

ITEM NO.14

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.1212/2021

PRERNA SINGH BINDRA & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH W.P.(C) No.335/2017 (PIL-W)  
(With IA No.96279/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA  
No.96287/2023 INTERVENTION APPLICATION and IA No.84992/2023 -  
CLARIFICATION/DIRECTION)

Date : 12-05-2023 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Petitioner(s)

Mr. Kartik Shukul, Adv.  
Mr. Abhikalp Pratap Singh, AOR  
Mr. Rohit Chougule, Adv.  
Mr. Kuldeep Mahalle, Adv.  
Ms. Yamini Singh, Adv.  
Ms. Shreya Saxena, Adv.

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Mr. Gopal Sankarnarayan, Sr. Adv.  
Mr. V. Shyamohan, AOR  
Mr. Kuriakose Varghese, Adv.  
Ms. Shivani Vij, Adv.  
Ms. Sradhaxna Mudrika, Adv.  
Mr. Vedant Goel, Adv.

**For Respondent(s)** Mr. Vikramjit Benerjee, ASG  
Ms. Aishwarya Bhati, ASG  
Mr. Gurmeet Singh Makker, AOR  
Ms. Ruchi Kohli, Adv.  
Ms. Swarupama Chaturvedi, Adv.  
Mr. Akshit Pradhan, Adv.  
Ms. Shraddha Deshmukh, Adv.  
Ms. Suhashini Sen, Adv.  
Mr. Raghav Sharma, Adv.  
Dr. Arun Kumar Yadav, Adv.

Mr. Krishnam Mishra, Adv.  
Mr. Garima Prasad, AAG  
Mr. Rajeev Kumar Dubey, Adv.  
Mr. Ashiwan Mishra, Adv.  
Mr. Kamlendra Mishra, AOR

Mr. Santosh Krishnan, AOR  
Mr. Girish Chowdhary, Adv.  
Mr. Sheikh Mohammed Haneef, Adv.  
Ms. Deepshikha Sansanwal, Adv.

Mr. Debojit Borkakati, AOR

Mr. Abhimanyu Tewari, AOR  
Ms. Eliza Bar, Adv.

Mr. Arunabh Chowdhury, Sr. Adv.  
Ms. Pragya Baghel, Adv.  
Ms. Pallavi Langar, AOR  
Mr. Karma Dorjee, Adv.

Mrs. Prachi Mishra, A.A.G.  
Mr. Mahesh Kumar, Adv.  
Mr. Dipesh Singhal, Adv.  
Ms. Devika Khanna, Adv.  
Mrs. V.D Khanna, Adv.  
Mr. Vmz Chambers, AOR

Mr. Tapesh Kumar Singh, A.A.G.  
Ms. Tulika Mukherjee, AOR

Ms. Aastha Shrestha, Adv.

Mr. Beenu Sharma, Adv.

Mr. Nishe Rajen Shonker, AOR

Mrs. Anu K Joy, Adv.

Mr. Alim Anvar, Adv.

Mr. V. N. Raghupathy, AOR

Mr. Manendra Pal Gupta, Adv.

Mr. Varun Varma, Adv.

Mrs. Ansha Varma, Adv.

Mr. Sunny Choudhary, AOR

Mr. Manoj Kumar, Adv.

Mr. Aaditya Aniruddha Pande, AOR

Mr. Siddharth Dharmadhikari, Adv.

Mr. Bharat Bagla, Adv.

Mr. Sourav Singh, Adv.

Ms. Mrinal Gopal Elker, AOR

Mr. Mukesh Verma, Adv.

Ms. K. Enatoli Sema, AOR

Ms. Limayinla Jamir, Adv.

Mr. Amit Kumar Singh, Adv.

Ms. Chubalemla Chang, Adv.

Mr. Prang Newmai, Adv.

Mr. Shubhranshu Padhi, AOR

Mr. Vishal Banshal, Adv.

Ms. Rajeshawari Shankar, Adv.

Mr. Niroop Sukrithy, Adv.

Mr. Jai Nirupam, Adv.

Mr. Shovan Mishra, AOR

Mr. Vishal Meghwal, Adv.

