the survival of humanity and these laws reflect a last ditch battle for the restoration, in part at least, a grave situation emerging from a long history of

callous insensitiveness to the enormity of the risks to mankind that go with the deterioration of environment.

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10. ... Environmentalists' conception of the ecological balance in nature is based on the fundamental concept that nature is "a series of complex biotic communities of which a man is an interdependent part" and that it should not be given to a part to trespass and diminish the whole. The largest single factor in the depletion of the wealth of animal life in nature has been the "civilised man" operating directly through excessive commercial hunting or, more disastrously, indirectly through invading or destroying natural habitats."

36. Specifically in issue before us, is the corridor in the Sigur Plateau of Tamil Nadu. It connects the Western and the Eastern Ghats and sustains elephant populations and their genetic diversity. The Sigur Plateau has the Nilgiri Hills on its southwestern side and the Moyar River Valley on its north-eastern side. Depending on the monsoon, the elephants migrate in search of food and water and during the course of their migration, they have to cross the Sigur Plateau. This migratory path is considered to be very crucial as it connects several contiguous forest areas forming the Nilgiri Biosphere Reserve in the States of Tamil Nadu, Karnataka and Kerala, the largest protected forest area in India.

37. Conflicting maps of this corridor were presented before the Madras High Court, which thus directed the State Government to choose between: (i) the elephant corridors identified in the Wildlife Trust of India's book titled *Right of Passage — Elephant Corridors of India* which were referred to by the Central Government in its Letter dated 11-8-2006 to the State Government; or

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(ii) the single elephant corridor identified by the Expert Committee appointed by the High Court. As per the aforesaid book titled *Right of Passage*, the following 4 corridors lie in the Sigur Plateau region: (i) Avarahalla — Sigur, (ii) Kalhatti — Sigur at Glencorin, (iii) Moyar — Avarahalla and (iv) Kalmalai — Singara and Avarahalla. The Expert Committee examined all the elephant corridors in the area and identified a single elephant corridor comprising of various elephant corridors in the Sigur Plateau region. The State Government, vide the impugned G.O., notified this single elephant corridor, along the lines of the recommendations made by the Expert Committee.

38. The first limb of the appellants' contentions before us is that there is no statutory power for creating/recognition of new corridors by the State Government. We do not find merit in this argument and, in principle, are in agreement with the findings of the High Court regarding the power of the State Government to take measures, including issuance of the impugned G.O., for protection of wildlife in Tamil Nadu. It is undeniable that the State Government is empowered to take measures to protect forests and wildlife falling within its territory in light of Entries 17-A "Forest" and 17-B "Protection of wild animals and birds" in the Concurrent List and the power of the State Government under the Wildlife Act to notify sanctuaries and other protected areas. It is an admitted position that the land of the appellants has also been notified as private forest in 1991 under the Tamil Nadu Preservation of Private Forests Act, 1949, which prohibits cutting of trees in private forests. Our attention has also been drawn to the decision of this Court in *T.N. Godavarman Thirumulpad v. Union of India*¹⁰ wherein felling of trees in the State of Tamil Nadu was prohibited in all forests, including forests situated in privately-owned lands. The contesting respondents have argued that the construction of the appellants' resorts must have necessarily run afoul of the above decision of this Court. Without commenting on the factual accuracy of this assertion, given that the classification of the appellants' land as private forest land is not in dispute here, we find no difficulty in holding that the State Government was empowered to protect the habitats situated on the appellants' land by

notifying an elephant corridor thereupon.

39. Furthermore, since the impugned decision¹ of the High Court, the Ministry of Environment, Forest and Climate Change vide its Notification S.O. 4498(E) dated 13-12-2019 has declared the entire area in question and adjoining areas around the Mudumalai Tiger Reserve as an eco-sensitive zone. Under this Notification, the State Government of Tamil Nadu has been expressly directed to regulate land use generally, as well commercial establishment of hotels/resorts specifically, in the eco-sensitive zone so established. As was held by this Court in *M.C. Mehta (Badkhal & Surajkund Lakes Matter) v. Union of India*¹¹ the "precautionary principle" has been accepted as a part of the law of our land. Articles 21, 47, 48-A and 51-A(g) of the Constitution give a clear mandate to the State to protect and improve the

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environment and to safeguard the forests and wildlife of the country. It is the duty of every citizen of India to protect and improve the natural environment including forests and wildlife and to have compassion for living creatures. The precautionary principle makes it mandatory for the State Government to anticipate, prevent and attack the causes of environmental degradation. In this light, we have no hesitation in holding that in order to protect the elephant population in the Sigur Plateau region, it was necessary and appropriate for the State Government to limit commercial activity in the areas falling within the elephant corridor.

40. The second limb of the appellants' submissions comprises of questions about the scientific accuracy of the Expert Committee's Report and contentions that the dimensions as well as the location of the single corridor identified therein are at odds with authoritative scientific publications. It has been argued by the appellants that their resorts and other establishments do not fall within the historic corridors identified in these publications. These assertions were dealt with by the High Court which held that there was material on record to show presence of elephants as well as a past incident of human-elephant conflict, which resulted in the death of a French tourist, in the region where the appellants' resorts are located. The High Court also held that any absence of elephants from the areas surrounding the appellants' resorts was, in fact, due to the construction activities of the appellants whereby access of the elephants has been restricted through erection of electric fencing. We see no reason to interfere with the above factual findings of the High Court and also do not find fault in the State Government's adoption of the recommendations of the High Court appointed Expert Committee, through the impugned G.O.

