

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

PIL No. 12 of 2024

Nongmeikapam Victina, aged about 32 years, D/o N. Tharongou Singh, a resident of Thangmeiband Yumnam Leikai, P.O. Lamphel & P.S. Imphal, District- Imphal West, Manipur.

...Petitioner

-Versus-

1. The Union of India represented by the Secretary Forest and Wildlife Division, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi – 110 003.
2. The State of Manipur represented by Principal Chief Conservator of Forest & Head of Forest Force, Government of Manipur, Sanjenthong, Imphal-795001.
3. Committee for the procurement or Welfare of Wild Animals by any rescue or rehabilitation center or zoo, Headed by retired Justice Deepak Verma 3-No. B4, Ground Floor, Geetanjali Enclave, New Delhi – 110017.

.... Respondents

Karnataka and Others reported as 2023 SCC OnLine SC 224

(annexed as Annexure A/1 to the present petition); be declared redundant and otiose and further direct it not to consider any matter of transfer of wild or captive Elephants as its tenure and purpose has come to an end; and consequently, also to issue direction for the dissolution of the said HPC, respondent No. 3 herein.

2. In other words, axiomatically, the petitioner seeks declaratory relief that HPC's tenure and purpose has come an end and praying for a further direction dissolving the HPC.

3. The HPC in question as aforestated was first established by the High Court of Tripura in **Sudipa Nath** (supra) by issuance of the following directions :

“27. To our minds, the following disputed questions arise from the petitioner's allegations, albeit, without material, but pertinent enough to us and allegations that must be ascertained by the authorities, if nothing then out of caution, before transfer of these 23 Elephants;

a. Whether there exists any transaction of a commercial nature in the transfer of any of the 23 Elephants in question?

b. Whether Elephants at the Elephant Camp of respondent No.3 are subjected to any form of cruelty?

c. Whether permissions granted to the Elephant Camp of the respondent No.3 are in force and valid as on date?

d. Whether the infrastructure and facilities of the Elephant Camp of the respondent No.3 are conducive to housing captive Elephants for lifelong care?

e. What is the current status of housing, food and veterinary care being provided to the 23 Elephants by their respective owners?

f. Whether there is sufficient veterinary care adhering to a standard of reasonable care available at the Elephant Camp of the respondent No.3?

g. Whether the Elephant Camp of the respondent No.3 has sufficient infrastructure and space to accommodate the proposed 23 Elephants?

h. Whether the respondent No.3 has sufficient cash flow or financial capacity to manage existing and 23 additional proposed Elephants?

i. Whether there exist sufficient, competent and qualified staff to manage the care of the existing and 23 additional proposed Elephants?

j. Whether the Camp of the respondent No.3 is of a commercial nature and is operated for any commercial purpose?

k. Whether there is any mechanism to ensure no cruelty is meted out or mismanagement occurs in relation to the Elephants at the camp of the respondent No.3?

l. Whether climatic conditions at the Elephant Camp of the respondent No.3 are conducive to Elephants?

m. Whether the Elephants at the camp of respondent No.3 are handled using humane and proper techniques?

n. What are the causes of casualties, if any, at the Elephant Camp of the respondent No.3 and whether such causes are on account of any action, omission or breach of standard duty of care by the respondent No.3?

o. Whether the transfer of the 23 Elephants to the Elephant Camp of the respondent No.3 will be in the interest of some or all of the said Elephants after conducting a comparative analysis of the existing status and quality of housing, food and veterinary care being provided by their respective owners and to be provided by the respondent No.3?

p. As transfer of the proposed 23 Elephants would require their relocation to another place, whether on overall assessment of all factors, the transfer would be in the paramount interest of the Elephant?

