
(2009) 05 KAR CK 0036
In the Karnataka High Court
Case No : Writ Petition No. 14029 of 2008

Suo Motu

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 25-05-2009

Acts Referred:

Constitution of India, 1950 — Article 48A, 51A (g)
Wild Life (Protection) Act, 1972 — Section 21, 29, 33 A, 34

Citation : (2009) 4 KCCR 2360

Hon'ble Judges : P.D. Dinakaran, C.J.;V.G. Sabhahit, J

Bench : Division Bench

Advocate : Aravind Kumar, Assistant Solicitor General, Udaya Holla, General, M.R. Naik N. Ravindranath Kamath, Niloufer Akber, AGA, S.S. Haveri, (Amicus Curiae), P.M. Naik, for R5 and C.H. Basappanavar, Wild-lifer and Forester, for the Respondent

Judgement

P.D. Dinakaran, C.J.—The silent beauty and salient features of the nature and environment are described by our Great National Poet, Sri Rabindranath Tagore in "GITANJALI", Poem 45, as hereunder:

Have you not heard his silent steps? He comes, comes, ever comes. "Every moment and every age, every day and every night He comes, comes, ever comes. Many a song have I sung in many a mood of mind, "But all their notes have always proclaimed, "He comes, comes, ever comes" In the fragrant days of sunny April through the Forest path he comes, comes, ever comes. In the rainy gloom of July nights on the thundering Chariot of clouds he comes, comes, ever comes. In sorrow after sorrow it is his steps that press upon My heart, and it is the golden touch of his feet that makes my joy to shine.

Sri Rabindranath Tagore

2. This Public Interest Litigation, unlike other usual adversarial litigation, initiated by this Court, suo motu, based on the press reports as to the mysterious death of elephants in Mysore forest area, Is Intended to draw; the attention of the

Executives their statutory duty and obligation and also to impress upon the public at large, as to their role and contribution for the protection of wild animals, birds and plants In general, the conservation of elephants in particular, with a view to ensure environmental and ecological security of the country at large.

3. This Court, by order dated 7.11,2008, while initiating the above Public Interest Litigation, suo motu, passed the following order:

Extremely shocked and deeply concerned over the news of the death of four (4) elephants under mysterious circumstances near Kappsoge in Nanjangud Taluk and surprised and worried about the statistics that nine (9) elephants died in the last seven days and twenty-five (25) elephants had met with gory death in the last six months around Bandipur and Nagarahole National Park but the authorities concerned are yet to trace any clue for the cause of the said disaster as reported in the Press, this Court suo-motu initiated the present public interest litigation.

2.1. It is apt to quote the words of H.R.H. Prince Philip, the Duke of Edinburgh in his Foreword to International Wildlife Law that:

Many people seem to think that the conservation of nature is simply a nature of being kind to animals and enjoying walks in the countryside. Sadly, perhaps, it is a great deal more complicated than that....

...as usual with ail legal systems, the crucial requirement is for the terms of the conventions to be widely accepted and rapidly implemented. Regretfully progress in this direction is proving disastrously slow....

2.2. The sentiments expressed by H.R.H. Prince Philip is proved to be true.

3. The Apex Court observed regarding the measures for protection of environment, ecology and wildlife in Tarun Bharat Sangh, Alwar Vs. Union of India and others, as quoted hereunder:

The conception of ecological balance in nature is based on the fundamental concept that nature is "series of complex biotic communities of which a man is an interdependent part" and that it should not be given to a part to trespass and diminish the whole. The largest single factor in the depletion of wealth of animal life in nature has been the "civilised man" operating directly through excessive commercial hunting or, more disastrously, indirectly through invading or destroying natural habitats.

4. The protection of ecology, environment and the wildlife should be the prime concern of the Government, particularly, the authorities meant for that purpose.

5. For these reasons, the present litigation should not be treated as the usual adversarial litigation.

4. With this note of anguish, we, by order dated 7.11.2008, directed the State

Government and the Central Government to take the impugned issue seriously; study, investigate, collect materials and furnish a report by 14.11.2008 as to the cause for the death of elephants, the lapse on the part of the authorities concerned, the action taken against them for such lapses, if any, the remedial measures proposed to be taken to prevent such disaster in future, the precautions to be taken to protect the wildlife, etc.

5. We also appointed the learned Advocate General and the Assistant Solicitor General to assist the Court and welcomed the views/suggestions from the Bar.

6. Thereafter, on 14.11.2008, a further direction was issued as hereunder:

Heard the learned Advocate General, Sri Aravind Kumar, learned Asst. Solicitor General, Sri M.R. Naik, learned Senior Counsel, Sri N. Ravindranath Kamath, Advocate and Dr. C.H. Basappanavar.

2. Since the investigation as to the suspicious death of the elephants reported in the Press on 6.11.2008 is still going on, we are of the considered opinion that it may not be proper for this Court to express any opinion at this stage; as otherwise, it would affect the investigation and further action contemplated, in accordance with law.

3. That apart, the learned Advocate General, Assistant Solicitor General, other senior Counsel and experts, who have come forward to assist the Court, seek further three weeks" time to submit their comprehensive report in the matter and pray for an adjournment.

4. In the meanwhile, we direct the investigation to be completed and final report submitted.

7. When the matter came up for further hearing on 16.2.2009, the learned Advocate General took further time for filing a report on the issue. Thereafter the matter came up for further hearing on 9.4.2009. On 9.4.2009, the Government submitted a report and an Action Plan dated 11.3.2009 called "Elephant Landscape" before this Court suggesting the recommendations for the short-term as well as long-term measures.

8.1. The report and the Action Plan, i.e. "Elephant Landscape" dated 11.3.2009, contain the details relating to:

(I) Status and Distribution of Elephants;

(II) Status of the Elephant Habitat;

(III) Human-Elephant Conflict;

(IV) Why Elephants raid crops;

(V) Staff requirements;

(VI) Research requirements;

(VII) Recommendations - Short-term & Long-term measures;

8.2.1. It is apt to extract the following passages of the said report and Action Plan dated 11.3.2009 under each of the topics:

8.2.2. Status and Distribution of Elephants:

Given the fact that elephants are far ranging species, it becomes very important for interstate cooperation and coordination to achieve goals that are common and beneficial to all states involved.

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This calls for planning at the landscape level which sets overall goals and targets for the landscape and identifies the process of achieving these goals.

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In addition to different administrative areas, multiple government agencies are actively involved in implementing development agendas or in law enforcement in and around elephant habitats. As these different departments often work in isolation there are times when their activities are counterproductive. It is therefore essential for all agencies working on developmental activities to coordinate with the Forest Department so as to bring about ecologically-compatible development in these areas. Law enforcement agencies too can play a vital role in helping the Forest Department to enforce wildlife laws.

What is needed is the recognition that integrated land use and developmental planning is needed in areas with elephant habitat otherwise both people and elephants will suffer.

8.2.3 Population Dynamics:

The elephant population of Karnataka is currently (2007) estimated by sample block count to be around 4,000 to 5,000 in the State (census conducted by the Forest Department with the technical assistance of Asian Nature Conservation Foundation, c/o IISc, Bangalore, See Table 1 for details). A significant increase is thus indicated from the population estimated in the early 1980s by the Forest Department, which was 2100 to 2650 (reference: "Elephant-Man Conflict in Karnataka" by R. Sukumar in the Karnataka State of Environment Report 1984-1985). This increase has come about in the last 2-3 decades and is perhaps significant even if we assume the possibility of some underestimate in the earlier period and differences in the census method used (so-called "total count" in earlier periods compared to sample counts that has higher statistical validity in recent periods).