41. This brings us to the last limb of the submissions of the appellants, which is comprised of factual objections to the acreage of the elephant corridor as notified by the impugned G.O. and the actions taken by the District Collector, Nilgiris in pursuance thereof. The appellants have contended that there has been substantial variance between the acreage recommended for acquisition by the Expert Committee Report and the acreage in the impugned G.O. It is further alleged that the acreage in the newspaper advertisement by the State Government inviting objections to notification of the corridor is also different from the acreage in the impugned G.O. As all the objections received pursuant to the said newspaper advertisement were rejected by the State Government and since the impugned G.O. purported to adopt the recommendations of the Expert Committee, the appellants allege that the said variance in acreage is arbitrary and unreasonable. It has also been alleged that the District Collector, Nilgiris has acted arbitrarily in sealing their resorts after rejecting the documents submitted by the appellant resorts purporting to show approvals and title. Similarly, it has been alleged that the District Collector went beyond the scope of this Court's order dated 24-10-2018⁸ wherein immediate removal of electric fences and barbed wire was directed. It is the appellants'

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case that non-electric fences as well as fences beyond the notified elephant corridor area were removed by the District Collector. We are of the view that it is just and proper

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to hold an inquiry to establish the veracity of the above factual objections of the appellants.

42. Therefore, we appoint a 3-member Inquiry Committee consisting of (i) Hon'ble Mr Justice K. Venkatraman, Former Judge of the Madras High Court (Chairman); (ii) Mr Ajay Desai, Consultant to World Wide Fund for Nature-India and Member of the Technical Committee to come up with a National Elephant Action Plan (NEAP), constituted by the Union Ministry of Environment, Forest and Climate Change (MoEF&CC); and (iii) Mr Praveen Bhargava, Trustee of Wildlife First and Former Member of National Board for Wildlife to decide the individual objections of the appellants and any other persons claiming to be aggrieved by the actions of the District Collector, Nilgiris pursuant to the impugned G.O. and as recorded before us through her Plan of Action Report and her twin Action-Taken Reports, as also the allegations regarding arbitrary variance in acreage of the elephant corridor under the impugned G.O. The State Government is directed to consult the Chairman of the Inquiry Committee and pay remuneration to him and the other members of the Inquiry Committee. Further, we direct the State Government to provide appropriate secretarial assistance and logistical support to the Inquiry Committee for holding the inquiry within four weeks from today.

43. We leave it to the discretion of the Inquiry Committee to decide the location for its inquiry proceedings. We also authorise the Inquiry Committee to appoint requisite staff on temporary basis to assist the Committee in the inquiry and to fix their salaries. The State Government is directed to pay their salaries. The State Government and the district level authorities are directed to provide their full cooperation and produce any and all files/documents required by the Inquiry Committee to address the grievances of the appellants and any other persons claiming to be similarly aggrieved. The appellants and other persons claiming to be aggrieved by the plan of action/actions of the District Collector, Nilgiris pursuant to the impugned G.O. and the allegations regarding variance in acreage under the impugned G.O., are permitted to file objections containing their grievances before the Inquiry Committee within a period of four months from today. The Inquiry Committee is directed to consider the objections filed before it and pass appropriate orders thereon after granting the parties a reasonable opportunity of being heard. The parties are also permitted to file documents in support of their respective contentions before the Inquiry Committee.

44. The present appeals are disposed of in the aforesaid terms, leaving the parties to bear their own costs. All pending applications shall stand disposed of.

¹ Arising out of SLPs (C) Nos. 17313-314 of 2011. Arising from the Judgment and Order in *In Defence of Environment & Animals v. State of T.N.* (Madras High Court, WP No. 10098 of 2008, dt. 7-4-2011)

¹ *In Defence of Environment & Animals v. State of T.N.*, WP No. 10098 of 2008, order dated 7-4-2011 (Mad)

² *In Defence of Environment & Animals v. State of T.N.*, WP No. 10098 of 2008, order dated 2-2-2009 (Mad)

³ *In Defence of Environment & Animals v. State of T.N.*, WP No. 10098 of 2008, order dated 30-9-2008 (Mad)

⁴ *In Defence of Environment & Animals v. State of T.N.*, WP No. 10098 of 2008, order dated 1-12-2009 (Mad)

⁵ *Vishnu Ram Saravanavel v. In Defence of Environment & Animals*, 2010 SCC OnLine SC 94

⁶ *A. Rangarajan v. Union of India*, (2019) 13 SCC 508

⁷ *A. Rangarajan v. Union of India*, (2019) 13 SCC 510

⁸ *A. Rangarajan v. Union of India*, 2018 SCC OnLine SC 3630

⁹ *State of Bihar v. Murad Ali Khan*, (1988) 4 SCC 655 : 1989 SCC (Cri) 27

¹⁰ *T.N. Godavarman Thirumulpad v. Union of India*, (1997) 2 SCC 267

¹¹ *M.C. Mehta (Badkhal & Surajkund Lakes Matter) v. Union of India*, (1997) 3 SCC 715

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**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH,
KOLKATA**

.....
**ORIGINAL APPLICATION No. 129/2016/EZ
(I.A. No. 70/2020/EZ)**

IN THE MATTER OF:

**Wildlife Society of Orissa (Elephant Corridors)
Represented by its Secretary,
Shantikunj, Link Road, Cuttack
Dist-Cuttack, Odisha-753012**

....Applicant(s)

Versus

1. State of Odisha

**Represented by Chief Secretary,
Government of Odisha, Secretariat Building,
Bhubaneswar, Odisha-751001**

2. The Secretary,

**Forest and Environment Department,
Government of Odisha, Secretariat Building,
Bhubaneswar, Odisha-751001**

3. The Secretary,

**Revenue and Disaster Management Department,
Government of Odisha, Secretariat Building,
Bhubaneswar, Odisha-751001**

**4. The Principal Chief Conservator of Forests and
Chief Wildlife Warden, Odisha, Prakruti Bhawan,
BDA Apartments, Nilakanthanagar, Nayapalli,
Bhubaneswar, Odisha-751012**

5. The Secretary,

**Ministry of Environment, Forests and Climate Change,
Government of India, Indira Paryavaran Bhavan,
Jorbagh Road, New Delhi-110003**

....Respondent(s)

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COUNSEL FOR APPLICANT:

Mr. Sankar Prasad Pani, Advocate

COUNSEL FOR RESPONDENTS:

Mr. Deepak Kumar Pani, Advocate for Respondent Nos.1 to 4
Mr. Gora Chand Roy Choudhury, Advocate for Respondent No.5

JUDGMENT

PRESENT:

HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

HON'BLE MR. SAIBAL DASGUPTA (EXPERT MEMBER)

Reserved On:- 12th August, 2021
Pronounce On:- 17th August, 2021

1. Whether the Judgment is allowed to be published on the net? **Yes**

2. Whether the Judgment is allowed to be published in the NGT Reporter? **Yes**

JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

Heard the learned Counsel for the Applicant as well as the learned Counsel for the Respondents and perused the documents on record.

