

(2022) 09 GAU CK 0010

In the Gauhati High Court

Case No : Public Interest Litigation (Suo Moto) No. 1 Of 2022

XXX

APPELLANT

Vs

State Of Assam

RESPONDENT

Date of Decision : 05-09-2022

Acts Referred:

Citation : (2022) 09 GAU CK 0010

Hon'ble Judges : R.M. Chhaya, CJ;Soumitra Saikia, J

Bench : Division Bench

Advocate : T.J. Mahanta, P.P. Dutta, P.N. Goswami,, K.P. Pathak

Final Decision : Disposed Of

Judgement

1. Heard Mr. T.J. Mahanta, learned senior counsel assisted by Mr. P.P. Dutta, learned counsel for the Gauhati High Court. Also heard Mr. P.N. Goswami, learned Additional Advocate General, Assam, assisted by Mr. K.P. Pathak, learned standing counsel, Forest, for the respondents.

2. The present PIL is based upon a letter written by one Wildlife Lover, Mr. Pranab Jyoti Sarma to Honb'le the Chief Justice of this Court. It is indicated in the letter that the wild elephants of Goalpara Forest Division and their habitats are in danger. It is alleged that the miscreants killed wild elephants brutally and barbarously and snapping off their valuable tusks and flesh. It is also alleged that such miscreants killed deer and other animals. It is also alleged that in Goalpara Forest Division, miscreants are taking dangerous tactics to drive out elephants from forest areas by soaking Jute bags into liquid bitumen and applying fire thereon throw on the roaming elephants which causes injuries to such elephants. It is also alleged that in order to kill wild elephants, tactics like high voltage electric wire, poison is being used. The letter also indicates that wild elephants casualties are found on Railway tracks and as many as 200 tuskers have been killed in such cases in Assam alone. It is also alleged that the State has also declared many sensitive areas where the risk of jumbo-train collision is

increased. It is also alleged that there is wide spread illegal encroachers since last about 25 years and destruction of forest area has increased. It is also alleged that because of deforestation of some areas of reserve forest and establishment of tea and rubber garden, the entry of wild elephants and other animals is restricted. It is also alleged that the Assam Government as well as the Central Government have decided to destroy the forest area including the elephants' habitats. This Court examined such serious allegations and the letter was registered as Suo Moto PIL. The author of the letter has also annexed some coloured photographs as well as newspaper cutting of vernacular newspaper, namely, Asomiya Pratidin and information derived by him through RTI to buttress his averments made in the letter which is treated as Suo Moto PIL.

3. In response to the notice issued by this Court, the respondents have filed affidavit-in-opposition on 10.08.2022 through respondent No.3, the Divisional Forest Officer, Goalpara Division. It is contended by the respondent No.3 that the statement made in the letter that 200 elephants have died at the hands of illegal encroachers and miscreants is incorrect and it is contended that majority of the elephants deaths occurred due to natural causes or veterinary diseases. According to the respondents, on the contrary, 311 people have lost their lives due to wild animal attacks. It is also contended by the respondents that there is no permanent wild elephant reserve under the Goalpara Division and in reality most of the elephants migrate from the neighbouring State of Meghalaya in search of food and shelter just for few days and in some isolated incidents, such migratory elephants come in confrontation with human population. The respondents have declared before this Court that rapid action team vigilant for 24 hours is constituted for awareness campaigns, watch towers etc. and has relied upon the data in the form Annexure-C and D to the affidavit, which enlist the measures taken to reduce human-elephant conflict in the Goalpara division. It is also averred that in order to avoid any death of elephants by electrocution at the hands of miscreants, the forest department in cooperation with the civil and police administration maintains round the clock vigil to contain such incidents and satisfactory results have been achieved. It is also contended that with the help of civil and police administration, eviction drives are being undertaken. However, it is expressed that the encroachment is on large scale and hence eviction drives with the help of civil and police administration is to be taken. It is also contended by the respondent authorities that while carrying out the expansion of National Highway No.37 specially in some areas which form elephants corridor, it is suggested that flyovers may be constructed to stop any loss to wildlife and CCTV cameras, recovery and restore vehicles are also requested to be provided for protection and control of the elephants. It is also contended that even for expansion of the National Highway No.37, the suggestions made in the report dated 07.02.2022 have been taken into consideration and the proposal is to be submitted with certain changes to lessen the degree of loss of forest cover and to protect the elephant population by maintaining the existing elephants corridors by construction of under pass,

viaducts etc.

