

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO. 7 OF 2020

WITH

LD-VC-OCW NO. 134 OF 2020

IN

PIL WRIT PETITION NO. 7 OF 2020

Peoples for Animals, Goa

Through its President, Ms.

Norma Alvares, Having its

office at G-8, St. Brittos Appts,

Feira Alta, Mapusa 403 507 Petitioner

V/s.

1 Principal Chief Conservator of
Forests Chief Wildlife Warden
(PCCF/CWW) Gomantak
Maratha Samaj Building,
Panjim, Goa 403 001.

2 The Goa Wildlife Board

Through its Member Secretary,
the PCCF/CWW At

- Gomantak Maratha Samaj
Building, Panjim, Goa 403
001.
- 3 The State of Goa

Through its Chief Secretary
Assembly Complex, Porvorim
Goa
- 4 M/s. Jungle Book Resort
Bazarwado, Kulem,
Sharbandora, Colem, Goa 403
410
- 5 M/s. Sahakari Spice Farm
Ponda Belgaum Highway,
Curti, Ponda, Goa 403 001
- 6 M/s. Tropical Spice Plantation
H.No. A-14, Arla Bazar Keri,
Ponda, Kerim, Goa 403401
- 7 M/s. Sahyadri Spice Farm,
Piklewadi, Collem, Goa 403
410. Respondents

Ms. Anamika Gode, Advocates for the petitioners/ Applicants.

Mr. D. Pangam, Advocate General with Mr. P. Arolkar, Additional Government Advocate for the Respondent nos. 1, 2 and 3.

Mr. Vivek Rodrigues, Advocate for the Respondent no. 4.

Mr. A.D. Bhobe, Advocate for the Respondent no. 5.

Mr. A. Gosavi, Advocate for the Respondent no. 6.

**CORAM : M.S. SONAK &
SMT. M.S. JAWALKAR, JJ.**

DATE : 2ND NOVEMBER,2020.

ORAL JUDGMENT: (*PER M. S. SONAK, J.*)

Heard Ms. Anamika Gode, learned Counsel for the petitioners/applicants, Mr. Pangam, learned Advocate General for the respondent nos.1, 2 and 3, Mr. Rodrigues, learned Counsel for the respondent no.4, Mr. Bhobe, learned Counsel for the respondent no.5 and Mr. Gosavi, learned Counsel for the respondent no.6.

2. We issue a Rule in this petition. With the consent and at the request of the learned Counsel for the parties we make Rule returnable forthwith.

3. This is a PIL seeking following substantive reliefs :

(a) For an order by this Hon'ble Court directing Respondent no.1 to ensure that the commercial use of the elephants seized by the Forest Department vide Order dated 18/12/2018 is stopped forthwith;

(b) For an order by this Hon'ble Court directing Respondent no.1 and 2 to depute a large – animal Veterinarian along with a Forest Warden to do monthly reports on the upkeep and well being of the elephants;

4. In this PIL, the petitioners have taken out an application seeking following interim directions:

(i) For an order directing Respondent no.1 to conduct an inspection of all ten captive elephants in

Goa along with the petitioner, and the same may be repeated after a gap of four months;

(ii) For an order permitting a large-animal veterinarian/ elephant expert scientist to participate in the proposed joint inspection to technically assess the overall welfare of all ten elephants.

(iii) For any other reliefs this Hon'ble Court may be pleased to grant in this matter.

5. This petition basically concerns about 10 elephants presently in the custody of respondent nos.4, 5 and 6. The petition alleges that even though the State Forest Authorities have issued necessary orders for seizure of such elephants, the custody of such elephants continues with the respondent nos.4,5, and 6. The petition also expressed apprehensions about the possible use of these elephants for commercial

purposes, despite the seizure orders made by the State Forest Authorities.

6. The learned Advocate General submits that it is true that seizure orders have been made in this matter by the State Forest Authorities. He points out that the respondent nos.4, 5, and 6 have been permitted to retain the custody of the elephants, so that they are fed and maintained properly. He points out that the respondent nos.4, 5 and 6 have no right to use these elephants for commercial purposes. He points out that the State Forest Authorities have inspected the premises of the respondent nos.4, 5, and 6 and they found these elephants were not being used for any commercial purposes.

7. The learned Counsel for the respondent nos.4 ,5 and 6, on the basis of the instructions, state that the elephants are not being used for any commercial purposes and there is no

proposal to use these elephants for any commercial purposes like rides etc.

8. Mr. Bhohe, learned Advocate for the respondent no.5 points out that the Mahout of the elephant who is the actual owner of the elephants, who are presently in the premises of the respondent no.5.

9. According to us, now that it is clear that these elephants are not used for any commercial purposes and further, the learned Counsel appearing for respondent nos. 4,5 and 7, on the basis of the instructions, have also stated that the same will not be used for any commercial purposes, the main relief applied for in this petition, stands substantially redressed.

10. In the application for interim relief/directions, the petitioners seek an order of directing the respondent no.1 to conduct inspection of all the ten elephants by involving the petitioners as well, with the inspection. The petitioners also

seek an order permitting the large-animal veterinarian/elephant expert scientist to participate in the inspection to technically assess the overall welfare of all ten elephants. Along with the application, the petitioners have annexed a communication dated 29/11/2020 received from Surendra Varma, Senior Scientist, Asian Elephant Research and Conservation Centre (ANCF). This states that the said expert is willing to come along with his team to inspect the ten captive elephants at their own cost.

11. The learned Advocate General states that the Goa State Forest Officials, neither have any objection to holding of inspection nor the association of ANCF in such inspection. The learned Counsel for the respondent nos.4,5 and 6 also state that they have no objection to inspection of this nature.

12. Accordingly, we direct the State Forest Authorities to inspect the ten captive elephants at the earliest and further,

associate ANCF and its Senior Scientist Surendra Varma and his team in such inspection. The State Forest Authorities and ANCF to work out the modalities of this inspection including date, time etc. In case any representative of the petitioners wish to remain present for such inspection, liberty is granted. Representatives of the respondent nos.4,5, and 7 are also, naturally, permitted to remain present for such inspection. This entire exercise had to be concluded as early as possible, and in any case, within two months from today. Depending upon the result of the inspection, we are assured that the State Forest Authorities will take necessary steps to ensure the welfare of these elephants.

13. We make it clear that ANCF is associated for the inspection or in future inspections of these captive elephants at their own cost and expenses. This means that neither the State Forest Authorities nor the respondent nos.4, 5, and 6 will be

required to make any contribution towards such inspections at least for the present.

14. We appreciate the reasonable approach on the part of all concerned in this matter. In particular, we appreciate that the respondent nos.4,5, and 6 have not treated this matter as an adversarial litigation and have assured this Court that they too have interest in securing the welfare of the elephants.

15. We dispose of the Rule in this petition in the aforesaid terms. The miscellaneous application is also disposed of. There shall be no order as to costs.

16. All concerned to act on the basis of the authenticated copy of this order.

SMT. M.S. JAWALKAR, J.

M.S. SONAK, J.

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