Elephants can potentially live up to 60-70 years, perhaps somewhat less in the wild. The average natural mortality rate is estimated at around 15 to 20% in infants (calves up to one year old), 5% up to 5 years old and 1-3% for elephants above 5 years. The death rate of males is generally higher than that of females

as the former compete among themselves for females (they are polygynous and sexually dimorphic) and are also biologically more prone to death from several natural causes. Besides, poaching for ivory takes a heavy toll of the bull population. Given a birth rate of one calf every 5 years by a mature female, an elephant population can be expected to be growing when the adult female mortality rate is less than about 2.5 to 3% per year (R. Sukumar, 1989, *The Asian elephant*. Cambridge University Press). The elephant mortality in Karnataka during the past 6 years for comparison; assuming a total population in the state of about 4500 elephants, the mortality figures indicate that the overall (without differentiating male and female) death rates in the last few years have been around 2 to 3%. Thus, the adult female death rate is almost certainly less than 2% per year, implying that the population is capable of growing in spite of the loss of bulls to poaching.

8.2.4. High Elephant Density:

With regard to the problems associated with high elephant density, it is reported as hereunder:

Elephants keystone species that modify their own habitat which in turn facilitates creation of resources for other species (Jones, et al. 1994, *Organisms as ecosystem engineers*. *Oikos* 69: 373-386). While such impact can enhance or maintain biodiversity, elephants at high densities can also potentially have an adverse impact on their habitat and that of other species in certain habitat and climatic types as in African savannas (Fritz, et al. 2002, the influence of megaherbivores on the abundance of the tropic guilds in African ungulate communities. *Oecologia* 131: 620 - 625). Studies done in Mudumalai Tiger Reserve (Tamil Nadu) which is adjacent to Bandipur NP have indicated that a density of more than one elephant per sq km can make a significant impact on certain species of plants (source: Daniel et al. 1994, BNHS report) though some of these plant species may also regenerate strongly in the longer term even at high elephant densities (data from plots maintained by IISc at Mudumalai). The relationship between elephants and their habitats is thus complex, and the African observations may not be entirely appropriate for the Indian situation. Current elephant densities in the Nilgiris-Mysore-Eastern Ghat landscape are high and the total population is also large.

We need to define what our biodiversity conservation objectives are for various areas with elephants. We then need to formulate management strategies on how best this diversity can be maintained in an elephant-inhabited landscape as current landscapes are not the large ecosystems they once were and are more likely to be prone to irreversible changes.

Carrying capacity is difficult to assess; while elephants "damage" mature and recruitment class trees (also saplings for some species), the impact of fires and climatic factors can also be considerable.

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The issue of "carrying capacity" is contentious, even In the African context. Indicators of carrying capacity could be irreversible declines of favoured tree species of elephant and/or dispersal of elephants from their normal home range or habitats.

Unfortunately the concept of population management is largely missing from the management concepts in India. There is an urgent need to change this and bring about a more pragmatic approach to conservation management.

8.3. Elephant Habitats:

On status of elephant habitats, the report reads as hereunder:

Over time, elephant habitat has been shrinking due to conversion of forests to non-forest use (i.e. forests on private and revenue land, reserve forests diverted for developmental activity or encroached). For example forest cover in Kodagu has declined from 2566 km² in 1977 to 1841 km² in 1997, more than 18% loss in a span of 20 years (C. Elouard, 2000 Transformation and Degradations of Natural Forests, in Ramakrishnan, P.S. Chandrashekara, U.M., Elouard, C., Gullmoto, C.Z., Maikhuri, R.K., Rao, K.S., Saxena, K.G. & Shankar, S. (eds), Mountain Biodiversity, Land Use Dynamics and Traditional Ecological Knowledge. Oxford and India Book House, New Delhi, India). Habitat has also become increasingly fragmented through such activity. Increasing human activity in elephant habitat (e.g. heavy traffic on forest roads; human presence) is further hindering their free movement and use of the habitat.

Fragmentation of habitat results in the creation of habitat patches that may not be adequate to support the elephant population contained in them. Given their large home ranges and resource requirements home ranges may extend beyond a single habitat patch. This could result in the creation of pocketed populations or populations that move between habitat patches using human use areas during their movement between habitat patches. In both the cases HEC will be severe and the long-term viability of the elephant population is compromised.

Loss and fragmentation of habitat are largely driven by poorly planned development or illegal activities. Integrated land use planning and more effective law enforcement should be able to mitigate this problem to a large extent.

In addition to loss and fragmentation, the habitat has become increasingly degraded due to biotic pressure from surrounding human populations (e.g., over-grazing by cattle, fuel wood collection, anthropogenic forest fires). Invasion by exotic weeds like Lantana, Eupatorium and Parthenium has also degraded the habitat significantly. Lantana has aggressively invaded large areas of the forests, thus reducing the palatable forage available for wild animals. Forest fires (largely of anthropogenic origin) that reduce dry season fodder and also suppress regeneration also contribute to habitat degradation (Daniel, et al., 1987).

Fuel wood collection can only be minimized when local people shift to alternate sources of fuel. A very good example of such a shift is in Bandipur NP where

"Namma Sangha" has managed to wean away more than 16000 families from nearly 190 villages along Bandipur NP boundary by supplying LPG. The sustained efforts needed and the problems that need to be overcome to execute and maintain such a huge undertaking are many, but this is the direction we need to move in. Similarly cattle can be reduced and eliminated if alternate sources of livelihood that enhance the standard of living are given to people.

Weeds need to be tackled in a very serious manner, in the short term critical areas for wildlife need to be cleared of weeds. Unscientific and hearsay information that indicates weeds as being beneficial or that they are an integral part of the evolutionary process should not find place in management. Given the small patches of habitat we have remaining for wildlife and the small populations of endangered species, there is little room for errors that could undermine existing conservation efforts. If at a later date data can be found to support the need to have weeds in our forest, it would not take great efforts to reintroduce them. For the moment we need to work towards minimizing weeds.

In addition to size, the shape of the habitat patch also has a bearing on its suitability as an elephant habitat and the biotic pressure that is exerted on it by the surrounding human population (D. Boominathan, N. Mohanraj, T. Aziz and A. Desai, 2008. Human-elephant conflict in Somwarpet Sub-Division (Madikeri Forest Division). Report WWF-Asian Rhino and Elephant Action Strategy. WWF - India)). Poorly shaped habitat patches become unsuitable as elephant habitat, because they cannot encompass an entire intact home range without significant parts of it having been converted to human use and they have almost their entire area exposed to human pressures as no part of the habitat may be beyond human reach (Boominathan et al. 2008). Bannerghatta NP is an example of such an area.

8.4.1. Human-Elephant Conflict (HEC):

The report further states that Human-Elephant conflict (HEC) is a major obstacle in the elephant conservation and as a result, the retaliation killing of elephants is increasing over time due to the increase in socio-economic aspirations of human being.

8.4.2. Retaliation Killing of the Elephants:

With regard to the retaliation killing of the elephants, it is reported that:

Retaliation is generally the last resort for farmers and it originates from severe HEC situations that are beyond the means of local farmers to resolve by their own efforts. So the first step would be to put in place proper HEC mitigation mechanisms and then use strict law enforcement to ensure that no retaliatory killings take place.

There is also a need to improve the capacity of veterinary doctors dealing in such postmortems so that they have the specialized knowledge in detecting the exact causes for death in elephants. All relevant samples should also be collected for

full and proper investigation.