4. Another affidavit-in-opposition has been filed by the respondent No.2, Principal Chief Conservator of Forest (Wildlife), Assam wherein it is indicated that the steps are taken for curbing the human-elephants conflict. Paragraphs 5 and 6 of the said affidavit read as under:

"5. That as regards, the allegation of endangering the life of wild elephants by poaching activities, tying high voltage electric wires along passages frequented by elephant and death of elephants including by train hits, the deponent would like to give a brief detail of Goalpara Forest Division, including encroachment therein and steps taken towards curbing the human-elephant conflict herein below:

A. The Goalpara Forest Division was constituted in the year 1968 after bifurcating Garo Hills Division comprising of civil district of Goalpara and South Salmara. In the year 2005 South Salmara part was taken out from Goalpara Forest Division and merged into Dhubri Forrest Division. Accordingly, the present Goalpara Forest Division covers the area of Civil district of Goalpara with an approximate area of 1824 sq. km.

The Goalpara Forest Division is situated in the form of a narrow strip along the Bank of River Brahmaputra and stretched in the east from the western border of Kamrup District to the South Salmara District in the west. The division is bounded by mighty Brahmaputra in the north and Garo Hill Ranges in the South. It is stated that there is no permanent wild elephant reserve under Goalpara Division and most of the elephants migrate from the neighboring state of Meghalaya in search of food and shelter for few days during winter season. In the process, they come across human habitation and resultantly there are incidents of confrontation with human population.

B. The Forests of Goalpara Division are scattered through the present Goalpara District in a mosaic form and are not contiguous in nature. The Goalpara Forest Division covers an area of 361.81 sq. kms of Forest area comprising of Reserved Forests and Proposed Reserved Forests. This Division is administered through 6 Ranges, namely:-

I. Sadar Range, Goalpara

II. Lakhipur Range, Lakhipur III. Central Range, Krishnai IV. Rongjuli Range

V. Protection Range, Goalpara and VI. Consolidated Range, Goalpara.

As per the Forest Report, 2019 published by the Survey of India, Dehradun approximately 25 Sq. Kms forest cover falls under Revenue Areas. The Goalpara Forest Division comprises of 56 Reserved Forests and 47 Proposed Reserved Forests.

C. It is stated that presently 25.67 % of the Forest area under Goalpara Forest Division is under encroachment either in the form habitations or agriculture,

especially in the form of rubber, tea and betel nut plantations. In order to make such area encroachment free, eviction drives are conducted from time to time.

D. That approximately the Goalpara District is covered by Reserved Forests and Proposed Reserved Forests. In order to properly administer this forest area, Goalpara Forest Division has been divided into 4 territorial ranges and two overlapping ranges, under which there are altogether 21 Forest Beat Offices, 2 Sub Beat Offices and 5 Forest Camps with a total sanctioned strength of 221 Forest staffs.

E. That although Forests of Goalpara Division is dominated by Sal trees but it is also very rich in flora and fauna. Although there is no elephant reserve within the Goalpara Forest Division, however, elephants in search of food come from Meghalaya and frequent almost all the Reserved Forests and Proposed Reserved Forests and in the process few elephants have naturalized in Goalpara's Forests. The size of individual reserved forests and proposed reserved forests varies from 21 hectares to 4539 hectares and these Reserved Forests and Proposed Reserved Forests of Goalpara Forest Division are scattered through the Goalpara District in mosaic form, cut by Ravines, old abandoned branch of streams and separated by Revenue areas and by Gullies. The local people used to cultivate paddy in Gully lands, ravines and revenue lands and due to migration of elephants from one forest patch to another forest patch, human-elephant conflicts take place.

F. That the Forest of Goalpara is a part of large landscape of Assam Meghalaya Forests. Since, elephants are large ranging animal and their food and water requirements are very large that could not be met in one Reserved Forests and Proposed Reserved Forests for a longer time, these elephant herds not only move from one forest patch to another forest patch of Goalpara but also from forests of Goalpara to Garo hills forests and vice versa. During such migrations of elephant herds from one forest patch to another forest patch and Garo hills area to Goalpara district human animal interaction takes place and in the process there occurs loss of life and property on both sides. Due to population explosion, encroachment on Forest areas and haphazard settle of human in Revenue areas specially in forest fringe areas and migratory part of elephants, the human elephant conflict in the recent years have increased. Additionally, land used pattern are also changing rapidly and people are planting cash crops, which are not palatable for elephants.

In the last 20 years i.e. since the year 2002, due to human elephant conflicts 223 persons have died, of which 175 deaths have occurred alone in the past 10 years. In the last 5 years 10 persons have been injured by wild elephants and altogether 424 houses were damaged by elephants, besides damaging crops in 558 bighas of land. It is stated that since the year 2010 altogether 33 elephants have died in Goalpara Forest Division, out of which 12 deaths have occurred due to electrocution and 2 deaths attributable to by strike of running trains.

