

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 9TH DAY OF DECEMBER 2014/18TH AGRAHAYANA, 1936

WP(C).No. 10424 of 2014 (C)

PETITIONER(S):

THE SOCIETY FOR PREVENTION OF CRUELTY TO ANIMALS (SPCA)
REPRESENTED BY ITS PRESIDENT, M.N.JAYACHANDRAN,
P.B.NO.66, ERAPOOZHICKARA BUILDING, PALA ROAD,
THODUPUZZHA, IDUKKI, PIN 685584.

BY ADV. SRI.BRIJESH MOHAN

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
FOREST AND WILD LIFE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM
PIN 695001.

2. THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS (WL)
VAZHUTHAKKAD, THIRUVANANTHAPURAM-695014.

3. THE DISTRICT COLLECTOR,
IDUKKI-685603.

4. THE DEPUTY DIRECTOR,
PERIYAR TIGER RESERVE, IDUKKI DISTRICT-685509.

5. ANIMAL WELFARE BOARD OF INDIA
REPRESENTED BY ITS SECRETARY, THIRD SEAWARD NAGAR,
VALMIKI NAGAR, THIRUVANMIYLOOR, CHENNAI-600041.

R2 BY ADV. GOVERNMENT PLEADER K.C.VINCENT
R5 BY ADV. SRI.K.JAJU BABU (SR.)
R5 BY ADV. SMT.M.U.VIJAYALAKSHMI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-12-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.10424 OF 2014

Dated this the 9th day of December, 2014

JUDGMENT

The petitioner is a Society established for prevention of cruelty to animals. The petitioner approached this Court seeking direction to respondents to ensure that the provisions of the Performing Animals (Registration) Rules 2001 are enforced and implemented with regard to Captive Elephants used for rides. The petitioner also seeks declaration that the action of the respondents in permitting Elephant Rides using Captive Elephants without taking registration under the Performing Animals(Registration)Rules 2001 is arbitrary and illegal. It is submitted that the authorities failed to observe the above rules.

2. A counter affidavit has been filed by the 2nd respondent. Paragraph 5 of the counter affidavit reads as follows:

"With reference to the averments contained in paragraph 4 of the writ petition, it is submitted that the Captive Elephants are managed under the Kerala Captive Elephants(Management and Maintenance) Rules 2012. the 4th respondent, the Deputy Director, Periyar Tiger Reserve, Idukki does not maintain any departmental elephant. Ext.P1 was erected to avoid cheating of tourists by private owners of elephants. The rate fixed for elephant ride in G.O.(Rt) No.31/2013/F&WLD dt. 16/1/2013(Ext.P2) is kept in abeyance till the departmental elephants are registered under the Performing Animals (Registration) Rules 2001 with the Animal Welfare Board of India. By letter dated 22/4/2014, the 2nd respondent directed the concerned officers to stop using of elephants under their jurisdiction as performing animals till the elephants are registered under the Performing animals (Registration)Rules, 2001. A true copy of the above letter dated

22/4/2014 of the 1st respondent is produced herewith and marked as Exhibit R2(e). "

3. It is stated in paragraph 7 of the counter affidavit that the Kerala Forest and Wildlife Department has registered 160 cases relating to cruelty to elephants, under the Kerala Captive Elephants(Management and Maintenance) Rules . Therefore, the authorities seems to have vigilant in the matter. However, they shall ensure implementation of provisions of the Performing Animals(Registration) Rules 2001 referred above and take appropriate action in the matter as and when it is warranted.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, Judge.

dpk

S
/True copy/ PS to Judge.

Amth

Section officer.

WP(C).No. 10424 of 2014 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: COPY OF THE BOARD SHOWING THE RATES FIXED BY THE 4TH RESPONDENT FOR ELEPHANT RIDES IN IDUKKI DISTRICT..

EXHIBIT-P2: COPY OF GO (RT) NO.31/2013/F& WLD DATED 16.1.2013 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT-P3: COPY OF THE REPRESENTATION DATED 8.5.2011 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS
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EXT.R2(A): COPY OF LETTER NO.9-1/2013-14/PCA DATED 5/12/2013 OF THE SECRETARY, ANIMAL WELFARE BOARD OF INDIA.

EXT.R2(B): COPY OF LETTER NO.BDC2-28/14/1 DATED 15/1/2014 OF THE ADDL.PRINCIPAL CHIEF CONSERVATOR OF FORESTS (BIO DIVERSITY CELL).

EXT.R2(c): COPY OF LETTER DATED 28/1/2014 OF THE GENERAL SECRETARY, KERALA ELEPHANT OWNERS FEDERATION ADDRESSED TO THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS (WL).

EXT.R2(D): COPY OF LETTER DATED 6/3/2010 OF THE GENERAL SECRETARY, KERALA ELEPHANT OWNERS FEDERATION ADDRESSED TO THE SECRETARY, ANIMAL WELFARE BOARD OF INDIA.

ET.R2(E): COPY OF LETTER NO.BDC.2.28/14 DT.22/4/2014 OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS (WL.)

ET.R2(F): COPY OF KERALA CAPTIVE ELEPHANTS (MANAGEMENT AND MAINTENANCE) RULES, 2012.

/TRUE COPY/


P.S. TO JUDGE.