8.4.3. Elephants fall Victim to Power-Lines and Explosives;

In addition to retaliatory killing of elephants, elephants also fall victim to power-lines and explosives set for wild pig. Depredation of crops by wild pigs is a serious problem in most areas. As there is no real effort to protect pigs, farmers tend to protect their crops by illegally tapping electricity from the mainline or use explosives hidden in food items to kill pigs. Elephants become unintentional victims when they come in contact with the power fences; these lines are set at just 30 cm off the ground and elephants can easily step over them. As such it is only accidentally that elephants come in contact with them. Similarly explosives hidden in food items (e.g., ragi balls and wheat balls) are set for pigs but elephants become accidental victims when they come across these items and try to eat them. The explosion severely damages the mouth and tongue and can even break the jaw. Elephants usually starve to death after such injuries.

8.4.4. Building Awareness about the Potential Harm:

Building awareness about the potential for harm (from power lines) to elephants and routine patrolling along the peripheral agricultural fields would help to ease this situation. Electrocutions of elephants in the Sathyamangalam areas were significantly reduced through an awareness programme by WWF and routine visiting of villages by the Forest Department staff and WWF staff (Sivasubramanian, WWF India, pers. Comm.). While such action will yield results in the short term, the inability to maintain adequate patrolling in the long term coupled with serious crop depredations by wild pig would result in people resorting to using power lines again. The problem of crop depredations by wild pigs also needs to be addressed if such accidental killings are to be resolved.

In addition there are cases of elephants getting electrocuted when transmission lines hang too low (within reach of elephants) or where there is the possibility of bamboo touching these lines when elephants are feeding on them. This issue is not rotated to HEC and merely stems from negligence; there are guidelines which when violated have clear administrative and legal procedures to be followed to resolve the issue.

8.5. The report also provides the reason as to why the elephants raid crops as hereunder:

Fundamentally it must be recognized that cultivated crops represent a source of highly concentrated, palatable and nutritious source of forage for elephants that would find these attractive when presented with an opportunity to feed on them (Sukumar 1989). However, the mere presence of an agriculture-forest interface will not induce all elephants to raid as shown in one study in the Nilgiris (M. Balasubramanian, N. Baskaran, S. Swaminathan and A.A. Desai, 1995. Nilgiri Biosphere Reserve, South India, In: A week with elephants, eds. J.C. Daniel and H. Hatye. Oxford University Press, Bombay). But if the bulk of their traditional

home range has been lost, degraded and fragmented, and the remaining forest patches are less than their minimum requirements, then they will raid crops. In highly fragmented areas, the inability of elephants to move anywhere without encountering or intruding into agricultural areas will certainly result in greater conflict (Sukumar 1989 and several other studies).

When habitat loss, fragmentation or degradation occurs, only those clans/males whose home range have been affected by mm loss, fragmentation and degradation will be affected and they are likely to raid crop. Elephant clans whose home ranges are not affected by habitat loss or fragmentation are not likely to raid crops. Studies done by Balasubramanian et al. (1995), Fernando et. al. (2005) and Williams et al. (2001) support this view and clearly indicate that all elephants in certain populations do not raid crops, only some do, though in some regions of the country as in northern Bengal all elephants may indulge in raiding to varying extents (Sukumar, Roy, Baskaran et al. 2003. Study of elephants in the Buxa-Jaldapara Reserves, West Bengal. CES, IISc, Bangalore).

Males have a greater propensity to raid crops on average in more intact habitats (Sukumar, 1989). Dispersing males may encounter agriculture when establishing their new home ranges and also learn to raid crops through their associations with other crop raiding males. Males are also better able to exploit degraded areas around human use areas due to their solitary nature and because of their larger body size. This could bring them into greater conflict with agriculture.

However, in areas where severe compression of elephants into smaller habitat fragments occurs, the resultant high densities or high levels of habitat loss and fragmentation would affect all elephants in that area and then all are likely to be affected adversely and consequently all are likely to raid crops (Desai, 1998).

8.6. Dearth of staff in forest department:

The report further reveals that there is dearth of staff in the Forest Department required for elephant conservation and the same has to be attended immediately.

8.7.1. Short term and long term measures

The report also provides recommendations for short-term and long-term measures.

8.7.2. Short term measures

As a short-term measure, it is recommended as follows:

(i) To fill-up vacancies

(ii) To pay reasonable compensation- both for the crop damage and human injury, which should be made expeditiously by the Deputy Conservator of Forests, which would avoid distress among the victims of crop damages and human injury.

(iii) The facility for mobility should be increased.

- (iv) Local volunteers should be engaged in the surrounding villages to deal with the human-elephant conflict.
- (v) Flying Squads in the sensitive region should be provided with the wireless equipped vehicle, arms and ammunition.
- (vi) Wildlife laws should be strictly enforced.
- (vii) NGOs should be engaged to create awareness, and
- (viii) Efforts should be taken to maintain the habitat of elephants.

8.7.3. Long-Term Measures:

- (i) Providing of Elephant-proof trench and high voltage electric fences;
- (ii) Introduction of barriers in a phased manner;
- (iii) Change in cropping pattern;
- (iv) Integrated land-use planning in elephant landscapes;
- (v) Population management; and
- (vi) Institutional strengthening and capacity building;

9. Thereafter, the matter was adjourned to 9.4.2009, on which, date Mr. M.R. Naik, the learned senior Counsel and Dr. C.H. Bassappanavar, Retired Forester and Wild-lifer who were permitted to assist the Court, submitted that the report dated 11.3.2009 filed on 12.3.2009 referred to above, does not refer to the directions of the Supreme Court made in connection with the protection of elephants. Hence, the matter was again adjourned to 13.4.2009 to enable the Government as well as Mr. M.R. Naik and Dr. C.H. Bassappanavar to file a comprehensive report.

10.1. On 17.4.2009 the Government filed a Comprehensive Action Plan for conservation and protection of elephants and other wildlife in the State.

10.2. The report filed on 17.4.2009 reads as hereunder:

Government of Karnataka is fully committed for the conservation of elephants and other wildlife and proposes a time bound action plan as per the directions of the Hon''ble Supreme Court and the recommendations of the various committees constituted to study the problem.

Government of Karnataka has duly Implemented the directions of the Hon''ble Supreme Court some of which are listed below:

Constitution of Wildlife Advisory Board - Government of Karnataka has in the recent years constituted the State Board for Wildlife headed by the Hon''ble Chief Minister. The State Board for Wildlife was constituted on 17-06-2006 under the Chairmanship of Sri H.D. Kumaraswamy the then Chief Minister. A meeting was also convened on 19-07-2007. Recently the State Board for Wildlife has been

reconstituted on 02-03-2009. The meeting of the newly constituted Wildlife Board will be convened shortly.

Appointment of honorary Wildlife Wardens - Government of Karnataka has been regularly appointing honorary wildlife wardens. The latest order appointing honorary wildlife wardens was issued on 22-02-2007 and 02-08-2007.

Wildlife Act, Section 21 - final notification -Government of Karnataka has issued final notifications for all the 5 national parks and 21 wildlife sanctuaries.

De-notification of Protected Areas -Government of Karnataka will follow all the procedures laid down for the de-notification of any Protected Area.

Wildlife (Protection) Act - modern arms to Forest Guards - A total number of 570 arms with ammunition have been given to the forest officials. This includes 342 double barrel guns, 129.315 rifles, 11 pistols, 11 revolvers and 77 latest slide action guns procured from the United States of America.

Number of forest officials has been trained in use of weapons from 2005 onwards.

Live stock immunisation - Immunisation of cattle in and around Protected Areas is done regularly to prevent any breakout of communicable diseases to the wild animals from the domestic cattle. 82688 cattle were immunised during 2008-09 in various Protected Areas of the State. A list of cattle immunised during the last 4 years.

Registration of weapons - During the last couple of years the District Administration and local Forest Officers are forwarding letters seeking permission of the Chief Wildlife Warden for issuing of weapons licence. Chief Wildlife Warden after verification is either permitting or rejecting these requests. Action also will be taken to see that the old licenced weapons with the people living within 10 Kms. radius from the Protected Areas will be done within the next 6 months.