Copies of the report prepared by DFO, Goalpara and elephant death record are

annexed herewith and marked as ANNEXURES- C & D respectively.

6. Steps taken towards curbing of human elephant conflict:

A. That in order to ascertain movement/migration of elephants in advance, watch towers are being constructed, which will facilitate early alarming of nearby human habitat. Besides that, monitoring exercise are also done through numerous forest beat offices, number of which has already been indicated herein above.

Copy of photograph of watch tower is annexed herewith and marked as ANNEXURE- E.

B. In order to prevent human life loss, 3 numbers of villages are presently covered with electric fence, which shall act as a deterrent for the elephants to come inside the villages and shall ensure protection of human lives and property. It is stated that in order to ensure free movement of elephants, electric fences are not erected in the boundary of the forest and rather placed in the boundary of the villages and flow of electricity is regulated in a manner that it will neither endanger life of elephants nor of humans. In the year 2013-14 and 2019-20 altogether 10 Km electric fencing was erected at vulnerable places to minimize the human elephant conflict in fringe villages of Pancharatna Reserved Forest and Kanyakuchi Reserved Forest.

Copy of photograph showing electric fencing is annexed herewith and marked as ANNEXURE-F.

C. That by using excavator 3 km long trenches has been excavated in order to prevent interaction between elephants and human beings.

Copy of photograph of the trenches is annexed herewith and marked as ANNEXURE- G.

D. That considering the frequency of human elephant conflict and resulting damage, close relation has been established with both civil and police administration for combined action. Moreover, awareness camps are organized in all fringe villages of all the Ranges from time to time to create awareness among people in favour of effective conservation of wild elephants and reduction of conflicts.

E. That steps are also been taken to implant radio collar on the elephants and GPS monitoring are being done to ascertain the location of elephant herds. As regards the death caused by running trains that was 2 in numbers in Goalpara District, time to time communication with nearby railway authorities and electricity department have been done to cooperate with the forest department. Forest officials are also keeping close vigil on elephant herds so that no more casualty occurs due to accident by running train or running vehicles on the roadside. In this regard glow sign boards have been installed by the side of National Highway 37 for precaution by Drivers in the elephant corridors. In fact,

all forest range officers are directed to submit date wise detailed report to Divisional Forest Officer for monitoring of human elephant conflict.

F. That additionally Rapid Action Teams have been established at Range headquarters engaging staff for 24 hours duty for mitigating sudden human elephant conflict. On getting information, the members of the Rapid Response Team immediately rush to the spot to combat the conflict. Further 35 numbers of anti-depredation committees have been formed by the local people in the range level and 2 numbers of rented vehicles are in use for elephant depredation duty."

5. It is also averred that 25.67% of forest area is under encroachment either in the form of habitation or agricultural activity for which eviction drives are resorted to from time to time in order to maintain free movement of elephant from one patch to another. The affidavit also indicates the photographs of the steps taken to eradicate and/or prevent human-elephant conflict and for maintenance of forest.

6. Considering both the affidavits-in-opposition filed by the respondent Nos.2 and 3, respectively, this Court is of the opinion that the respondent State authorities are taking some steps, however, in order to see that the human-elephant conflict is minimised and the forest area is maintained and the encroachment is removed, following directions deserves to be given;

i) The State Government in Environment & Forest Department shall adhere to the steps already initiated by it and shall continue the same in order to curb any mischief or loss of live of both of wild elephants and human beings.

ii) The State Government is further directed to constitute special task force to be headed by Principal Chief Conservator of Forest which would include the Divisional Forest Officer as well as the Superintendent of Police and Deputy Commissioner of Goalpara district as member of such task force which shall monitor the steps more particularly enumerated in paragraph 5 of the affidavit-in-opposition as observed hereinabove, permanently.

iii) The Development Commissioner of Goalpara district and Divisional Forest Officer, Goalpara shall conduct survey of encroachment made in the forest area within a period of 3 (three) months from the date of receipt of copy of this order and shall immediately initiate steps for eviction of such illegal encroachment in accordance with law. However, it is clarified that while conducting eviction drive, the authorities shall follow the due process of law.

iv) The respondent authorities shall create facilities of veterinary treatment for injured elephants at the Headquarter of district Goalpara,

v) It would be the responsibilities of the Principal Chief Conservator of Forest & Head of Forests Force, Assam, respondent No.2 to carry out the aforesaid directions.

7. The above directions shall be strictly complied with and adhered to in its letter

and spirit.

8. In light of the aforesaid directions, this petition in the form of PIL is being disposed of.

9. The Registry is directed to forward a copy of this order to the Chief Secretary, Government of Assam in order to see that the aforesaid directions are complied with by the State authorities.