2. This original application has been filed by the Applicant seeking a direction to the Respondent No.2, Secretary, Forest and Environment Department, Government of Odisha to submit proposals for declaration and notification of 14 elephant corridors to the Central Government with the further direction to the Respondent No.5, the Secretary, Ministry of Environment, Forests and Climate Change to take immediate action and to issue draft notification and thereafter a final notification notifying the 14 elephant corridors.

3. It is stated in the original application that the State of Odisha has the largest population of elephants in Eastern India which stands at about 1,977 as per the last census carried out by the State Government in May, 2015.
4. It is stated that the elephant by its nature migrates from one place to another place in search of fodder and propagation of species and such migratory paths are part and parcel of the elephant ecology.
5. It is stated that recognizing the peculiar character of the elephants a Task Force was set up by the Government of India to determine the status and recommend measures for the long term survival and protection of elephants. The Task Force then prepared a report titled "Gajah" which was released in August, 2010 with several recommendations, a copy of which has been filed as Annexure-1 at Page No. 11 to 17 to the original application.
6. It is stated that elephant corridors being a part of the elephant ecology needs to be prescribed and therefore, notified as ecological sensitive zones under Section 3 of the Environment (Protection) Act, 1986.
7. It is stated that the Principal Chief Conservator of Forests (Wildlife)-cum-Chief Wildlife Warden, Odisha, Respondent No.4 presented details of elephant corridors in the State of Odisha identifying the 14 corridors with a total area of 870.61 sq. kms having a length of 420.8 kms and a width of 0.08 km to 4.6 kms.

8. The minutes of the meeting held on 19.01.2010 have been filed as Annexure-2 at Page No. 19 of the paper book. Thereafter, a **“Plan for Management of Elephant Corridors across forest habitats in Orissa”** was submitted to the State Government on 25.08.2011.

9. It is stated that the Respondent No.4, the Principal Chief Conservator of Forests and Chief Wildlife Warden, Odisha vide his letter No. 7274 dated 11.10.2012 submitted a proposal to the Respondent No.2, Forest and Environment Department, Government of Odisha to notify 14 traditional elephant corridors in Odisha under the provisions of Section 3 of the Environment (Protection) Act, 1986. It is alleged that thereafter, till date no action has been taken for notifying the 14 elephant corridors in the State of Odisha under the said act.

10. An affidavit dated 03.01.2017 has been filed on behalf of the Respondent Nos.1, 2 & 4 and it is stated therein that a Memorandum of Understanding (MoU) was signed with the Asian Nature Conservation Foundation (ANCF) which was given the mandate to identify the major and minor elephant corridors in the State of Odisha along with the work of assessing the habitat viability etc. and necessary action for notifying the elephant corridors which could be taken up only after receipt of the report of the Foundation.

11. It is stated that the objective of the Respondent No.4 was to identify the major and minor elephant corridors with special reference to Lakhary valley of Mahendragiri Region, Odisha.

12. A general letter dated 11.08.2006 was also written by the Inspector General of Forest and Director (PE), Ministry of Environment, Forests and Climate Change to the Chief Wildlife Wardens (PE) States and UTs, stating therein that the elephant corridors as prepared in Uttaranchal be provided legal protection under the Environment (Protection) Act, 1986 and to take steps for notification and protection of the identified elephant corridors in the various States.

13. A counter-affidavit dated 29.05.2017 has been filed by the Applicant to the compliance report filed by Respondent Nos.1, 2 & 4 wherein it is stated that elephants were straying from designated corridors in Dhenkanal, Athagarh, Athamalik & Angul forest divisions as admitted in the compliance report of the State Respondents but elephant corridors have not yet been notified under the Environment (Protection) Act, 1986. A reference has also been made to the letter of the Principal Chief Conservator of Forest (Wildlife) & Chief Wildlife Warden, Odisha dated 11.10.2012 addressed to the Principal Secretary to Government, Forest and Environment Department, Odisha with a request that all the 14 elephant corridors be notified under the provisions of Section 3(v) of Environment (Protection) Act, 1986.

14. An affidavit dated 16.09.2020 has been filed by the Applicant with the prayer that the Final Study Report prepared by Asian Nature Conservation Foundation (ANCF) mentions that 9 elephant corridors out of 14 identified corridors are not viable and the same should not be accepted.

15. An Action Plan dated 10.08.2021 has been filed on behalf of the Respondent Nos. 2 and 4 with reference to the time-line for implementation of the recommendations of the report submitted by the Asian Nature Conservation Foundation (ANCF). This Action Plan is with regard to 14 elephant corridors already identified which reads as under:

