

(2023) 03 OHC CK 0081

In the Orissa High Court

Case No : Writ Petition (C) No. 14706 Of 2022 AND W.P. (C) Nos. 9056 Of 2013, 19625 Of 2015 and 22421 Of 2015

Gita Rout

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 13-03-2023

Acts Referred:

Citation : (2023) 03 OHC CK 0081

Hon'ble Judges : Dr S Muralidhar, CJ;G. Satapathy, J

Bench : Division Bench

Advocate : Ashis Kumar Mishra, Afraz Suhail, G.P. Mohanty, Gautam Misra, A. Dash, Debakanta Mohanty, Ishwar Mohanty, Swayamjit Rout

Judgement

I.A. No.1737 of 2023 (W.P.(C) No.19625 of 2015)

1. Notice be issued to the Companies indicated in the Schedule to this application, i.e., TPSODL, TPWODL, TPNODL and TPCODL through Registered/ Speed Post with A.D. making it returnable before the next date. Requisites for which shall be filed within three working days. In addition to the above, notice is permitted to be served by Dasti.

2. The Court is informed that one Sri Bijay Kumar Das, Advocate usually appears on behalf of some of these Distribution Companies (DISCOMs). The Registry will request him to remain present on the next date.

W.P.(C) No.14706 of 2022

3. Subsequent to the previous hearing on 18th January, 2023 there has been an unfortunate loss of elephants as well as humans who have either died or have been injured due to the human wildlife conflict (HWC). The Court is informed by Dr. Manoj V. Nair who is the Convener of the Joint Task Force (JTF) that there have been 12 elephant deaths and deaths of 14 persons in just less than two months since the previous hearing. Of the 12 elephant deaths, two were due to

poaching, four due to electrocution, two calves died due to trampling by other elephants in their herds, three died due to the diseases and one due to infighting.

4. Of the four electrocution deaths and two poaching deaths, the Court is informed by the Additional SP, who is a part of the JTF, that six First Information Reports (FIRs) have in fact been registered. He assures that by the next date, a separate status report will be placed on record by him, i.e., the ASP indicating the progress of investigation in the said six FIRs.

5. The Court notes that as part of the State Action Plan (SAP), which the Court is now informed has been approved by the State Government, Section-1 of Chapter-IV which deals with "Human Elephant Conflict Mitigation" having 19 Action Points. Action Point 6 pertains to "Revision of compassionate payment for both Human death, crop loss, human injury and property damage by wild animals". Although the turnaround time is six months, Dr. Nair informs the Court that every effort is being made to ensure release of ex gratia amounts and compensation in a much shorter period for which purpose, there are District Level Committees and District Level Senior Officers' Meetings being conducted.

6. On the next date, the Court will be informed in a tabular chart the names of persons who have been killed or injured or whose property was damaged by wild animals or those who have sustained crop losses in the last six months and what amounts by way of ex gratia and compensation have been released to such persons or families of such persons as the case may be.

7. There is a series issue about deaths of elephants due to electrocution. Today, in a companion writ petition being W.P.(C) 19625 of 2015, this Court has issued notice to the five major Distribution Companies (DISCOMs) in the State of Odisha which have been made aware of the action plan and their responsibilities thereunder. Dr. Nair informs the Court that at a meeting, convened by the Chief Secretary on 3rd March, 2023, representatives of these DISCOMs had participated. The Court will be informed on the next date by the JTF of the specific time-bound action plans fixing responsibilities on the DISCOMs on the steps to be taken for total prevention of electrocution deaths of elephants. The Court will also be informed as to the corrective action taken in respect of the electrocution deaths that have already taken place including one as recently as yesterday in Dhenkanal. The Court would like to emphasize that drawing up and approving of an action plan is perhaps the first step, but ensuring its implementation, in its letter and spirit, is an imperative. The Court is assured by Dr. Nair speaking for the JTF that they will be ensuring that the SAP that has been rolled out is implemented without let or hindrance. He informs the Court that 79 Forest Guards have now additionally been deployed to aid the JTF in the tasks set out under the SAP.

8. Although the previous date the Court was informed that steps would be taken to convert the Zone-II into a 'shock-proof' zone, Dr. Nair informs that Zones-I, II and III will be required to be made 'shock-proof' as there have been numerous

instances of young bulls among the elephant herds, straying in Zones-I, II and III thus increasing the potential of HWC.

9. The ASP has informed the Court of the progress in FIR No.320 registered at the PS-Jashipur by way of a status report enclosed as Annexure-ZC/1 to the affidavit tendered in Court today by Dr. Nair. It reveals that there have been arrests of further persons suspected of the crime. The ASP present online assures the Court that very soon a charge sheet will be filed in the said case.

10. As regards the case of a poaching death in Similipal, it is stated that the final report has already been filed. The Court will be informed on the next date of the progress in the said case. The separate affidavits of the ASP complying with the directions issued in this order and of Dr. Nair, the Convener of the JTF be filed at least one week prior to the next date. The affidavit of the JTF will also indicate what precise steps have been taken in terms of the action plan where immediate steps were to be taken.

11. The IIC, Jashipur will remain present online on the next date along with the JTF.

12. List on 20th April, 2023 at 10.30 am.

I.A. No.640 of 2023 & I.A. No.3126 of 2023

13. Notice. Copy of these applications be served on Mr. Debakanta Mohanty, learned Additional Government Advocate for the State to enable him to obtain instructions for the next date..

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