28. As stated earlier, a writ court would be unequipped to determine disputed questions of facts. **However, we propose to form a High Powered Committee (HPC) to be headed by retired Judge of the Hon'ble Supreme Court of India, Hon'ble Mr. Justice Deepak Verma who himself is an avid animal lover and has dealt with several matters relating to animals. We further propose to appoint expert members to the said HPC to assist the Chairperson. We propose to appoint, the Director General of Forests (Union of India), Head of Project Elephant Division (MoEF) and Member Secretary (Central Zoo Authority of India), the Chief Wild Life Warden (State of Gujarat), the Chief Wild Life Warden (State of Tripura) and the Chief Wild Life Warden (State of Arunachal Pradesh). We further**

propose that the Chairman of the said HPC shall co-opt an expert having experience about Elephants as a member of such HPC. The Chairman may also consider taking assistance from the Chairman of the Animal Welfare Board of India (AWBI).

29. The said HPC to be chaired by Hon'ble Mr. Justice Deepak Verma shall treat the questions framed by us in paragraph 27 above as 'Terms of Reference' and carry out the necessary fact finding exercise. Thereafter the Chairperson of the HPC shall make his report and provide a copy to all concerned. The Chairperson of the HPC shall then send his recommendation Elephant wise to the concerned Chief Wild Life Warden of the concerned State either recommending or not recommending the completion of the transfers, as the case may be.

30. In case the Chairperson of the HPC recommends that an Elephant or Elephants should not be transferred, then the concerned Chief Wild Life Warden shall take steps to either confiscate the Elephant or take an undertaking from the concerned owner that the Elephant shall be taken care of without any cruelty. In case where such undertaking is taken, the concerned Chief Wild Life Warden shall be bound to monitor the Elephant concerned in regular intervals and take further steps, if necessary, accordingly.

31. In cases where the Chairperson of the HPC recommends that an Elephant or Elephants be transferred to the camp of the respondent No.3, the concerned Chief Wild Life Warden shall ensure that the transfer of the Elephant is undertaken in the most appropriate manner

conducive to the Elephants and further the concerned Chief Wild Life Warden shall request the jurisdictional police to ensure smooth passage of the Elephant concerned. Such jurisdictional police shall be bound to render all assistance to ensure smooth passage of the Elephant concerned.

32. Before parting, we would like to record that despite our limited knowledge of the subject, we are conscious of the stark distinction between a Captive Elephant and an Elephant in the wild. In our reading and understanding of the subject, once an Elephant is bred in captivity or is in captivity for several years, the hope of their reintroduction in wild is bleak. A lifetime or even a reasonably long time in sheltered existence is sufficient to incapacitate an Elephant from surviving in the wild. They seldom learn crucial survival skills and are too habituated to human contact. Lacking a natural fear of humans, they are vulnerable to poachers and ill equipped for life in the wild. These creatures become so imprinted with humans and dependent on humans that their survival in the wild becomes next to impossible. In such a situation finding a safe, restful and tranquil home for them must be the paramount consideration of all concerned. If the HPC finds that the camp of the respondent No.3 is such safe, restful and tranquil home then we do not think the Court, authorities or any citizen can come in the way, but if it is not, then the authorities must take all steps to find a safe, restful and tranquil home for Elephants who are in captivity.

33. We are also conscious of the fact that it becomes difficult for private individuals or Forest and Wildlife Departments to take care of captive Elephants for reasons of lack of manpower, finances, space and infrastructure. There is nothing wrong in taking assistance of camps and facilities run by trusts and welfare organizations. However, in all cases the paramount consideration must be the welfare of the Elephants.

