

ITEM NO.5

COURT NO.4

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 743/2014

WILDLIFE RESCUE AND REHABILITATION
CENTRE AND OTHERS

Petitioner(s)

VERSUS

UNION OF INDIA AND OTHERS

Respondent(s)

(WITH APPLN.(S) FOR DIRECTIONS AND IMPLEADMENT AND OFFICE REPORT)

Date : 08/12/2015 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Shyam Diwan, Sr. Adv.
Ms. Aparna Bhat, AOR
Ms. Shibani Ghosh, Adv.
Ms. S. Singh, Adv.
Ms. Tanim Kishore, Adv.
Mr. P. Ramesh, Adv.

For Respondent(s) Mr. Ranjit Kumar, SG
Mr. Rana Mukherjee, Sr. Adv.
Ms. Monita, Adv.
Mr. S.N. Terdal, Adv.

K. Parameshwar, Adv.

Mr. Ajit Sharma, AOR

Mr. A. Raghunath, AOR

Mr. Balaji Srinivasan, AOR

Mr. Subaramonium Prasad, Sr. Adv.

Mr. B. Balaji, AOR

Mr. Muthkrishan, Adv.

Mr. Utkarsh Srivastava, Adv.

Mr. Devendra Singh, AOR

Mr. Gopal Singh, AOR.
Mr. Manish Kumar, Adv.
Mr. Chandan Kumar, Adv.

Mr. R. Basant, Sr. Adv.
Mr. Jogya Scaria, AOR
Ms. Beena Victor, Adv.

Mr. K. Rajeev, AOR

Mr. Vishnu Shankar Jain, Adv.
Ms. Mukti Choudhary, Adv.

Gp. Capt. Karan Singh Bhati, Adv
Ms. Ruchi Kohli, AOR
Mr. Ajit Sharma, Adv.
Mr. Dillip Kumar Nayak, Adv.
Ms. Monika Sharma, Adv.

Supriya Juneja, AOR

UPON hearing the counsel the Court made the following
O R D E R

I.A. No.18 of 2015

This is an application for impleadment of State of Goa.
Prayer stands allowed.

Notice of the writ petition be issued to the State of Goa.
Additionally, learned counsel for the petitioner is at liberty to
serve a copy of the petition on the standing counsel for the State
of Goa.

Let the cause title be rectified accordingly.

I.A. No.19 of 2015

Issue notice returnable within six weeks.

I.A. No.17 of 2015

By this interlocutory application, the writ petitioner has
prayed for many a relief. Relevant ones are reproduced below :

"(a) Direct the Chief Wild Life Warden, Government of Rajasthan (Respondent No.18 herein) to immediately put a stop on the use of elephants in the Elephant Village and the Amer Fort for rides and exhibition.

(b) Direct the Respondent No.18 to scrutinize the legality of documents of all the elephants, and take necessary action under the law.

(c) Direct the AWBI (Respondent No.2) to revoke any registration of elephants under the Performing Animals (Registration) Rules 2001 where not in compliance with the conditions.

(d) Direct Respondent No.2 to take action for the violation of the provisions of the Prevention of Cruelty to Animals Act 1960, and Rules framed thereunder.

(e) Direct the State of Rajasthan (Respondent No.17 herein) and Respondent No.18 to ensure proper upkeep of captive elephants in accordance with the relevant Rules and Guidelines.

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xxx

xxx

(g) Direct the elephants that are handicapped or are of old age should be retired mandatorily from work and the costs of maintaining these elephants should be borne by the owners and/or by the State."

Mr. Shyam Divan, learned senior counsel has drawn our attention to paragraph 7 of the application to highlight the report submitted by a Commission constituted by the Animal Welfare Board of India, the 2nd respondent herein. On a perusal of the report, we notice that there are certain recommendations. The said recommendations are as follows :

"1. AWBI shall not issue performance registration for ceremonial parades, marching in processions and decorating and painting elephants any elephants in Jaipur, including the 34 elephants who have applied for registration in January 2014.

2. Injured, sick and suffering elephants must be immediately confiscated and rehabilitated to a

rescue or rehabilitation centre or camp.

3. Stringent legal action must be initiated immediately against mahouts and owners who have been forcing sick and injured elephants to work and violating the laws and the Rajasthan HC order dated 26-02-2010.

4. The state wildlife department should scrutinise all ownership certificates and trace the history of procurement, transport and past and current possession of the elephant. The ownership certificate should be matched against the individual people who claim to be the owners of the elephant through a physical verification of the elephants as well as the owners. The department must maintain a Stock Book on wild animals and articles.

5. Considering that the cruelty is inherent, the MoEF and state government are requested to stop the use of elephants for any purposes including tourism and various ceremonial purposes, confiscate and rehabilitate the elephants.

6. Rajasthan government should set up elephant sanctuary under 'Chain Free Protected Contact System of management' for rescued elephants."

Mr. Shyam Divan, learned senior counsel has also drawn our attention to number of photographs which are annexed to this application. It is urged by him that the treatment meted out to the elephants is really cruel and shocking, for they are at times being tied with chains and treated in a primitive manner and further they are being used for the business purposes which includes going on for a joy ride on payment to the owner.

Issue notice to the State of Rajasthan and the Chief Wild Life Warden, Government of Rajasthan (Respondent nos.17 and 18 respectively).

Mr. Bhati, learned counsel, who has already entered appearance on behalf of respondent nos.17 and 18, accepts notice. A copy of this application be served on him within three days. He undertakes

to file the reply within four weeks hence.

Mr. Ranjit Kumar, learned Solicitor General shall also file an affidavit of the competent authority of the ministry of Environment and Forests, Government of India in this regard, as the said authority has a role to play in the animal welfare.

Mr. Ajit Sharma, learned counsel appearing for the Animal Welfare Board of India shall also file the reply within four weeks hence.

At this juncture, we may direct that the Chief Wild Life Warden, Government of Rajasthan shall see to it that all steps, as provided under the law, are taken so that the elephants are really not treated with cruelty which eventually may amount to torture.

As far as the State of Kerala is concerned, a copy be served on Mr. Jogy Scaria, learned counsel assisting Mr. Basant, learned senior counsel appearing for the State of Kerala. As far as the State of Kerala is concerned, a report has been submitted by the Principal Chief Conservator of Forests.

Learned counsel for the petitioner is at liberty to file an objection to the same. Similarly, liberty is granted to other respondents to file their response.

The State of Kerala is at liberty to file additional affidavit within four weeks.

Contempt Petition No.833 of 2015

Mr. Ajit Sharma, learned counsel appearing for the Animal Welfare Board of India, submitted that his contempt petition may be treated as an interlocutory application in the writ petition.

Prayer stands allowed.

Registry is directed to number the same as an interlocutory application.

A copy of the application be served on Mr. Jogy Scaria, learned counsel for the State of Kerala.

It is submitted by Mr. Ajit Sharma, learned counsel that out of 599 elephants, 289 elephants are there without any kind of ownership certificate. The State, while filing its reply to the said interlocutory application, shall specifically deal with it.

I.A. Nos.4-5 of 2015

These are applications for intervention. Prayer stands allowed.

I.A. No..... in Writ Petition 743 of 2014 (For Intervention)

Taken on Board.

Issue notice returnable within four weeks.

List the matter on 17.02.2016.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master