Transfer of land - As per the directions of the Hon''ble Supreme Court on 16-09-2002 prohibiting the transfer of land for the next 50 years except by way of succession within the sanctuary, the necessary instructions will be issued to the concerned departments within 3 months.

Government of Karnataka has initiated a number of actions to protect the wildlife in the Sanctuaries like anti poaching camps, elephant scaring camps, creating barriers, special force for tiger protection, employment of tribals, inter state border meetings at various levels, etc.,. It will be seen that In future these initiatives will be enhanced to see that wildlife is properly protected.

In continuation of the measures already taken as per the directions of the Hon''ble Supreme Court, Government of Karnataka proposes the following short term and long term measures in a time bound manner to reduce the man-elephant conflict as well as to protect the wildlife in the State.

10.3. Dr. C.H. Bassappanavar, Forester and Wild-lifer also filed an Action Plan on

17.4.2009 and the relevant portion of the same reads as hereunder:

Action Plan to Mitigate Human-Elephant Conflict

The Action plan is to help mitigate Human-Elephant conflict through effective management practices, Incorporating scientific & technological inputs, supported by professional knowledge, dovetailed with dedication and accountability. The Asian elephant is since facing severe threat due to natural causes and human induced concerns, the following are the important suggestions in random order that need defining directions by this Hon"ble High Court of Karnataka:

1. Elephant Conservation is synonym to Bio-diversity Conservation that is reckoned in recent times, as an antidote to resolve global warming and climate change. Hence, elephant conservation assumes global significance.
2. Wildlife management is a specialised scientific discipline; all possible precautionary and protective measures need to be taken to mitigate conflicting factors than attempting to search for remedial measures after disasters are struck by wild animals like elephants and tigers.
3. Ensure Interconnectivity of island-like potential habitats by insular corridors that help socialisation with distant populations and maintain healthy gene pool among wildlife.
4. Bring in total ban on growing palatable crops & tobacco in eco-fragile area around the parks, by encouraging alternate crops: castor, cotton, Niger, etc. which is non-palatable.
5. Make crop insurance, a mandatory in eco-fragile areas around the reserves, with the participation of department of agriculture, followed by timely settlement of compensation/claims.
6. Need to provide farmers Coal for tobacco curing barns under subsidy by Tobacco Board to wean them away from entering forests for firewood.
7. Need to specify time limit for settlement of compensations/claims towards crop damage, human injury/deaths, by the Forest/Wildlife departments.
8. Money generated from eco-tourism is used to make park self sufficient to manage, improve tourist facilities & share at least 1/3 of it to better living conditions of local communities, Section Officer as to muster their participation in conservation programme.
9. Tourist outfits located just adjoining national park boundaries need to be uprooted and relocated beyond 5 km from borders, as per dictums of Indian Board for Wildlife Preservation and Project Tiger Consultative Committee.
10. Ensure placement of trained anti-poaching squads in modern weaponry, through State Police Academies to deal with hardcore criminals. Squad Personnel be provided with special hardship perks and other facilities.

11. Appoint trained personnel in wildlife Management and Wildlife related laws to deal with crimes, followed by prosecution in court of law, in action to manage wildlife and their habitats in a professional way. They need to improve personnel capabilities and bring in accountability in personnel management.
12. Need to empower Forest, Wildlife and Police officials with more legal teeth to deal with hard core offenders and to pronounce summary punishment, though ban on trade in wildlife skins, ivory and other body parts are imposed, black markets still thrive with penalties too small and rewards too great.
13. Farmers having squatted in encroached forest land without patta need to learn to live with elephants in harmony (as tribals have learnt to live for ages). Encourage farmers switch over to improved breeds of much cows & livestock with stall feeding facilities.
14. Encourage applied research involving universities and research institutions by providing fellowships, set aside for the purpose. This is one field requiring big Investment, because in the absence of research data, it is a truncated management.
15. Need to boost funding by the Government to preserve Invaluable biodiversity resource, in particular the elephant and the tiger. The country/state is in a position to foot the bill of biodiversity conservation.
16. There is urgent need to relocate tribal communities out of PAs, so as to keep the habitats free from anti-elephant communities & to bring tribals on main stream of human society as per approved scheme of the Government of India.
17. Field staff patrolling to protect forests wealth and wildlife and so also officials managing national parks and sanctuaries, along with their vehicles shall have to be exempted from general/local election duties.
18. There is need to initiate brain-storming exercise to proclaim unlawful acts like poaching, poisoning, electrocution, snaring of elephant/big cats coming under Schedule I of Wildlife (Protection) Act 1972, as heinous crime.
19. Need to inter-connect potential areas (PAs) with insulated corridors to facilitate elephants from island like areas to socialise with distant herds. This could be done to start with and gradually expanding region-wise to start with, viz., all southern states-Maharashtra, Goa, Karnataka, Kerala, Tamilnadu and Andhra Pradesh.
20. Need to have Interstate Coordinating Committee comprising southern states headed by concerned Forest & Environmental Ministers, who meet once yearly, followed by Heads of Departments & Child Wildlife Wardens, who may meet twice a year to discuss policy matters concerning wildlife, environment & forestry including upkeep of frontier lines. The committee shall take stock of elephant herds that may spill over to neighbouring state to break new grounds, the concerned state should welcome them as revered guests since they are known

to bring good luck and rains.

21. Field staff managing wildlife need be covered by insurance against accidents, injuries and deaths, while on duty apart from providing risk to life allowances, as they are required to perform duties in hostile environment and even night times.

22. There is urgent need to declare biodiversity - Forest & Wildlife as priority sectors, so as to give quick and deterrent punishments to hardcore offenders, apart from affording total protection.

23. Huge stock-pile of ivory is in the custody of state forest department. The entire stock needs to be destroyed/burnt, since domestic and international trade in ivory is banned. This ban is likely to continue in perpetuity. By doing so it would send a strong message to the world community that we do not attach any value, in particular, illegal ivory traders and poachers. Nearly 12 tonnes of African ivory valued at US \$ millions was burnt by former President Daniel Arap Moi of Kenya on 18th July 1989 sending a powerful message to the world Ivory traders, smugglers and users too. Moi's dramatic action was part of a sustained campaign by conservationists' world over.

24. Government of Karnataka need to take immediate action to form a High Level Statutory Body "Advisory Body For Wildlife Conservation" in Karnataka with needed statutory powers to advise the state Government on all important policy matters including elephant and tiger conservation and to monitor the action taken there on, as per the direction of the Supreme Court of India.

25. Last but not the least, efficient wildlife conservation management requires effective "Management Plan" for each of the protected areas, incorporating available scientific & technological data inputs, previewed by specialists/scientists before it is sanctioned by the government.

10.4. Mr. M.R. Naik, learned senior Counsel brought to the notice of this Court the following decisions of the Apex Court relating to the Wildlife Protection:

1. Tarun Bharat Sangh, Alwar Vs. Union of India and others, ;
2. Pradeep Krishen Vs. Union of India and Others, ;
3. Center for Environmental Law, WWF-I Vs. Union of India (UOI) and Others, ;
4. Essar Oil Ltd. Vs. Halar Utkarsh Samiti and Others, .

and also the directions given by the Apex Court from time to time in the case of Centre for Environmental law - WWF India v. Union of India and Ors. on 22.8.1997, 7.11.1997, 16.1.1998, 20.3.1998, 17.7.1998, 13.11.2000, 31.1.2001, 16.9.2002, 28.4.2003, 22.8.2003, 5.09.2003, 22.9.2003, 7.11.2003, 9.2.2004, 16.4.2004, 23.11.2005 and 16.12.2005.