34. In view of the aforesaid, we pass the following order:-

a. We direct the Project Elephant Division of the Ministry of Environment, Forests and Climate Change to issue necessary directions to all Chief Wild Life Wardens to take all steps necessary to curb and put to an end, the capturing of wild Elephants, if any, from the wild including:-

i. Directing a census of all Elephants in captivity of private persons or Government departments and creation of an inventory of the same with their name, details of ownership certificate, microchip number and photograph.

ii. Directing inspection and verification of Certificate of Ownerships of all Elephants in captivity and in case there is no Certificate of Ownership, to either issue a provisional Certificate of Ownership or confiscate the Elephant after carrying out necessary inspection and verification of the history and source of the Elephant.

iii. Directing a proper DNA sequencing for new offspring to be conducted so as to identify and prevent capture of young Elephants from the wild.

b. We do hereby appoint a High-Powered Committee (HPC) under the Chairmanship of Hon'ble Shri Justice Deepak Verma (Former Judge, Supreme Court of India). We hereby appoint the following persons (by designation) as members of the said HPC:

i. Director General of Forests (Union of India);

ii. Head of Project Elephant Division (MoEF);

iii. Member Secretary (Central Zoo Authority of India);

iv. Chief Wild Life Warden (State of Tripura) for Elephants from State of Tripura; and

v. Chief Wild Life Warden (State of Gujarat).

c. The Chairman of the HPC shall co-opt an expert having experience of Elephants as a member of such HPC. The Chairman may also consider taking assistance of the Chairman, Animal Welfare Board of India for the purposes of the HPC.

d. All other members of the HPC shall render all assistance and for that purpose shall use all powers vested in them including taking assistance of other officers of their respective departments as directed by the Chairman and also to take assistance of the local police as and when necessary, to enable the HPC to carry out the functions requisitioned by this order.

e. The members of the HPC shall carry out a thorough and detailed physical inspection of the Trust. They shall be entitled to access and inspect all areas and facilities of the Trust. They shall be entitled to access and inspect all documents of the Trust. They shall also be entitled to

interview and question the staff and officers of the Trust. The HPC is requested to carry out the inspection at the earliest and in any case within 10 days from the date of this order.

f. The respondent No.3 is directed not to interfere with or restrict the members of the HPC from carrying out their inspection in any manner that they deem fit. The Chairman shall be entitled to take assistance of as many professionals, including photographers, videographers, vets, architects as he deems fit, for the purpose of the inspection.

g. The respondent No.3 shall render all assistance and provide all necessary arrangements as requisitioned by the Chairman of the HPC for the purpose of the inspection.

h. The Chairman of the HPC may direct formation of one or more groups consisting of at least 3 members (of which at least one should be from the HPC and other experts) to carry out a physical inspection at the current location of the 23 Elephants and submit factual findings on such questions as the Chairman may deem fit and proper including on the allegation that they are purported to be captured from the wild. Due regard would be had to the said factual findings in the report.

i. The HPC shall in the first instance make a report on the questions in paragraph 27 of this order and it shall endeavour to do the same within a period of two weeks from the date of communication of this order.

j. The Chairman of the HPC shall make a report and provide a copy of the same to all concerned preferably within a period of two weeks from the date of communication of this order.

k. The Chairman of the HPC shall then forward his recommendation Elephant-wise to the concerned Chief Wild Life Warden either recommending or not recommending the completion of the transfers, as the case may be.

l. In case the Chairperson of the Committee recommends that an Elephant or Elephants should not be transferred, then the concerned Chief Wild Life Warden shall take steps to either confiscate the Elephant or take an undertaking from the concerned owner that the Elephant shall be taken care of without any cruelty. In case where such undertaking is taken, the concerned Chief Wild Life Warden shall be bound to monitor the Elephant concerned in regular intervals and take further steps if necessary accordingly.

m. In cases where the Chairperson of the Committee recommends that an Elephant or Elephants be transferred to the camp of the respondent No.3, the concerned Chief Wild Life Warden shall ensure that the transfer of the Elephant is undertaken in the most appropriate manner conducive to the Elephants and further the concerned Chief Wild Life Warden shall request the jurisdictional police to ensure smooth passage of the Elephant concerned. Such jurisdictional police shall be bound to render all assistance to ensure smooth passage of the Elephant concerned.