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S. No.	Name of the Corridor	Extends over District	Length of the Corridor (km)	Total Area (sq.km)	Functional existence and no. of elephant using the path	Ecological Feasibility	PA Connection
1	Badampahar (Mayurbhanj) Chokdhotin (Jharkhand) (Interstate)	Mayurbhanj Jharkhand	16	24.3	Poor & max 20	Not good	Yes
2	Badampahar (Mayurbhanj) Karida (Jharkhand) (Interstate)	Mayurbhanj	43	26.09	Very poor & NA	Bad	Yes
3	West Bengal-Deuli-Sulapada (Passage) (Interstate)	Mayurbhanj	72	39.5	Very good & 100+	Very bad	No
4	Similpal-Hadgarh-Kuldina	Mayurbhanj, Keonjhar, Balasore	41.7	91.39	Good & 40+	Good if mining stopped	Yes
5	Telikoi-Pallahra	Keonjhar, Angul	30.4	13.24	Poor & 15 ±	Not good	No
6	Karo (Keonjhar)-Karampada (Saraoda, Jharkhand) (Interstate)	Keonjhar	15	17.3	Poor & 1 or 2	Bad	No
7	Maulabhinja-Jindamal-Anantpur	Dhenkanal	6.5	1.55	Very poor & 20-26	Not good	No
8	Kahneljena-Anantpur	Angul, Dhenkanal	6.6	5.22	Very poor & 15-20	Not good	No
9	Buguda-Central RF	Mayagadh	2.6	0.76	Good & 20-40	Good	Yes
10	Nuagaon-Baruni	Angul	4.5	20.7	Good & 60-100+	Good	Yes
11	Tal-Kholgarh	Sambalpur	6.3	4.56	Good & 40+	Good	No
12	Barpahad-Tarava-Kantamal	Sonepur-Boudh	24.2	21.7	Poor & NA	Not Good	No
13	Kotagarh-Chandrapur	Kandhamal-Payagada	77.0	575.4	Poor & 20+/-	Not Good	Yes
14	Kenapat-Untecani	Kalahandi-Payagada	75	23.9	Very Poor & NA	Not Good	Yes

16. Besides the elephant corridors identified by the Asian Nature Conservation Foundation (ANCF), certain other elephant corridors were also identified by the Forest Department as priority corridors which are as under:

- a. Hatibari Corridor
- b. Nuagaon-Baruni Corridor
- c. Simpilipal (Nato RF)-Satkosia-Hadgarh-WLS-Kuldiha WLS
- d. Karo (Keonjhar Odisha)- Karampada (Saranda, Jharkhand)

17. The relevant extract of the Action Plan submitted by the State

Respondents, Government of Odisha is reproduced herein below:

"In January, 2018, Asian Nature Conservation Foundation (ANCF) submitted its study report to Government of Odisha. This report is titled as "Elephant Carrying Capacity of Odisha's Forests". In this report chapter 5 is devoted to "Elephant Corridors in Odisha". Under table 5.1 of this chapter authors have given the list of corridors identified by Forest Department indicating functional existence and ecological feasibility as assessed by ANCF, and it is reproduced below:-

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Sl. No.	Name of the Corridor	Extends over District	Length of the Corridor (km)	Total Area (sq. km)	Functional existence and no. of elephant using the path	Ecological Feasibility	PA Connection
1	Badampahar (Mayurbhanj) Choudhabin (Jharkhand) (Interstate)	Mayurbhanj, Jharkhand	15	24.3	Poor & max 20	Not good	Yes
2	Badampahar (Mayurbhanj) Karida (Jharkhand) (Interstate)	Mayurbhanj	43	25.09	Very poor & NA	Bad	Yes
3	West Bengal-Duttal-Solakpada (Passage) (Interstate)	Mayurbhanj	72	39.5	Very good & 100+	Very bad	No
4	Simpilipal-Hadgarh-Kuldiha	Mayurbhanj, Keonjhar, Balesore	41.7	91.39	Good & 40+	Good mining stopped	Yes
5	Telikol-Pallahra	Keonjhar, Angul	30.4	13.24	Poor & 15+	Not good	No
6	Karo (Keonjhar)-Karampada (Saranda, Jharkhand) (Interstate)	Keonjhar	15	17.3	Poor & 1 or 2	Bad	No
7	Maibabhinja-Jirdamali-Anantpur	Dhenkanal	6.5	1.55	Very poor & 20-26	Not good	No
8	Kannejena-Anantpur	Angul, Dhenkanal	6.6	5.22	Very poor & 15-20	Not good	No
9	Beguda-Central RF	Nayagarh	2.6	0.76	Good & 20-40	Good	Yes
10	Nuagaon-Baruni	Angul	4.5	20.7	Good & 60-100+	Good	Yes
11	Tel-Cholgari	Sambalpur	5.3	4.56	Good & 40+	Good	No
12	Berpahad-Tarava-Kantamal	Sonepur, Boudh	24.2	21.7	Poor & NA	Not Good	No
13	Kotgarh-Chandrapur	Kandhamal, Rayagada	27.0	575.4	Poor & 20+/-	Not Good	Yes
14	Karlapet-Uniadeni	Kalahandi, Rayagada	75	28.9	Very Poor & NA	Not Good	Yes

Further, under part 5.9 of this chapter, authors have given their list of priority corridors and under these a new corridor called Hatibari Corridor is also listed which is not listed in any of the earlier studies.

Hatibari Corridor: It connects Badhapali-Dumer-Chua-Munder RF-Jadub-singh RF to Hatibari RF and Bander RF by a narrow stretch of land which is non-forest, in Hatibari village (both east and west of NH-61). The link between Hatibari and Meghpai RF is also important in this area. This passage allows the passage to Bakarna Wildlife Sanctuary from Rainkhol Forest Division.

Study of Karo-Karampada Elephant Corridor in 2012 by Forest Department of Odisha:

State Government, in Forest and Environment Department, vide Order number -101 (Com.)-406/2012-18047/F&E dated 22/09/12, constituted a committee under the Chairmanship of Regional Chief Conservator of Forests, Raurekela, with other members. This committee was constituted to undertake site inspection, evaluate secondary information and to furnish a report on status/existence of the Karo-Karampada Elephant Corridor in terms of its functionality in the context of Botani Ore Mines of M/s SAIL.

(as GAT has raised objections to existence of this corridor as identified by Forest Department in 2011, due to inclusion of their mine area which were there since 1960).

This committee found that corridor demarcation is not done correctly and recommended inter alia that the present movement path of the elephants should be surveyed and demarcated in the field and affected area have to be given the status of the Elephant Corridor for its scientific management in the future.

