

ITEM NO.71

COURT NO.5

SECTION PIL

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s) (Civil) No(s). 107/2013

SHAKTI PRASAD NAYAK

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(with appln. (s) for clarification/modification of court's order)

WITH

W.P.(C) No. 743/2014

(With appln.(s) for directions and exemption from filing O.T. and
and Office Report)

Date : 24/04/2015 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. Sanjeeb Panigrahi, Adv.
Mr. Purushottam Sharma Tripathi, Adv.
Mr. Ravi Chandra Prakash, Adv.
Mr. Mukesh Kumar Singh, Adv.
Ms. Nidhi Ram Sharma, Adv.

Mr. Shyam Divan, Sr. Adv.
Ms. Aparna Bhat, Adv.
Ms. Shibani Ghosh, Adv.
Ms. Tanima Keshore, Adv.

For Respondent(s) Mr. Ranjit Kumar, SG
Ms. Ranjana Narayan, Adv.
Ms. Vimla Sinha, Adv.
Ms. Honey Kumari, Adv.
Mr. Shreekant N. Terdal, Adv.

West Bengal Mr. Avijit Bhattacharjee, Adv.
Mrs. Upma Shrivastava, Adv.

Mr. Sibbo Sankar Mishra, Adv.

Mr. V. N. Raghupathy, Adv.

Uttarakhand	Ms. Rachana Srivastava, Adv. Mr. Utkarsh Sharma, Adv.
Kerala	Ms. Bina Madhavan, Adv. Ms. Vartika Sahay, Adv. M/s Corporate Law Group, Adv.
Chhattisgarh	Mr. C.D. Singh, Adv. Mr. Darpan Bhugan, Adv.
U.P.	Mr. Gaurav Bhatia, AAG Mr. Pawan Shree Agarwal, Adv. Mr. D. Kumar Yadav, Adv. Mr. Abhishek Chaudhary, Adv.
Jharkhand	Mr. Tapesk Kumar Singh, Adv. Mr. Mohd. Waquas, Adv. Mr. B. Balaji, Adv. Mr. Rakesh Sharma, Adv. Ms. Shase, Adv. Mr. Mishra Saurabh, Adv. Mr. Ashok Panigrahi, Adv.
Manipur	Mr. Sapam Biswajit Meitei, Adv. Mr. Z.H. Isaac Haiding, Adv. Mr. Ashok Kumar Singh, Adv.
For Intervenor	Mr. V. Giri, Sr. Adv. Mr. K. Parameshwar, Adv.

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

W.P. (C) No.107/2013

Mr. Ranjit Kumar, learned Solicitor General appearing for Union of India prays for eight weeks time to file the status report.

List the matter in the last week of August 2015.

Personal appearance of the Secretary, Ministry of Environment and Forests stands dispensed with.

W.P. (C) No. 743/2014

As we find, by this writ petition, the petitioner has prayed for the following reliefs :

- "a. Implement the provisions of the Wildlife (Protection) Act 1972 and the Prevention of Cruelty to Animals Act, 1960 to protect elephants in captivity effectively, and to uphold the letter and spirit of the law.
- b. Conduct a census of all captive elephants in the country under the supervision of respondent no.1 with the assistance of independent experts.
- c. Set-up lifetime care facilities for rehabilitation of abused/ill-treated and abandoned elephants as well as for elephants that have been taken into custody by the Government. The respondents should be directed to ensure that these facilities have adequate financial support, and are able to meet the stated objectives and minimum standards.
- d. Set up of effective monitoring and accountability mechanisms under the Wildlife (Protection) Act, 1972 and issue Rules for the maintenance and upkeep of elephants in captivity that are to be mandatorily complied with.
- e. Ban the use of elephants in religious functions and for exhibition as this causes unnecessary pain and suffering to the elephants. Such a ban would have a significant impact by reducing the demand for captive elephants.
- f. Pass any such order as this Hon'ble Court may feel fit and proper in the facts and circumstances of the present case."

In our considered opinion, the controversy raised requires consideration.

Mr. Shyam Divan, learned senior counsel being assisted by Ms. Aparna Bhat, learned counsel, would submit that the respondents-States should file their counter affidavit keeping in view certain factors. The aspects that have been highlighted by

the learned senior counsel are as follows :

- "A. The estimated number of captive elephants within the state;
- B. A break up classifying these captive elephants into categories - forest department, zoos, circus, private individuals and temples/religious institutions.
- C. A description of the place where each of the captive elephant is kept or housed together with photographs.
- D. Whether there are any rescue and rehabilitation facilities within the State that can accommodate rescued captive elephants and the number of elephants that may be accommodated and treated, if necessary, at these rescue centres.
- E. Particulars of ownership certificates issued by the Chief Wildlife Warden in each State with respect to captive elephants since 2003.
- F. Particulars of ownership certificates and reasons for the cancellation of the certificates since 2003.
- G. Particulars of prosecutions, if any, under Section 11 of the Prevention of Cruelty to Animals Act, 1960 with regard to offenses in relation to captive elephants since 2010.
- H. Details of incidents involving captive elephants leading to loss of life, injury and/or damage to property since 2010.
- I. Particulars of veterinarians in each state who treat captive elephants; and details of health visits made by the veterinarians to place where captive elephants are kept or housed in the state since 2010.
- J. Details of inter-state transfer and transport of captive elephants as recorded under Section 43(2) of the Wildlife (Protection) Act, 1972 since 2003."

Issue notice returnable within eight weeks.

Along with the notice, the order passed by this Court shall be sent to all the States.

The Application for intervention is orally mentioned today.

Taken on Board.

The application for intervention is allowed.

This writ petition shall not be tagged with Writ Petition (Civil) No.107 of 2013.

List the matter in the last week of July 2015.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master