10.5. Mr. Aravind Kumar, learned Assistant Solicitor General, submits that the Central Government would provide all possible support to protect the wildlife population in the State of Karnataka and the Central Government also would take

effective steps for the protection of elephants even in all four neighbouring states namely Karnataka, Andhra Pradesh, Kerala and Tamil Nadu, invoking the power u/s 38 of the Wildlife Protection Act, 1972.

10.6. Mr. Udaya Holla, learned Advocate General, appearing on behalf of the State as well as assisting the Court, placing reliance on the report dated 17.4.2009 and Elephant landscape dated 11.3.2009 submits that the State of Karnataka would make all sincere efforts for conservation of elephants and to prevent any unnatural death of elephants. The learned Advocate General also undertakes that the State would make all efforts to remove encroachments in the forest area and to restore the forest area.

10.7. Dr. C.H. Bassappanavar submits that the Government as well as the public at large should show all sincere concern for conservation of elephants and to protect the elephants from unnatural death, as suggested in his report filed on 17.4.2009, which is referred to above.

11. We have given our careful consideration to the submissions made by Sri Aravind Kumar, Assistant Solicitor General, Sri Udaya Holla, Advocate General, Sri M.R. Naik, Senior Advocate, Sri N. Ravindranath Kamath, Advocate, Sri S.S. Haveri, Advocate as Amicus Curiae, Sri P.M. Naik, Advocate for R5 and Dr. C.H. Basappanavar, Forester and Wild-lifer, in the light of their respective reports referred to above.

12.1 The Hon'ble Supreme Court, in Tarun Bharat Sangh (supra) appointed a Committee consisting of the authorities of the State charged with the duty of enforcing the statutory measures and some experts in the field under the Chairmanship of a retired Judge. The task of the Committee primarily is to ensure the enforcement of the notifications and the orders of this Court and to prevent devastation of the environment and wildlife within the protected area.

12.2. Again, in the case Pradeep Krishen (supra), the Hon'ble Supreme Court has emphasized the binding force of Articles 48-A and 51-A(g) of the Constitution on the State and a citizen to protect and improve the national wildlife of the country.

12.3. In Centre for Environmental Law - WWF India (supra), the Supreme Court, from time to time has issued the following directions/guidelines:

22.8.1997-

2. A perusal of the affidavits that have been filed on behalf of the States and Union Territories shows that in some of the States Wildlife Advisory Boards have either not been constituted or where constituted earlier and after the expiry of the term of the Board, that was constituted, there has been no reconstitution of the Board. In the States in which Wildlife Advisory Board has not been constituted or where the Board had earlier been constituted, but the term has expired and the Board has not been reconstituted, necessary steps should be taken to constitute/reconstitute the Wildlife Advisory Board within a period of two

months.

3. As regards the appointment of Wildlife Wardens, we find that in some States Wildlife Wardens have not been appointed at all, while in some States Wildlife Wardens have been appointed for some areas but have not been appointed for other areas. It is directed that the concern State/Union Territory shall take necessary steps to appoint Wildlife Wardens for all these areas within a period of two months.

4. xx xx

5. As regards denotification of any area which is included In a sanctuary/National park, it is directed that before placing the proposal before the Legislative Assembly, the concerned State Governments shall refer the proposals to the Indian Board for Wildlife for its opinion and the proposal shall be placed for consideration before the Legislative Assembly along with the opinion of the Indian Board for Wildlife.

6. In order to effectively control the growing increase of poaching in the sanctuaries/National parks the Central Government as well as the Governments of States/Union Territories are directed to ensure that the forest guards in the sanctuaries/national parks are provided modern arms, communication facilities, viz., wireless sets and other necessary equipment in this regard. Necessary steps for that purpose shall be taken within six months.

7.11.1997-

4. In the affidavit filed on behalf of the State of Karnataka, it is stated that Wildlife Advisory Board has been constituted but the date of the constitution of the Board has not been mentioned. The learned Counsel for the State prays for one week time to file an affidavit, Indicating the date on which the Wildlife Advisory Board was constituted.

xx xx xx

10. As regards Issuance of proclamation u/s 21 of the Act, we find from the affidavits filed on behalf of the States that in the event of the States such proclamation has not been issued in respect of the National parks and sanctuaries, the State Governments are directed to take the necessary steps in that regard. The same shall be done within two months, failing which contempt proceedings will have to be initiated against the State concerned.

16.1.1998-

9. In the State of Karnataka there are five national parks and 19 sanctuaries, but the affidavits that have been filed on behalf of the State, no information has been furnished with regard to issuance of proclamation u/s 21 or the issuance of the final notification.

20.3.1998-

2. As regards the State of Karnataka, an affidavit has been filed which shows that the Forest Settlement Officers have been appointed and ten weeks' time is sought for issuing the proclamation. Time prayed for is allowed.

17.7.1998-

1. By our order dated 20.3.1998, ten weeks' time was granted to the State of Karnataka to issue the necessary proclamation. No body appears for the said State to indicate as to what steps have been taken nor has any affidavit been filed. In the circumstances, notice for initiating contempt proceedings be issued to the Chief Secretary to the State of Karnataka. Personal presence is dispensed at this stage.

12.4. In *Essar Oil case* (supra) the apex court while emphasizing the duty and obligation of the state and citizen to protect and improve the natural environment held as follows:

25. ...Article 48-A of the Constitution now provides that the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country under Article 51-A(g) to protect and improve the natural environment Including forests, lakes, rivers and wildlife, and to have compassion for living creatures.

26. Certain principles were enunciated in the Stockholm Declaration giving broad parameters and guidelines for the purposes of sustaining humanity and its environment. Of these parameters, a few principles are extracted which are of relevance to the present debate. Principle 2 provides that the natural resources of the earth including air, water, land, flora and fauna especially representative samples of natural ecosystems must be safeguarded for the benefit of present and future generations through careful planning and management as appropriate. In the same vein, the fourth principle says:

man has special responsibility to safeguard and wisely manage the heritage of wildlife and its habitat which are now gravely imperiled by combination of adverse factors. Nature conservation including wildlife must, therefore, receive importance in planning for economic developments.

27. This, therefore, is the aim, namely, to balance economic and social needs on the one hand with environmental considerations on the other. But, In a sense all development is an environmental threat. Indeed, the very existence of humanity and the rapid increase in the population together with consequential demands to sustain the population has resulted in the concreting of open lands, cutting down of forests, the filling up of lakes and pollution of water resources and the very air which we breathe. However, there need not necessarily be a deadlock between development on the one hand and the environment on the other. The objective of all laws on environment should be to create harmony between the two since neither one can be sacrificed at the altar of the other. This view was also taken by this Court in *Indian Council for Enviro-Legal Action v. Union of India* where it

was said:

While economic development should not be allowed to take place at the cost of ecology or by causing widespread environment destruction and violation: at the same time the necessary to preserve ecology and development and environment must go hand in hand, In other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment.

13. In this connection it is apt to refer Sections 21, 29, 33A and 34 of the Wildlife (Protection) Act, 1972 which read hereunder:

Section 21. Proclamation by Collector.- When a notification has been issued u/s 18, the Collector shall, within a period of sixty days, publish in the regional language in every town and village in or in the neighbourhood of the area comprised therein, a proclamation-

- (a) specifying, as nearly as possible, the situation and the limits of the sanctuary;
- (b) requiring any person, claiming any right mentioned in Section 19, to prefer before the Collector, within two months from the date of such proclamation, a written claim in the prescribed form, specifying the nature and extent of such right with necessary details and the amount and particulars of compensation, if any, claimed in respect thereof.

