

(2016) 12 KL CK 0064
In the High Court Of Kerala
Case No : WP(C).No. 40490 of 2016 (I)

Survajith S. Krishnan

APPELLANT

Vs

Principal Chief Conservator Of Forests (Wild Life) And Chief
Wild Life

RESPONDENT

Date of Decision : 20-12-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Kerala Captive Elephants (Management and Maintenance) Rules, 2003 — Rule 9
Wild Life (Protection) Act, 1972 — Section 48-A

Citation : (2017) 7 FLT 77

Hon'ble Judges : Mr. Shaji P.Chaly, J.

Bench : Single Bench

Advocate : Sri. N. Mahesh, Advocate, for the Petitioner; Sri. K. Sandesh Raja,
Government Pleader, for the Respondent

Final Decision : Disposed Off

Judgement

Shaji P. Chaly, J.—According to the petitioner, petitioner is the Convenor of Elephant Pooja Organization functioning at Coimbatore. Sree Ayyappan Pooja established in the year 1950 is celebrating annual pooja with rituals every year during the last week of December for the last 65 years for the general welfare of the country and the community at large to bring peace in the country. This year also the festival is being celebrated on 1st January, 2017 at 9 a.m. Three male elephants are required for performing the above poojas and three elephants have been booked by the Sangham namely;

1. Mangalamkunnu Ganapathy
2. Mangalamkunnu Ramachandran
3. Mangalamkunnu Vijayan

One elephant is booked as reserve in the case of one of the three elephants become unfit. In order to secure permission, petitioner has submitted Ext.P1

before the Principal Chief Conservator of Forest (Wild Life) and Chief Wildlife Warden on 19.11.2016 apparently under the provisions of Rule 9 of Kerala Captive Elephants (M&M) Rules, 2012, hereinafter called "Rules, 2012", and Section 48A of the Wildlife Protection Act, hereinafter called "the Act". The contention of the petitioner is that, in spite of urgency of the matter, the statutory authority has not taken a decision. It is thus seeking appropriate direction, this writ petition is filed.

2. Heard learned counsel for petitioner, learned Special Government Pleader and perused the documents on record and the pleadings put forth by the petitioner.

3. Learned counsel for petitioner reiterated the contentions raised in the writ petition. Learned Special Government Pleader submits that, as per Rule 9 of the Rules, 2012, the owner of the elephant or his authorised agent shall submit application before the authorised officer under subsection (1) of Section 48A of the Act for permission to transport elephants from Kerala to any other State, fifteen days before the actual date of transport. As per sub-rules 2 and 3 of Rule 9, parameters are provided for securing such permission. According to the learned Special Government Pleader, no proper application is filed by the petitioner as provided under the Rules.

4. The same is the subject matter to be looked into by the authorised officer. If the application submitted as per Ext.P1 is in accordance with the provisions of the Act and Rules, I do not find any reason why such application shall not be considered by the authorised officer, and also taking into account the parameters and stipulations contained under subsection 1 of Section 48A of the Act.

5. Therefore, there will be a direction to the respondent to take on board Ext.P1 application and consider the same in accordance with law, after providing an opportunity of hearing to the petitioner, at the earliest and at any rate within a week from the date of receipt of a copy of this judgment.

6. Writ petition is disposed of accordingly.