n. In case the Chairman of the HPC finds any other fault or discrepancy, he shall forward its report with necessary recommendation for taking necessary corrective steps or action to the Secretary, Ministry of Environment, Forest & Climate Change, Secretary, Forest Department of States of Gujarat, Tripura and Arunachal Pradesh as necessary or deemed fit by the Chairman of the HPC.

o. We direct that all police authorities, officers of forest and wild life departments, officers of the Central Zoo Authority, Project Elephant and officers of the Ministry of Environment, Forest and Climate Change, to whom a request for assistance is made by the Chairman of the HPC, shall be bound and liable to render all necessary assistance to the HPC and its members to carry out the functions of the HPC.

p. We direct that in order to bring about checks and balances in transfer of Elephants, the HPC shall continue to exist beyond these 23 Elephants and shall be consulted by the concerned Chief Wild Life Warden as the case may be before granting any travel permit. No travel permit shall be granted without the recommendation of the HPC. For such purpose, the HPC shall carry out the exercise it deems fit bearing in mind the observations made and the purport of the present order.

q. The costs of the HPC shall, insofar as the costs of the members are concerned, since their appointment is by designation, the costs shall be borne by their respective departments or employing authority.

r. The Chairman shall be entitled an honorarium of Rs.5,00,000/- (Rupees Five Lakh Only) and costs of the

Chairman shall be reimbursed to him by the respondent No.3 without demur against a Bill of Costs. Such honorarium and costs shall be paid in advance and in any case before the Chairman sends his recommendations to the concerned Chief Wild Life Warden.

s. In case the Chairman of the HPC is required to carry out functions under this order beyond the afore-referred 23 Elephants, the Chairman shall convene the HPC with the same composition of respective designations and the HPC shall have the same functions as above and the HPC shall be provided with the same assistance as above.

t. In case the Chairman of the HPC is required to carry out functions under this order beyond the afore-referred 23 Elephants, entitled to an honorarium of Rs.100,000/- (Rupees One Hundred Thousand Only) and reimbursement of costs in the same manner as above.”

4. The jurisdiction and scope of the HPC as constituted by the High Court of Tripura was further extended by the directions issued by the Hon'ble Supreme Court in **Muruly M.S.** (supra) in the following terms :

“7. Our attention has also been invited to a reasoned and detailed judgment dated 07.11.2022 passed by the Tripura High Court in Writ Petition (Civil - PIL) No. 17 of 2022 seeking a direction restraining transfer and transportation of captive bred elephants from Northeast India and in particular from the States of Tripura and Arunachal Pradesh to the elephant camp

of respondent no. 3. The High Court of Tripura, while declining to grant relief prayed by the petitioner therein, constituted a High Powered Committee (for short 'HPC') headed by the retired Judge of this Court, namely, Hon'ble Mr. Justice Deepak Verma, as its Chairman, and Members (by designation), which included Director General of Forests (Union of India), Head of Project Elephant Division (MoEF), Member Secretary (Central Zoo Authority of India), Chief Wild Life Warden (State of Tripura) for Elephants from State of Tripura and Chief Wild Life Warden (State of Gujarat). The said order further provides that the Chairman of the HPC shall co-opt an expert having experience of Elephants as a Member of the Committee and the Chairman may also consider taking assistance of the Chairman, Animal Welfare Board of India. Various well thought of directions were issued for the smooth functioning, powers, jurisdiction and assistance to be provided to the said HPC.

8. Though the scope and jurisdiction of the High Powered Committee was limited by the High Court to transfer of the elephants from Northeast part of the country to the elephant camp of respondent no. 3, we see no reason not to extend it to Pan India, particularly, when by extending the jurisdiction of High Powered Committee at Pan India level will not only serve the real public interest and would advance the cause of welfare, care and rehabilitation of wild

animals, but will also curb the filing of frivolous PILs before different High Courts by busy bees.