Section 29 - Destruction, etc. in a sanctuary prohibited without a permit,- No person shall destroy, exploit or remove any wildlife including forest produce from a sanctuary or destroy or damage or diver the habitat of any wild animal by any act whatsoever or divert, stop or enhance the flow of water into or outside the sanctuary, except under and in accordance with a permit granted by the Chief Wildlife Warden, and no such permit shall be granted unless the State Government being satisfied in consultation with the Board that such removal of wildlife from the sanctuary or the change in the flow of water into or outside the sanctuary is necessary for the improvement and better management of wildlife therein, authorizes the issue of such permit:

Provided that where the forest produce is removed from a sanctuary the same may be used for meeting the personal bona fide needs of the people living in and around the sanctuary and shall not be used for any commercial purpose.

Section 33-A. Immunisation of livestock.- (1) The Chief Wildlife Warden shall take such measures in such manner, as may be prescribed, for immunisation against communicable diseases of the livestock kept in or within five kilometres of a sanctuary.

- (2) No person shall take, or cause to be taken or grazed, any livestock in a sanctuary without getting it immunised.

Section 34. Registration of certain persons in possession of arms.- (1) Within three months from the declaration of any area as a sanctuary, every person

residing in or within ten kilometres of any such sanctuary and holding a licence granted under the Arms Act, 1959 (54 of 1959), for the possession of arms or exempted from the provisions of that Act and possessing arms, shall apply in such form, on payment of such fee and within such time as may be prescribed, to the Chief Wildlife Warden or the authorised officer, for the registration of his name.

(2) On receipt of an application under Sub-section (1), the Chief Wildlife Warden or the authorised officer shall register the name of the applicant in such manner as may be prescribed.

(3) No new licences under the Arms Act, 1959 (54 of 1959) shall be granted within a radius of ten kilometres of a sanctuary without the prior concurrence of the Chief Wildlife Wardens.

14. It is universal truth that the global community has now become aware of the necessity of environmental maintenance in the phase of growing ecological Imbalance. A time has come to work-out a world wide strategy that has to be adopted uniformly and universally to save the earth, environment and ecology so that proper and equitable distribution of natural resources can be ensured to make a sustainable development, leaving the natural resources to, remain for future generation as well.

15. It is enough, man exploited and plundered the natural resources up to the hilt, probably, to meet the growing demand and its ever increasing population without caring for the adverse effect on account of his action on the environment, as a result, the eco-system has met with untold damage. The loss is not for the environment alone but it is more for the human beings by way of shortage of fresh air, pure water, etc.

16. The non-maintenance of environment and ecology has a major impact on the value of bio-diversity. The term "biodiversity" is commonly used to refer variety of life on earth.

17. Bio-diversity differs from place to place. It is used to describe the number of species present in a particular habitat or to show the range or type of organisms found there. In other words, Bio-diversity can be defined as the total number of species and the genetic variability within each species and it is nothing but variety and variability. This further leads us to realize the importance of the habitat of the organisms.

18. Habitat is a place where an organism lives, which provides suitable food, shelter and climatic condition, so that the organism can easily survive, breed and flourish. If a particular species, whether it belongs to category of animals or plants would survive, breed and flourish only under a particular habitat, the law of nature mandates that habitat of such species is environmentally, ecologically maintained without causing any harm to the same.

19. It is true, that diversity of life forms as a result of constant adaptation and

adjustment to the changing environmental conditions, spread over millions of years. But the question is, to what extent there could be an imbalance in the environmental and eco-system in excess to the need of human being which is disadvantageous to the species of whatever category it belongs to i.e. whether animal kingdom or plant kingdom at the instance of human cultural diversity.

20. As a result, even though man made agricultural fields and gardens form artificial eco-system, the natural wealth of landscapes, deserts, mountains, forests, grasslands, rivers, lakes, ponds, ocean lose their eco-system. Suffice it not, that the Biologists and Environmentalists agree that it is very important to maintain bio-diversity in order to ensure the existence of all organisms, unless an awareness is created among the public at large, as to the maintenance of biodiversity.

21. Bio-diversity is not only vital for the proper functioning of the eco-system but also for the very survival of human being. The unthoughtful human activities however pose a serious threat to the sustainability of bio-diversity and maintenance of environmental eco-system. Bio-diversity, viz. the variety of species - plants and animals, is perhaps the most important factor which brings sustainability in the environment. It helps in maintaining favourable and stable conditions in the environment.

22. Forests are treasures of bio-diversity. They bring stability in the environment and suitable conditions required for sustainable environment. The trees in the forests prevent desertification and the forests thus regulate the streams that flow, which in turn have significant connection with inland and marine fisheries. On these rivers and streams the local people depend for their food and habitation. But, what threatens biodiversity is the deforestation, illegal felling of trees, encroachment into the forest area beyond necessity, of course, to a certain extent increase in the live-stock population in the forest, killing of wild animals for food and hunting, etc.

23. As the population of human started increasing rapidly, it has resulted in the threat to bio-diversity. Forests and grasslands, which are rich resources of wild animals, are being gradually cleared off for agricultural purpose and for setting up industries. Clearing of natural habitats cause large scale destruction of bio-diversity. The growing human population and unthoughtful activities for short-term gain and economic development is the main cause for man and wildlife conflict in the biosphere.

24. It is true that environmental resources are linked with economic activity. The economic development is meant to improve the level of living. The living standards are measured by availability of basic needs such as food, shelter, education, health, sanitation and social practice. Therefore, the link between the economy and ecology cannot be ignored. But, however environmental degradation would impose heavy loss on economy on account of exploitation of natural resources beyond the need. Therefore, as far as possible, industry and

trade should promote the economy but without harming the environmental ecosystem, which is the bedrock for biodiversity.

25. May be, industrialization and globalization are double-barrel threats to the environment and ecology, but, care has to be taken not to harm the "natural capital". In measuring the economic development in terms, of globalization and Industrialization, it is time for us to replace the "conventional accounting" by "green accounting". It is time to evaluate efficient technologies which conserve the resources as well as the derivative energy. Therefore, a duty is cast on the State to promote eco-friendly technology.

26. As rightly pointed by the learned Senior Counsel Mr. M.R. Naik, the Hon'ble Supreme Court; time and again underscores the duty and obligation of the State as well the citizen to protect and improve the environment and to safeguard the forests and wildlife of the country as envisaged under Articles 48-A and 51-A(g) of the Constitution, which read thus:

Article 48-A: Article 48-A provides that the state shall endeavor to protect and improve the environment to safeguard the forests and wildlife of the country.

Article 51-A(g): Article 51-A(g) casts a duty on every citizen to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures.

27. Sufficient safeguards were taken by Government of India in 1980 by constituting Tiwari Committee, which recommended for establishment of Department of Environment to act as a nodal agency for environment protection eco-development in the country, for comprehensive review and recommendations, not covered by the present laws.

28. Apart from showing due concern in the Five Year Plans, i.e. Sixth, Seventh, Eighth, Ninth and Tenth Five Year Plans, the Central Government enacted the following enactments:

(i) Wildlife (Protection) Act, 1972

(ii) Environmental Protection Act, 1986

29. It is true, many animals are considered sacred; many plants and animals are adopted as natural symbols and cultural heritages. Of them, Elephant is considered to be more sacred among Indians.

30. Indian elephant, "Elephas maximus" is considered as "Keystone species" of the Indian jungles because of its overall influence over other animals and the ecosystem. The elephants foster forest eco-systems and help to maintain healthy environment most essential for human survival. The elephant, therefore, assumes global significance in so far as biodiversity conservation is concerned. The elephant, the inseparable entity of the bio-diversity works as an antidote in regulating the climatic change. The Indian elephant, which stands tall and commands global significance, is facing threat of extinction. Hence, the judicial

activism has come forward to rescue the country's biodiversity and her environment and of course, to rescue the wildlife, in particular, elephants and their habitats in this suo motu proceedings.