From all the above studies/reports following can be inferred:-

1. There is no unanimity on existence of Elephant Corridors in Odisha as per various studies/reports.
2. The length and width of the corridors is identified differently in different studies/reports.
3. Even the report of 2017 study by WTI and 2018 study by ANCF, though conducted in very short span of time, have different findings on elephant corridors.
4. Study reports by the same agency i.e. WTI in 2005 and 2017 gave different findings.
5. Detailed verification, in 2012, of the Karo-Karampada Corridor (as identified by the Forest Department in 2011) by a committee constituted by Forest Department of Odisha found that it was not correctly identified.

PROPOSED ACTION PLAN

The ANCF report has concluded "perhaps about 1700-1800 elephants can at most be sustained and managed within the larger forested landscape of Odisha with tolerable levels of elephant-human conflict." However, the last census conducted by the department indicated presence of 1976 elephants in Odisha. So, about 10% elephant population is in excess of the carrying capacity.

STRATEGY-Based on ANCF study the following strategy is adopted-

1. Need to Secure Elephant Habitat
2. Providing connectivity to Habitats
3. Securing movement paths of smaller and scattered populations.

1). Need to secure Elephant Habitat-

In Odisha, three elephant reserves are notified by the government as below

Name of the Elephant Reserve	Area in Sq. Km	Notification
Mayurbhanj	7043.74	SP(W)42/2001/15306 dated 29.09.2001
Sambalpur	426.91	SP(W)17/2002/10162 dated 19.06.2002
Mahanadi	1038.30	SP(W)10/2002/5240 dated 27.03.2002

As per report of ANCF "within the three notified elephant reserves of Odisha, an estimated 969 wild elephants reside, that is about 50% of wild elephants of Odisha have a secure area as their habitat".

Therefore, the report has strongly recommended the extension of area of Sambalpur and Mahanadi Elephant Reserves. Accordingly, it has been suggested by the report to add 1813.74 sq. km (Total 426.74+1813.74=2240 sq. km) in Sambalpur ER and 1405.66 sq. km (Total 1038.3+1405.66=2443.96sq. km) in Mahanadi ER. It is also reported by ANCF that if this area is added to the ERs then total of 1407 elephants would be accommodated in ERs. Considering area between Sambalpur and Mahanadi ERs this number goes up to about 1500. This accounts for about 75% of total population of elephants in the state and about 85% of total number assessed as per carrying capacity study done by ANCF.

Therefore, these habitats are the areas which are most important for long term conservation of the species in the state and need utmost attention.

Agenda taken/Proposed: In pursuance of this recommendation state government has undertaken an exercise to expand the area of Sambalpur ER to 1797.048 sq. km from existing 426.91 sq. km and to expand the area of Mahanadi ER to 2181.522 sq. km from existing 1038.30 sq.km. This will result in providing secure habitat to majority of elephant of the state.

2). Providing Connectivity to Elephant Habitats-As per ANCF report (section 5.1), An elephant corridor can be thought of as a relatively narrow strip of land connecting two or more viable habitats or providing passage for genetic connectivity between two or more viable elephant populations.

A) Area between Mahanadi and Sambalpur ERs-So, for the purpose of corridors the area between elephant habitats is most important. In between Sambalpur and Mahanadi ERs presently small areas identified and does not ensure complete connectivity between two ERs (map enclosed). The present aerial distance between boundaries of two ERs is about 65 kms. With the expansion mentioned above this distance will become about 15 km. This will strengthen the connectivity between two habitats by providing safe passage for large part of habitat. Due to change in movement patterns, it is difficult to fix the boundaries of elephant corridors in the landscape between two ERs. Therefore, it is decided to treat entire landscape between two expanded ERs as movement area. As suggested by ANCF report this area would be made wildlife friendly by promoting conducive land use. For this purpose, following steps would be taken-

- The area would be enriched by planting suitable forage plants.
- Water sources will be augmented.
- As identified by ANCF report, distribution canals of Manjore Dam are like Elephant Proof Trenches. Overpasses shall be constructed over these canals for providing passage to elephants. Already three locations have been identified and steps have been initiated for providing these overpasses. Funds shall be allocated for this purpose soon. Following are the locations identified for this purpose-

Sl. No.	ITEM	SPECIFICATION
1	MANJORE Left canal GPS Location N-20.82551, E-84.43576	Length x Breadth-14.3 mt x 8.05 mt.
2	Patrapada Canal- Site-1, Location N-20.83711, E-84.41455	Length x Breadth-10 mt x 8 mt.
3	Patrapada Canal- Site-2, Location N-20.83781, E-84.40217	Length x Breadth-10 mt x 8 mt.

- ANCF report has also identified roads in the landscape as potential barriers in the movement paths of elephants. For mitigating this threat underpasses/overpasses shall be constructed on these roads. Already locations are identified. For NH 55 these underpasses and overpasses are included in the approved Site-Specific Wildlife Conservation Plan and NHAI is going to start the work soon. For other road locations for underpasses and overpasses are also identified and funds are being located for construction. Details of points identified for this purpose are given below details:

List of approved EUPs Angul-Sambalpur section of NH-42 (now 55)