9. In view of aforesaid facts and circumstances, we deem it appropriate to extend the jurisdiction and scope of High Powered Committee as constituted by the High Court of Tripura, with the modification that the Chief Wild Life Warden(s) of the State(s) to which the issue relates will be co-opted as Members of the said Committee in place of the Chief Wild Life Wardens of Tripura and Gujarat, throughout the territory of India, leaving it open to the Committee to conduct necessary checks and to undertake fact finding exercise in any pending or future complaint in this regard. The said Committee may also consider the request for approval, dispute or grievance, concerning transfer or import into India or procurement or welfare of wild animals by any rescue or rehabilitation centre or zoo, by taking assistance and co-operation whenever needed from all departments and authorities across India. We also direct that all complaints in this regard may be forwarded forthwith to the High Powered Committee for consideration and recommending appropriate action.

10. We further direct that all State and Central Authorities shall forthwith report seizure of wild animals or abandonment of captive wild animals to the Committee and the Committee shall be at liberty to recommend transfer of ownership of captive animals or of seized wild animals to any willing rescue centre or

zoo for their immediate welfare, care and rehabilitation.”

4. From the above extracted paragraphs, the mandate, authority, scope and jurisdictions of the HPC may be encapsulated as follows:

- i) to consider the question of whether an Elephant should be transferred or not on any request/application made for that purpose to the Chief Wild Life Warden or the HPC;
- ii) before deciding such request/application, to carry out a fact finding enquiry, if deemed necessary, by itself or through a group appointed by it on such of the applicable terms of reference as set out in paragraph 27 in particular of **Sudipa Nath** (supra);
- iii) to thereafter recommend (approval or rejection) of the request/application of the inter-State or intra-State transfer of an Elephant to the Chief Wild Life Warden of the concerned State;
- iv) to give the concerned Chief Wild Life Warden, directions/recommendations in case of rejections of request/application for transfer of an Elephant including for its confiscation or its care/upkeep and supervision;

- v) to conduct necessary checks and to undertake fact finding exercise into complaints made in regard to transfer of Elephants and give recommendations;
- vi) to consider disputes or grievances and give recommendations concerning transfer/procurement or import of animals by zoos, rescue centers or rehabilitation centres and
- vii) to consider reporting of seizures of wild animals or abandonment of captive wild animals and recommending transfers to willing rescue centres or zoos for their immediate welfare, care and rehabilitation.

5. The petitioner has also prayed for directions against the Union of India and the State of Manipur arrayed as respondent Nos. 1 and 2 to the present petition, to strictly implement Section 63(1) (viii) of the Wild Life (Protection) Act, 1972 and the Captive Elephant (Transfer or Transport) Rules, 2024 with further direction to the official respondents not to issue any certificate of ownership for any Elephant after 14th of March, 2024.

6. We have carefully considered the Captive Elephant (Transfer or Transport) Rules, 2024 and observe that they specifically address the transfer of captive Elephants for religious or other purposes between individuals; establishing a designated

mechanism for such transfers. However, it is, pertinent to note, that the Rules do not extend to other animal species. Further, they do not cover matters relating to re-possession, seizure, rescue and rehabilitation of animals, including Elephants, nor do they address the issue of disputes/grievances or complaints or provide for the immediate welfare of ceased or abandoned animals including Elephants. Furthermore, they do not address one important aspect duly noted by the High Court of Tripura in ***Sudipa Nath*** (supra) whereby the HPC was directed to ensure that “***the paramount consideration must be the welfare of the Elephants***”.

7. The intent and purport of the directions issued by the High Court of Tripura and the Hon’ble Supreme Court is evident; that the HPC shall oversee and supervise matters relating to Elephants as well as other animals in need with particular emphasis on their welfare with specific emphasis on keeping their welfare as the paramount consideration.