31.1. The Government, by notification dated 2.3.2009 was pleased to constitute the State Board for Wildlife u/s 6(1) of the Wildlife (Protection) Amendment Act, 2002 for effective protection of wildlife in the State of Karnataka consisting of:

a. Chief Minister Chairperson b. Sri Anant Hegde Ashisar, Chairman, Western Vice Ghat Task Force Chairperson c. The following Members of the State Legislative Members Assembly:

1. Sri M.P. Kumaraswamy, MLA, Mudigeri 2. Sri Appachchuranjan, MLA, Madikeri 3. Sri Gopalakrishna Belur, MLA, Sagar d. The heads of the following non-government Members Organisations:

1. Janadhwani Vedike, Field Marshal Kariappa Road, Somwarpet 2. Vrukshalaksha Andolana Seva Trust, Sagara 3. Nature Conservation Foundation, Mysore

e. The following eminent Conservationists, Members Ecologists, and Environmentalists:

1. K.B. Girish Ganapati 2. Keregundi Estate, Devapura Post, Gonekoppa 3. Sanjay Gubbi, Tumkur 4. Girija Shankar, Chikkamagalur 5. Dr. Rohini Balakrishnan, CES, IISc, Bangalore 6. Vijayakumar, Hotel Apurva Complex, Hassan 7. Dr. N.A. Madhyasta, Zoologist, udupi 8. Prof. Anindya Sinha, National institute of Advanced Studies, use Campus 9. Vani Ragavendra Pai, Potoli, Joida Taluk 10. M. Jadegowda, Asst. Prof. Forestry College, Ponnampete 11. Pratap Singh Nayak, Belthangadi Taluk

f. The Principal Secretary to the Government of Member Karnataka, Forest Environment and Ecology Department, Bangalore, g. The Principal Chief Conservator of Forests, Member h. The Principal Secretary/Secretary to the Member Government of Karnataka, Social Welfare, Department, Bangalore i. The Managing Director, KSTDC, Bangalore Member j. IGP, Forest Cell, Bangalore Member k. A representative of the Armed Forces not below Member the rank of Brigadier as nominated by the Central Government l. The Director, Animal Husbandry and Veterinary Member Services, Bangalore m. The Director, Department of Fisheries, Member Bangalore n. An Officer, as nominated by the Director Member Wildlife Preservation, New Delhi o. A representative of the Director, Wildlife Member Institute of India, Dehradun p. A representative of the Director, Zoological Member Survey of India, Kolkata q. A representative of the Director, Member Botanical Survey of India, Kolkata r. The Principal Chief Conservator of Forests Member (Wildlife) and Chief Wildlife Warden, Secretary Karnataka, Bangalore

31.2. The learned Advocate General, however, fairly submits that the Government is prepared to include additional Members to the State Board for

Wildlife, whomsoever this Hon"ble Court deems fit and necessary.

32.1 The report filed on behalf of the State Government before the Court also endorses the short term and long term measures proposed by the State Government, which read as hereunder:

32.2. Short Term Measures Proposed (In the next one year)

The following measures have been proposed to tackle the man-animal conflict situation that has arisen due to Increase of elephant presence.

i) Habitat Management

It is found that the habitat for elephants has shrunk over the past few decades for a number of reasons. It is proposed to remove invasive weed species like Lantana, Eupatorium and Parthenium in the Protected Areas involving the tribals and others. Certain research organisations who have done work on Lantana/ invasive weed eradication will be involved. Desilting of water holes/tanks where necessary as well as dibbling of bamboo, sandal seeds will be done. In the next one year work will start and the Government will earmark around Rs. 25 lakhs for this work initially.

ii) Immunisation of Cattle:

In the next one year a programme will be chalked out to immunise cattle with the help of Veterinary Dept. and financial support from Government of India and State Government.

iii) Maintenance of Barriers

Elephant Proof Trenches and Solar fencing has been done across the Mysore Elephant Reserve, It is proposed to repair at least 50% of these Barriers wherever they are found to be ineffective. An amount of Rs. 50 lakhs will be earmarked for the repair work.

iv) Providing for elephant scaring and elephant driving

As of now there are 62 numbers of elephant scaring camps/teams. These are in position during the peak crop damage season, normally upto harvest time and fruiting season i.e., October, November, December and June, July, August. The elephant scaring/driving will be strengthened and additional camps provided to the financial extent of Rs. 50 lakhs so as to facilitate the elephant driving operations.

v) Flying Squads

This will be done on experimental basis by stationing three vehicles in Mysore, Chamarajnagar and Bandipur areas at strategic locations. These jeeps will be provided with watchers ammunitions, crackers etc., and it will be led by a forester. These squads will move to the effected areas when ever they receive information of elephant movement/damage. An amount of Rs. 30 lakhs will be

provided for this activity.

vi) Law enforcement

In the next three months a meeting of the concerned Officers/Officials with relation to law enforcement will be held for a co-ordinated approach. KPTCL, Revenue, Forest, Police and Agriculture Departments will be made to work together to address this problem at the field level.

vii) Creation of awareness

Help of NGO's, Media and local leaders will be taken to create awareness on the man-animal conflict issue. This would be done in the next six months in all the effected areas.

viii) Deployment of staff

Vacancy position in the wildlife wing has been a cause for concern. The Government will take steps and see that this situation improves. In the next nine months it will be seen that at least 75 guards 25 foresters and 6 RFO's will be posted to mitigate the existing problem. Nine months time is required as 250 Forest Guards who have been recently recruited are undergoing training which will be completed in nine months.

It will be seen that the cadre of Veterinary Doctors will be created within the Forest Department with Veterinary Officers. Assistant Directors/Deputy Directors in the next six months.

ix) Capacity building

In the next one year staff at various level from Deputy Conservators of Forests to the Forest Watcher will be sensitised on various issues of the man-animal conflict as well as dealing with public.

x) Translocation of elephants:

Translocation of elephants requires permission for Government of India as per Section 12 of Wildlife Protection Act. Proposal for permission to translocate 25 elephant has already been made to Government of India on the basis of Appiah-Desai committee report. There are about 20 elephants isolated in Kodagu Hassan border which are causing extensive crop damage and loss to human life in the last few years. It is proposed to shift them to either Bhadra Wildlife Sanctuary or BRT Wildlife Sanctuary or Bandipur National Park. The leaders in the herd need to be radio collared before translocating them, so as to study and monitor their movements. This operation will be done in the next 12 months with the support of Government of India, Wildlife Institute of India, Indian Institute of Science and other connected Wildlife organizations/experts.

xi) Ex-gratia payment to affected farmers

Presently it is felt that the amount paid towards ex-gratia is inadequate. It will be

seen that these rates would be increased substantially so that farmers are compensated for the loss and they co-operate with the department In the long term conservation of Elephants (In the next three months)

xii) Empowering Deputy Conservator of Forests

It Is essential to empower the Deputy Conservators of Forest to Issue cheques immediately for payment of crop compensation and loss of human life. The Issue will be pursued with the finance Dept and necessary orders would be issued to this effect, (in the next three months).