Ms. Yashika Bum, Adv.

Mr. Milind Kumar, AOR

Ms. Purnima Krishna, AOR  
Mr. M.F. Philip, Adv.  
Mr. Karamveer Singh Yadav, Adv.

Mr. M. Yogesh Kanna, AOR

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Mr. Shreyas Awasthi, Adv.  
Mr. Sanjeev Kaushik, Adv.  
Mr. Devvrat Singh, Adv.  
Ms. Astha Sharma, AOR

Mr. Uddyam Mukherjee, AOR  
Mr. Swapnil Pattanayak, Adv.

Ms. Shibani Ghosh, AOR

UPON hearing the counsel the Court made the following  
O R D E R

**IA No 84992 of 2023 In Writ Petition (Civil) No 335 of 2017**

1 By its judgment dated 7 November 2022 in ***Sudipa Nath vs Union of India***<sup>1</sup>, a Division Bench of the High Court of Tripura constituted a High-Powered Committee<sup>2</sup> consisting of the following persons:

- i. Director General of Forests (Union of India);
  - ii. Head of Project Elephant Division (MoEF);
  - iii. Member Secretary (Central Zoo Authority of India);
  - iv. Chief Wild Life Warden (State of Tripura) for Elephants;
- and
- v. Chief Wild Life Warden (State of Gujarat).

1 2022 SCC OnLine Tri 691

2 "HPC"

The Chairman of the HPC was directed to co-opt an expert having domain experience in elephants, as a member of the HPC. The directions that were issued by the Division Bench of the High Court in paragraph 34 of its judgment are extracted below:

- “a. We direct the Project Elephant Division of the Ministry of Environment, Forests and Climate Change to issue necessary directions to all Chief Wild Life Wardens to take all steps necessary to curb and put to an end, the capturing of wild Elephants, if any, from the wild including:—
- i. Directing a census of all Elephants in captivity of private persons or Government departments and creation of an inventory of the same with their name, details of ownership certificate, microchip number and photograph.
  - ii. Directing inspection and verification of Certificate of Ownerships of all Elephants in captivity and in case there is no Certificate of Ownership, to either issue a provisional Certificate of Ownership or confiscate the Elephant after carrying out necessary inspection and verification of the history and source of the Elephant.
  - iii. Directing a proper DNA sequencing for new offspring to be conducted so as to identify and prevent capture of young Elephants from the wild.
- b. We do hereby appoint a High-Powered Committee (HPC) under the Chairmanship of Hon'ble Shri Justice Deepak Verma (Former Judge, Supreme Court of India):
- .....
- c. The Chairman may also consider taking assistance of the Chairman, Animal Welfare Board of India for the purposes of the HPC.
  - d. All other members of the HPC shall render all assistance and for that purpose shall use all powers vested in them

including taking assistance of other officers of their respective departments as directed by the Chairman and also to take assistance of the local police as and when necessary, to enable the HPC to carry out the functions requisitioned by this order.

- e. The members of the HPC shall carry out a thorough and detailed physical inspection of the Trust. They shall be entitled to access and inspect all areas and facilities of the Trust. They shall be entitled to access and inspect all documents of the Trust. They shall also be entitled to interview and question the staff and officers of the Trust. The HPC is requested to carry out the inspection at the earliest and in any case within 10 days from the date of this order.
- f. The respondent No. 3 is directed not to interfere with or restrict the members of the HPC from carrying out their inspection in any manner that they deem fit. The Chairman shall be entitled to take assistance of as many professionals, including photographers, videographers, vets, architects as he deems fit, for the purpose of the inspection.
- g. The respondent No. 3 shall render all assistance and provide all necessary arrangements as requisitioned by the Chairman of the HPC for the purpose of the inspection.
- h. The Chairman of the HPC may direct formation of one or more groups consisting of at least 3 members (of which at least one should be from the HPC and other experts) to carry out a physical inspection at the current location of the 23 Elephants and submit factual findings on such questions as the Chairman may deem fit and proper including on the allegation that they are purported to be captured from the wild. Due regard would be had to the said factual findings in the report.
- i. The HPC shall in the first instance make a report on the questions in paragraph 27 of this order and it shall endeavour to do the same within a period of two weeks from the date of communication of this order.
- j. The Chairman of the HPC shall make a report and provide a copy of the same to all concerned preferably within a

period of two weeks from the date of communication of this order.