8. It must be observed that the members of the HPC formed by the High Court of Tripura and given pan-India jurisdiction by the Hon’ble Supreme Court of India includes apart from a former judge of the Apex Court, the highest functionaries such as the Director General for Forest, head of Project Elephant India, Member Secretary-Central Zoo Authority, Chief Wild Life Warden of the

State concerned as well as experts, as its members. Needless to state that these are individuals with years of experience and knowledge of wildlife matters and legal aspects thereof. The collective wisdom, expertise and experience of such a distinguished panel of members with specific sectorial domain expertise knowledge and experience surely ensures holistic and effective decision making on matters highlighted by the Hon'ble Supreme Court of India in **Muruly M.S.** (supra) and in particular paragraphs 9 and 10 thereof.

9. Therefore, in our considered opinion, the remit, purpose, objective and most significantly the mandate of the HPC is overarching and clearly independent of the Captive Elephant (Transfer or Transport) Rules, 2024.

10. The main thrust of the argument canvassed on behalf of the petitioner that the HPC was a stopgap arrangement, till Rules were framed, does not commend itself to us. Firstly, there is no such indication in the orders of the Hon'ble High Court of Tripura or the Hon'ble Supreme Court. Secondly, it is not as if transfers of Elephants have been permitted for the first time under these Rules. The transfer of Elephants from one person to another was never prohibited under the Wild Life (Protection) Act, 1972 as is clear from

a plain reading of Section 40 (2) thereof which prior to its latest amendment read as under :-

“40.

.....
 (2) *No person shall, after the commencement of this Act, acquire, receive, keep in his control, custody or possession, sell, offer for sale or otherwise transfer or transport any animal specified in Schedule I or Part II of Schedule II or any uncured trophy or meat derived from such animal, or the salted or dried skins of such animal or the musk of a musk deer or the horn of a rhinoceros, except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer.*

[(2A) No person other than a person having a certificate of ownership, shall, after the commencement of the Wild Life (Protection) Amendment Act, 2002 (16 of 2003) acquire, receive, keep in his control, custody or possession any captive animal, animal article, trophy or uncured trophy specified in Schedule I or Part II of Schedule II, except by way of inheritance.

[(2B) Every person inheriting any captive animal, animal article, trophy or uncured trophy under sub-section (2A) shall, within ninety days of such inheritance make a declaration to the Chief Wild Life Warden or the authorised officer and the provisions of sections 41 and 42 shall apply as if the declaration had been made under sub-section (1) of section 40:

Provided that nothing in sub-sections (2A) and (2B) shall apply to the live elephant.]”

11. The competent authority for allowing such transfer in terms of the above provision was the Chief Wild Life Warden. Thus, what has been effectively done by the Rules is simply to prescribe a manner or receipt and disposal of applications at the level of the Chief Wild Life Warden and to further provide the applicant to carry

and appeal a rejection of their application before the State Government. Therefore, we see no erosion of the foundation of the judgments of the High Court of Tripura or the Hon'ble Supreme Court of India in the said Rules.

12. Consequently, in our opinion, the mandate, authority, scope and jurisdiction of the HPC continues, notwithstanding the above Rules and no transfer of Elephants can be made without the approval of the HPC. In our opinion, even if a person holds a certificate of ownership, the authorities under the Wild Life (Protection) Act, 1972 and Rules thereunder can always take action of seizure or re-possession of an animal or Elephant if the same is in the best interest and welfare of such animal or Elephant. The HPC is unequivocally and specifically empowered to recommend such action in the event it is brought to its attention that the living situation of an animal or Elephant is being compromised.

13. The fundamental contention of the petitioner being devoid of merit, no question arises of considering the other reliefs sought which are consequential in nature. It is obvious that the respondents are to act in accordance with the law and no *writ of mandamus* can be issued by any Court in that regard without the petitioner having brought to light any specific breach, misapplication or misinterpretation of the law, as in the present case.

14. In view of the foregoing, the present Public Interest Litigation is meritless and is hereby dismissed without any order as to costs.

JUDGE

CHIEF JUSTICE

FR/NFR

Sushil