Name of the Division	Location of AUP	Latitude/Longitude
Angul Division	1. In between Katara RE of Angul Division (southern)	20° 55' 7.08" N 84° 47' 42.8" E

		side) and SimuliaPathar RF (Angul Division) on Northern side		
Athmalik Division	2.	At Jamunalia	20° 55' 7.70" N	84° 46' 44.9" E
	3.	At Kutasingha	21° 02' 32.60" N	84° 27' 30.3" E
Rairakhol Division	4.	In Purunapani PAF near Charibatlachawk	21° 03' 51.4" N	84° 22' 39.4" E
	5.	Tal-Kholgarh Elephant corridor Fly over of 1 km length	21° 03' 51.1" N	84° 19' 02.2" E
	6.	Near Central Nursery at Chammam	21° 06' 17.1" N	84° 13' 39.67" E
	7.	In between Suhani RF & Berhampura PF (near Nuapadachawk)	21° 06' 15.0" N	84° 14' 31.8" E
	8.	Landakot RF near Barchhat	21° 08' 34.01" N	84° 10' 09.01" E
Sambalpur Division	9.	Paltandera near Chandimal (Jujumura)	21° 13' 30.9" N	84° 08' 48.7" E
	10.	Near Nua mahulpali	21° 18' 02.7" N	84° 07' 8.2" E
	11.	Near Hatibani	21° 20' 15.0" N	84° 05' 12.6" E
	12.	Near Bhabanipalli	21° 22' 52.7" N	84° 03' 50.1" E
	13.	Near Jhankarpali	21° 23' 34.47" N	84° 03' 23.41" E

Other road locations identified in Athmalik Division for creation of Underpass.

Sl.No	Infrastructure	Structural Options	GPS location	Size
1	Athmalik -Boinda SH-62	Under Pass	N-20° 45' 46.04" E-84° 33' 14.33"	Length-25m.X Height-6mt.
2	Athmalik -Boinda SH-62	Under Pass	N-20° 47' 32.64" E-84° 33' 14.33"	Length-25m.X Height-6mt.
3	NH-55 at Jamunali	Under Pass	N-20° 55' 07.7" E-84° 46' 44.9"	Length-25m.X Height-6mt.
4	NH-55 at Kadalimunda	Under Pass	N-20° 55' 14.2" E-84° 45' 34.8"	Length-25m.X Height-6mt.
5	NH-55 at Pagabandha	Under Pass	N-20° 57' 27.8" E-84° 48' 13.6"	Length-25m.X Height-6mt.
6	NH-55 at Nuabhuin	Under Pass	N-20° 58' 44.8" E-84° 35' 36.6"	Length-25m.X Height-6mt.
7	SH at Tleswar	Under Pass	N-20° 53' 21.0" E-84° 37' 25.8"	Length-25m.X Height-6mt.
8	Madhapur-Bamur PWD road	Under Pass	N-20° 55' 56.1" E-84° 43' 57.6"	Length-25m.X Height-6mt.
9	Madhapur-Bamur PWD road	Under Pass	N-20° 53' 47.47" E-84° 26' 40.52"	Length-25m.X Height-6mt.
10	Boudh-Rairakhol NH-153(B)	Under Pass	N-20° 54' 2.72" E-84° 18' 46.37"	Length-25m.X Height-6mt.
11	Athmalik-Kakata PWD road	Under Pass	N-20° 50' 57.2" E-84° 22' 50.87"	Length-25m.X Height-6mt.

- e) Another threat identified by ANCF is Railway Line connecting Angul and Sambalpur. Already 13 locations have been identified in between Bampur and Charnal in Redhakhol Forest division which are the crossing points for elephants. Railway authorities are already moved to submit estimate for one underpass at present. Following are the locations identified in the field for this purpose :-

Name of Forest Division	SL No.	Railway Pillar No.		GPS coordinates of the location
		From	To	
Redhakhol	1	45/2	45/3	Over Pass
	2	48/3	48/4	Over Pass/ Underpass
	3	50/1	50/2	Over Pass
	4	51/1	51/2	Over Pass/ Underpass
	5	57/3	57/4	Over Pass/ Underpass
	6	64/5	64/6	Over Pass/ Underpass
	7	67/9	68/9	Over Pass/ Underpass
	8	74/1	74/2	Over Pass-Tal-Kholgarh Corridor
	9	81/3	81/4	Over Pass
	10	48/4	48/6	Over Pass
	11	51/2	51/5	Underpass
	12	59/1	59/3	Underpass
	13	64/6	64/9	Underpass

- f) Voluntary village relocation scheme of the state for Protected Areas shall also be extended to this area to reduce the human-elephant interface in the area.
- g) A scheme of incentive for maintaining wildlife friendly land use by the villagers in this area shall also be formulated and implemented for this area. Under this scheme in the elephant movement areas landowners shall be suitably compensated to maintain wildlife friendly land use.
- h) Alternate livelihoods (to reduce dependence on forest resources and agriculture) to boost income of the villagers in the area shall be promoted.
- i) Awareness activities to sensitize all the stakeholders in the area shall be taken up.
- j) The newly suggested Hatibari corridor by ANCF shall be studied in details to ascertain the exact use area.

B) **Mayurbhanj ER:** The ANCF study has found that area of the notified Mayurbhanj ER is adequate to support the present elephant population. In the report movement of elephants between Mayurbhanj ER and other two ERs is not established. However, the following are mentioned for connectivity of habitat for this ER:-

a) There are five areas which provide connectivity. Out of these, two are within the ER. They are Simlipal-Satkosa and Hadgarh-Kuldha. Other three are giving interstate connections. They are West Bengal-Deuli-Sulapada (between Odisha and West Bengal), Badampahar-Chobadhorn and Badampahar-Karida between Odisha and Jharkhand.

b) As per report of ANCF, there are not many problems in Simlipal-Satkosa area and this area falls in the notified tiger reserve area of Simlipal, thus, it is well protected.

c) In Hadgarh-Kuldha area the movement is getting affected by the stone quarries. The Tahsildar Khaira has initially applied for permission for quarrying the existing 105 nos of stone quarries located in the hillock connecting Kuldha Sanctuary to Hadgarh Sanctuary running over a distance of 1.92 km. Subsequently the applicant submitted revised proposal for applying for 97 nos. of quarries over an area of 173.50 ac. with Pahad Khasam land located in village Barman, Kaptipalli, Bargarh which has been approved by the standing committee of National Board for wildlife on 03.01.2017. It is close to foothills

of Suknapata Hill of Mayurbhanj. As per order dated 18.02.2020 of Hon'ble NGT in O.A No. 2/2019 and 3/2019 already the process for declaring the area as Conservation Reserve has been initiated.

d) ANCF report has assessed West Bengal-Deuli-Sulapada as Very Good for functional existence and very bad as far as Ecological Feasibility is concerned. However, Badampahar- Dhobadhotin area has been categorized as Poor and Badampahar-Karida as very poor functionally.