Item	of	Work	Time	Taken	for	Sl. No.
Habitat		Management		1		1. year
Immunisation		of	Cattle		1	2. year
Maintenance		of	Barriers		10	3. months
Providing	for	elephant	scaring	and	10 months	4. elephant driving
Flying		squads			6	5. months
enforcement				3		6. Law months
Creation		of	awareness		6	7. months
Deployment		of	staff		9	8. months
Capacity		building			1	9. year
Translocation		of	elephants		1	10. year
gratia	payment	to	affected	farmers	3	11. Ex-months
Empowering	Deputy	Conservator	of	3	months	12. Forests

32.3. Long Term Measures (in the next five Years)

The following long term measures are proposed to be carried out which would help In reducing the man-animal conflict to a large extent.

i) Reducing Biotic pressure

It is very essential to reduce the biotic pressure on the forest areas so that the bio diversity is preserved. This could be achieved by

a) LPG connection

It is proposed to provide LPG connections to the people residing in the villages adjoining the forest area upto a distance of 5 kms. This would be done by providing 80% subsidy for the initial gas connection. These people will have to pay for the refills. It is proposed to give 5000 connections in the next five years.

b) Solar energy

Solar lanterns and street lights would be provided to the people living in the adjoining villages. Solar lanterns will have a subsidy of 75% while solar streets will be given free of cost. It is proposed to cover 200 villages in the next five years.

It will also be seen that long term studies on the effects of grazing and on the impact of fire will be started with the support of well known institutions.

ii) Integrated land use planning

Forests with its wildlife are natural heritage and need to be preserved for a variety of tangible and Intangible benefits. But there are a number of enterprises which have a major stake for their existence. Some of these are i) Mining ii) Quarrying iii) Resorts iv) Hydro power projects v) Wind mills vi) Roads and highways.

In the coming years we hope to bring out a integrated land use planning guidelines which will provide the basis for running enterprise using this scares and threaten resource keeping in mind the already existing directions from the various Hon''ble High courts and Supreme Court.

iii) Barriers

The past experience with Elephant Proof Trenches and Solar Fences has been a mixed response. Where ever they are maintained they have had a reasonable success in preventing elephants from coming out. It is seen that in many places people have closed these barriers either to come inside to collect fire wood or to let their cattle into the Protected Area. After a detailed discussion it was decided to train permanent fences which require very low maintenance using discarded railway lines. These railway lines will be used as barriers in two or three rows. It may cost between Rs. 40-50 lakhs per Km. as the iron railway lines are to be purchased in an open auction. We may do upto 100 kms. In the next five years.

iv) Capacity building

Forest staff will be trained right from Forest Watcher to the highest official in the next few years with both short term and long term courses on conflict resolution. Training will be both within the country and outside. Necessary budgetary support will be provided mainly by Govt. of India.

v) Crop insurance

The issue of providing subsidy to the farmers to get their crops insured could be discussed with the concerned departments like agriculture. Horticulture, animal husbandry etc., and possibility of getting crop insurance done will be decided by the Govt.

vi) Cropping pattern

It is true that elephants do stray in to private crop lands as they find highly nutritious food concentrated in one place. Specially crops like sugarcane, banana, rice, ragi, coconut etc., govt., will initiate a discussion with a concerned department to see if some sort of a guidelines are put in place so that highly palatable crops are not cultivated right next to the protected areas. If possible it will be seen that whether this is legally feasible by bringing in a law.

vii) Population Management

Management of populations of wild elephants will be done only after a thorough study by research institutes like Indian Institute of Science, ATREE, WCS, NCF etc., right now the rogue are being killed, but for a long term elephant conservation what ever interventions that need to be done to manage populations will be taken up with due caution.

33. The Wildlife (Protection) Act, 1972 was enacted by the Parliament to provide for the protection of wild animals, birds and plants and for matters connected therewith or ancillary or incidental thereto with a view to ensure the ecological and environmental security of the Country.

34. As already seen, Article 48-A of the Constitution provides that the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country. Article 51-A(g) of the Constitution casts a duty on every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have a compassion for living creatures.

35. Having regard to the various provisions contained in the Wildlife (Protection) Act, the empowerment on the State Government under Article 48-A and the duty cast on every citizen under Article 51-A(g) of the Constitution of India, considering the various comprehensive reports/action . plan submitted and the suggestions made by the Bar and prima facie showing our deep concern to the wildlife, environment, ecology and wealth of animal life and natural habitats and In the interest of public at large, in our considered opinion, it is appropriate to direct that the State Board for Wildlife shall hold periodical meeting at least once in two months, review the issue relating to the protection of wildlife, animals, birds and plants with a view to ensure ecological and environmental security in the State of Karnataka in general and particularly the conservation of and protecting the elephants from unnatural death and to review the situation periodically.

36. As agreed by the learned Advocate General, we also nominate Mr. M.R. Naik, learned senior Counsel, Dr. C.H. Bassappanavar, retired Forester and Wildifer as

Members of the State Board for Wildlife and also appoint the Member Secretary, Karnataka State legal Services Authority, Bangalore and Member Secretary, High Court legal. Services Committee, Bangalore as Members of the said Board, among others.

37. Accordingly we pass the following order:

(i) The Report and the Action Plan - Elephant Landscape dated 11.3.2009 filed on 12.3.2009; the Comprehensive Action Plan dated 11.3.2009 filed on 17.4.2009 for conservation of Elephants and other wildlife proposed by the State; and the Comprehensive Action Plan on "Human-Elephant Conflict Mitigation" (scientific report) filed on 17.4.2009 by Dr. C.H. Bassappanavar, retired Forester and Wildlifer, are taken on record.

(ii) The State Government shall implement the short term measures mentioned in paragraphs 8.7.1, 8.7.2 and 32.2 (supra) as per the action plan proposed particularly; and shall complete the selection and recruitment process for filling up the vacancies of staffs and flying squads, within three months from the date of receipt of this order.

(iii) The State Government shall also implement the long term measures mentioned in paragraphs 8.7.3 and 32.3 (supra) as per the action plan proposed by the State Government within a period of six months from the date of receipt of the copy of this order.

(iv) This Court further deems it fit to include (1) the Member Secretary, Karnataka State Legal Services Authority, Bangalore, (2) Member Secretary, High Court Legal Services Committee, Bangalore, (3) Mr. Madhusudan R. Naik, senior Counsel, (4) Dr. C.H. Bassappanavar, retired Forester and Wildlifer as Members of the State Advisory Board for Wildlife constituted u/s 6(1) of the Wildlife (Protection) Amendment Act, 2002, and among them the Member Secretary, Karnataka State Legal Services Authority, who shall file periodical report before the High Court Legal Services Committee and the Karnataka State Legal Services Authority at least once in three months, for their constant monitoring, as to the implementation of short-term and long-term measures framed and proposed to be framed, as undertaken by the Government referred to above, for conservation of elephants and prevention of unnatural death of elephants as well as other wildlife. The said Board shall study and implement the recommendations provided in the said report filed on 11.3.2009 and 19.4.2009 by the forest department and the report dated 17.4.2009 filed by Dr. C.H. Bassappanavar on Short-term and Long-term measures for conservation of elephants and to prevent the unnatural death of elephants. The High Court Legal Services Committee/Karnataka State Legal Services Authority is at liberty to refer the matter to the Green Bench for any further directions, if necessary.

(v) The Board so constituted shall hold review meetings as and when required and at least once in three months.

(vi) As and when required, the Board is also at liberty to approach this Court for appropriate further directions in the matter.

(vii) The Press, Electronic media or any person, who come across the ill-treatment or death of elephants or wildlife whatsoever, are at liberty to bring the same to the notice of the Member Secretary, High Court Legal Services Committee/Member Secretary, Karnataka State Legal Services Authority, to take appropriate action in the matter.

(viii) Government shall take appropriate steps as to the prevention of raising commercial crops like Banana, Sugarcane and Maize, nearby forest area and the State and Central Government shall frame and implement appropriate crop-pattern policy for the lands in and around forest area, in order to avoid human-elephant conflict.

(ix) Wherever there are narrow passages, which the elephants are using as corridor touching the neighbouring/states, the Government is directed to take necessary steps to widen such corridors by appropriate acquisition proceedings, In the larger public Interests.

38. the Writ Petition is ordered accordingly.