

(2013) 01 GAU CK 0030
In the Gauhati High Court
Case No : PIL No.6 of 2008

Human Elephant Learning Programme (Help)

APPELLANT

Vs

State of Assam and Ors.

RESPONDENT

Date of Decision : 10-01-2013

Acts Referred:

Citation : (2013) 2 GLR 493

Hon'ble Judges : A.K Goel, C.J. and N.Kotiswar Singh, J

Bench : Division Bench

Advocate : Mr. B.N. Choudhury, petitioner in person , Mr. RN. Choudhury, amicus curiae for the petitioner.??Ms. B. Goyal, Mr. B.J. Talukdar , Mr. R. Sarma, Asstt. S.G.I., for the respondents., Advocates appearing for Parties

Judgement

A.K. Goel, CJ.

1. This petition filed by way of public interest litigation puts in focus the need to take steps to resolve the human elephant conflicts and steps necessary for conservation of elephants. According to the petitioner, 50 per cent of total population of Wild Asian Elephants is in the State of Assam, but the habitats of the elephants are being encroached upon by human beings at times resulting in loss of human lives and endangering elephants. As per Government of India policy, minimum compensation of Rs.2 lakhs is payable to the next of kin of the victims who lose their lives. There is also need to check degradation of wild life and wild life habitats by adopting the policy of sustainable developments. In the district of Sonitpur, 50 people were killed by elephants in the year 1993. In the year 2001, 30 elephants were poisoned to death. There is need to restore elephant habitats and elephant terrains through which elephant corridors may pass.

2. An affidavit in opposition was filed by the Regional Deputy Director, Wild Life Preservation, ER, Kolkata stating that issue of compensation is under the purview of the State Government. An affidavit was filed by the Principal Chief Conservator of Forests (WL), Assam stating that financial assistance provided by the Central

Government was not adequate. Encroachment was on account of population explosion. The scale of compensation laid down by the government has also been mentioned.

3. The petitioner has also placed on record a report highlighting the problem of degradation of habitats of elephants requiring eviction of encroachers and need to raise the scale of compensation in case of incident of loss of lives or injuries or damage to crops.

4. In further affidavit dated 22nd March, 2011 filed by the Deputy Conservator of Forests, Assam, it was mentioned that the State Government had notified five elephant reserves, but the infrastructure available was not adequate to protect them. There was high biotic pressure and eviction of the encroachers was a challenge. Further affidavit has been filed on 19.3.2012 by the Deputy Secretary to the Government of Assam, Environment and Forests Department stating that forests, officers at all levels have been allowed to use firearms for maintaining public order in all the forests and wildlife areas. The statutory penal provisions have been extended to areas outside the boundaries of the sanctuary. Steps have been taken for improvement of wildlife habitats for proper monitoring and awareness.

5. We requested Shri B.J. Talukdar, learned Government advocate, Assam to personally visit the concerned areas at Guwahati and Tezpur and give his opinion. Shri Talukdar visited various forest reserves and wildlife sanctuaries with the officers from Forests Department and Revenue Department. He found huge encroachments of elephant habitats by construction of houses and dwellings. Loss of human lives was also reported on account of attacks by Rhinos and Elephants. Encroachment was more rampant in Guwahati.

Vide the order dated 24.8.2012, Principal Chief Conservator of Forests, Assam was directed to take action on the points mentioned in the report of the learned Government advocate. We have heard Mr. P.N. Choudhury, learned amicus curiae, learned counsel for the State of Assam and Mr. R. Sarma, learned Assistant Solicitor General of India for the Central Government. The problem of encroachments of the elephant habitats is well acknowledged on the record and so is the problem of victims of attacks by animals. Being matters of serious concern for public safety and environment, these may call for a review of the existing policy and formulation of section plan at the level of the concerned authorities.

6. Having regard to the above facts and circumstances, we direct the Principal Secretary, Forests Department, State of Assam to carry out a review of the existing policy and prepare an action plan in the matter. He may have a joint meeting with the Revenue Secretary and Home Secretary to be presided by the seniormost of the three within a month from the date of receipt of a copy of this order. Any interested party will be at liberty to give their view points to the Principal Secretary, Forests Department, State of Assam within one month. We

also suggest that compensation in case of loss of lives should not be less than Rs.2 lakhs consistent with the policy of Central Government. A action plan be prepared for removing the encroachments and for protecting the elephant habitats. The authorities may consider preparation of a longterm plan for twenty years apart from formulating shortterm measures. The problem of reencroachments may also be considered which may require strengthening of existing mechanism. This may also require periodic review of the mechanism. Procedure for payment of compensation may be simplified. The outline of the policy so framed may be placed before this court. The State of Assam may also consider strengthening the mechanism at the grass root level. The exercise may be completed, as far as possible, within three months after the first meeting. List for further consideration on 31st July, 2013.