For interstate connectivity of Mayurbhanj ER, these three corridors are identified. In this connection a study conducted by Palei et al (2019) and titled as "Elephant Movement and its impacts" throw light on movement patterns of elephants in the area. During the period 1997-2014 study has reported 48 locations of entry and 48 locations of exit for interstate movement of elephants from West Bengal into Mayurbhanj ER. These entry and exit locations are different and cover Rasgovindpur, Deuli, Pithabata and Bangiriposi for entry and Rasgovindpur, Deuli and Bangiriposi for exit. Details are reproduced below –

Entry-exit locations and instances (reproduced from Palei et al 2019)

Table 4.1.1. (of the study) years 1997-2014; range wise instances of entries through different locations by elephants from WB

Entry locations			
Sl. No	Location	Range	No. of entries
1	Badasole	Rasgovindapur	2
2	Badjogibancha	Deuli	2
3	Barakati	Deuli	3
4	Bheduasole	Rasgovindapur	2
5	Bhendarisole	Deuli	2
6	Bhugudakata	Deuli	2
7	Dhabani	Deuli	2
8	Dhansole	Deuli	2
9	Dhrishidihi	Rasgovindapur	3
10	Gangaral	Pithabata	1
11	Ghangabana	Deuli	2
12	Govindapur	Deuli	1
13	Handibhanga	Deuli	1
14	Hatimada	Deuli	1
15	Jhaticda	Deuli	1
16	Jhirati	Rasgovindapur	2
17	Kadakothe	Deuli	1
18	Kathasirisi	Deuli	1
19	Kcpur	Rasgovindapur	1
20	Kundasole	Deuli	2
21	Kundiasole	Deuli	1
22	Lundakunda	Deuli	2
23	Muruda	Rasgovindapur	1
24	Nachana	Deuli	2
25	Pekatia	Bangiriposi	2
26	Pallo	Deuli	6
27	Phagudihi	Deuli	1
28	Ramkrishnapur	Deuli	2
29	Santella	Deuli	2
30	Saradihi	Deuli	2
31	Tadki	Deuli	1
32	Tella	Deuli	2

33	Tentaposi	Deul	1
Total entry instances			48
Summary: 33 locations used in 48 entries; Deul range 25 locations, 34 (71%) entries; Rasagovindapur-6 locations, 11 (23%) entries; Bangriposi-1 locations, 2 (4%) entries; and pithabata-1 locations, 1(2%) entries.			

Table 4.1.2: (of the study) years 1997-2014 range wise instances of returns (exits) from Odisha by elephants that had entered from West Bengal.

Exit locations			
Sl. No	Location	Range	No. of entries
1	Banokati	Deul	2
2	Bandap	Deul	1
3	Bhadrasole	Rasagovindapur	3
4	Bhatchhatar	Rasagovindapur	1
5	B-sisole	Deul	2
6	Chauladharani	Rasagovindapur	1
7	Chitrada	Rasagovindapur	1
8	Chuhat	Deul	4
9	Dhansole-1	Deul	2
10	Dhansole-2	Deul	1
11	Dhirehidhi	Rasagovindapur	1
12	Gangasole	Deul	1
13	Ghanghana	Deul	6
14	Govindapur	Deul	1
15	Handibhanga	Deul	1
16	Jhatioda	Deul	1
17	Kadakata	Deul	1
18	Kakharasole	Deul	1
19	Katas	Deul	1
20	Kundiasole	Rasagovindapur	1
21	Nachana	Deul	1
22	Nadakundia	Deul	1
23	Paktia	Bangriposi	1
24	Palla	Deul	5
25	Pokharla	Deul	1
26	Raibani	Deul	1
27	Rakharasole	Deul	1
28	Rumbha	Deul	1
29	Sansole	Bangriposi	1
30	Sukhilakhali	Deul	1
Total exit instances			48

Summary: 30 locations used in 48 exits; Deul range 22 locations, 38 (79%) exits; Rasagovindapur-6 locations, 8 (17%) exits; Bangriposi-2 locations, 2 (4%) exits;

Further this study has presented Year wise instances of entry and exit for elephants from West Bengal across forest ranges and the same is reproduced below:

Table 4.1.3: (of the study) year wise instances of entry/exit by elephants from WB across forest ranges in Odisha during 1997-2014. Total entries: 48. Key: RGP- Rasagovindapur, BNG- Bangriposi.

Year	ENTRY					EXIT				
	Deuli	RGP	Pithabata	BPS	TOTAL	Deuli	RGP	Pithabata	BPS	TOTAL
1997	4				4	4				4
1998	3				3	3				3
1999	1				1	1				1
2000	3				3	3				3
2001				1	1				1	1
2002	1			1	2	1			1	2
2003	3	2			5	2	3			5
2004	3		1		4	4				4
2005	6				6	5	1			6
2006	2				2	2				2
2007	4				4	4				4
2008	3	1			4	3	1			4
2009	1				1	1				1
2010		1			1		1			1
2011		1			1		1			1
2012		1			1		1			1
2013		1			1		1			1
2014		4			4	4				4
Total	34	11	1	2	48	37	9	0	2	48
% Instance	71	23	2	4	100	77	19	0	4	100

Similarly, for interstate movement from Jharkhand to Odisha area the same study found entry and exit locations as reproduced below (out of these, locations shown for Karanja and Raibangpur divisions provide connectivity to Mayurbhanj BR from Jharkhand)-

Table 4.2.1. (of the study) years 200-2014-range wise locations and entry/exit instances for elephants from Jharkhand.

