

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, AGA and

Mr. Ishwar Mohanty, ASC

CORAM:

THE CHIEF JUSTICE

JUSTICE M.S. RAMAN

Order No.

ORDER

18.01.2023

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	1	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 Simlipal 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

S.K. Guin