Sl.no	Division	Range	Location	No. of entries	No. of exit
1	Bona	Bansuan	Ballipoli	17	17
2	Karanja	Guruguria	Daryapoli	7	7
3	Karanja	Guruguria	Ramasahi	1	1
4	Karanja	Guruguria	Sagarahi	1	1
5	Karanja	Guruguria	Udayasahi	2	2
6	Karanja	Guruguria	Utki	2	2
7	Keonjhar	Berbil	Kankalapat	3	3
8	Keonjhar	Berbil	Kulharenduli	3	3

9	Keonjhar	Borail	Narayampur	4	4
10	Keonjhar	Borail	Nayakishrapur	2	2
11	Keonjhar	Champur	Pulagani	4	9
12	Keonjhar	Champur	Satkhata	1	1
13	Rairangpur	Becampahat	Chidpattan	2	2
14	Rairangpur	Becampahat	Chibaga	1	1
15	Rairangpur	Becampahat	Chibasingi	1	1
16	Rairangpur	Bahalda	Hiragoda	1	1
17	Rairangpur	Bahalda	Jatapani	1	1
18	Rairangpur	Bahalda	Sajisodi	2	2
19	Rairangpur	Bahalda	Samatpara	1	1
20	Rairangpur	Bahalda	Sasuda	1	1
21	Rairangpur	Bahalda	Sasuda	1	1
22	Rairangpur	Bahalda	Tendra	2	2
23	Rairangpur	Rairangpur	Akankar	1	1
24	Rairangpur	Rairangpur	Karada	1	1
25	Rourkela	Biramrapur	Girigola	1	1
26	Rourkela	Biramrapur	Golkhana	1	1
27	Rourkela	Biramrapur	Gobindpur	1	1
28	Rourkela	Biramrapur	Gumla	1	1
29	Rourkela	Biramrapur	Hatibari	1	1
30	Rourkela	Biramrapur	Lauram	1	1
31	Rourkela	Biramrapur	Patipahad	2	2
32	Rourkela	Biramrapur	Rabega	1	4
33	Rourkela	Biramrapur	Rajachhi	1	1
34	Rourkela	Biramrapur	Toda	1	1
35	Rourkela	Biramrapur	Tersa	1	1
36	Rourkela	Bira	Nankotola	1	1
37	Rourkela	Bira	Chakraka	1	4
38	Rourkela	Bira	Harpurpur	1	1
39	Rourkela	Bira	Jharkota	1	1
40	Rourkela	Bira	Jharkota	1	1
41	Rourkela	Bira	Kapilnagar	1	1
42	Rourkela	Bira	Kandikot	1	1
43	Rourkela	Bira	Kandikot	1	1
44	Rourkela	Bira	Kandikot	1	1
45	Rourkela	Bira	Kandikot	1	1
46	Rourkela	Bira	Kandikot	1	1
				46	91

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Table 4.2.2. (of the study) summary: range wise entry and exit instances by elephants from Jharkhand

Division	Range	No. of entries	No. of entry locations	No. of exits	No. of exit locations	Remark
Bona	Barsuan	17	1	17	1	
Kanarja	Gurgula	13	5	13	5	
Keonjhar	Barbil	12	4	12	4	
Keonjhar	Champua	10	2	10	2	
Rairangpur	Badampahad	4	3	4	3	
Rairangpur	Bahalda	9	7	9	7	
Rairangpur	Rairangpur	2	2	2	2	
Rourkela	Biramitrapur	12	11	12	8	Dolkhana, Pitatohi and bingola locations were not used for exit
Rourkela	Bisra	11	11	11	8	Harharanpur, kundanga and jharbeda locations were not used for exit
Total		90	46	90	40	

Proposed Action- These movement patterns over about 15 years show that the movements are not fully covered by identified corridors. Hence restricting the measures to be taken to these identified corridors may not suffice. Thus, it is decided to conduct a study to ascertain the exact movement paths or areas for interstate movement to and from Jharkhand and West Bengal and measures required for safeguarding them.

3) Securing movement paths of smaller and scattered populations- The other identified corridor areas do not seem to connect viable habitats as per ANCI study. Thus, they are only movement paths for smaller scattered populations (putting all together, constituting about 25% of total elephant population in the state) and are not corridors in true sense. Further, prohibiting activities which are not permissible in the eco-sensitive zones (as per order dated 10.10.2016 of Hon'ble NGT) in the presently identified corridors did not help in reducing human-elephant conflict. Such movement paths keep on changing and are cause of much conflict situations.

Action Proposed- State Government will constitute a committee under the chairmanship of CWLV to monitor the movement patterns in these areas and to take required steps to safeguard the elephants. This committee will meet half yearly and will review the situation and recommend the actions required as per movement patterns observed to safeguard these smaller and scattered populations and to reduce the conflict situations.

Time line- All the above activities shall be completed in coming three years.

18. In our view, since the Action Plan has been submitted and 14 elephant corridors have been identified by the State Respondents, Government of Odisha, we, therefore, dispose of this original application with the direction to the Respondent No.1 to notify the elephant corridors in terms of the elephant corridors as identified

by the Asian Nature Conservation Foundation (ANCF) and the Action Plan, within a period of two months from today in accordance with law.

19. There shall be no order as to costs.

I.A. No. 70/2020/EZ

1. This application has been taken up. The prayer in the I.A. filed by the Applicant is for a direction to the Respondent to show cause for violation of the order of the Tribunal dated 20.10.2016.

2. We have gone through the I.A. and since, the 14 elephant corridors have already been identified by the Asian Nature Conservation Foundation (ANCF) and the original application has been disposed of with a direction to the Respondent No.1, State of Odisha to notify the same, in our opinion, there is no violation of the order of the Tribunal dated 20.10.2016.

3. I.A. No. 70/2020/EZ is accordingly dismissed.

4. There shall no order as to costs.

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B. AMIT STHALEKAR, JM

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SAIBAL DASGUPTA, EM

Kolkata
August 17, 2021
Original Application No.129/2016/EZ
(I.A. No. 70/2020/EZ)