- k. The Chairman of the HPC shall then forward his recommendation Elephant-wise to the concerned Chief Wild Life Warden either recommending or not recommending the completion of the transfers, as the case may be.
- l. In case the Chairperson of the Committee recommends that an Elephant or Elephants should not be transferred, then the concerned Chief Wild Life Warden shall take steps to either confiscate the Elephant or take an undertaking from the concerned owner that the Elephant shall be taken care of without any cruelty. In case where such undertaking is taken, the concerned Chief Wild Life Warden shall be bound to monitor the Elephant concerned in regular intervals and take further steps if necessary accordingly.
- m. In cases where the Chairperson of the Committee recommends that an Elephant or Elephants be transferred to the camp of the respondent No. 3, the concerned Chief Wild Life Warden shall ensure that the transfer of the Elephant is undertaken in the most appropriate manner conducive to the Elephants and further the concerned Chief Wild Life Warden shall request the jurisdictional police to ensure smooth passage of the Elephant concerned. Such jurisdictional police shall be bound to render all assistance to ensure smooth passage of the Elephant concerned.
- n. In case the Chairman of the HPC finds any other fault or discrepancy, he shall forward its report with necessary recommendation for taking necessary corrective steps or action to the Secretary, Ministry of Environment, Forest & Climate Change, Secretary, Forest Department of States of Gujarat, Tripura and Arunachal Pradesh as necessary or deemed fit by the Chairman of the HPC.
- o. We direct that all police authorities, officers of forest and wild life departments, officers of the Central Zoo Authority, Project Elephant and officers of the Ministry of Environment, Forest and Climate Change, to whom a request for assistance is made by the Chairman of the

HPC, shall be bound and liable to render all necessary assistance to the HPC and its members to carry out the functions of the HPC.

- p. We direct that in order to bring about checks and balances in transfer of Elephants, the HPC shall continue to exist beyond these 23 Elephants and shall be consulted by the concerned Chief Wild Life Warden as the case may be before granting any travel permit. No travel permit shall be granted without the recommendation of the HPC. For such purpose, the HPC shall carry out the exercise it deems fit bearing in mind the observations made and the purport of the present order.
- q. The costs of the HPC shall, insofar as the costs of the members are concerned, since their appointment is by designation, the costs shall be borne by their respective departments or employing authority.
- r. The Chairman shall be entitled an honorarium of Rs. 5,00,000/- (Rupees Five Lakh Only) and costs of the Chairman shall be reimbursed to him by the respondent No. 3 without demur against a Bill of Costs. Such honorarium and costs shall be paid in advance and in any case before the Chairman sends his recommendations to the concerned Chief Wild Life Warden.
- s. In case the Chairman of the HPC is required to carry out functions under this order beyond the afore-referred 23 Elephants, the Chairman shall convene the HPC with the same composition of respective designations and the HPC shall have the same functions as above and the HPC shall be provided with the same assistance as above.
- t. In case the Chairman of the HPC is required to carry out functions under this order beyond the afore-referred 23 Elephants, entitled to an honorarium of Rs. 100,000/- (Rupees One Hundred Thousand Only) and reimbursement of costs in the same manner as above."

2 Later, in its judgment dated 3 March 2023, reported as **Muruly M S vs. State of Karnataka**<sup>3</sup>, a two-Judge Bench of this Court expanded the remit

3 2023 SCC OnLine SC 224



of the Committee constituted by the High Court of Tripura to confer a pan-India status.

- 3 In view of the expanded ambit of the Committee, this Court directed that the Chief Wild Life Wardens of the States would be co-opted as members of the Committee in place of the Chief Wild Life Wardens of the States of Tripura and Gujarat.
- 4 We have heard Mr Gopal Sankaranarayanan, senior counsel appearing on behalf of the applicants and Mr Vikramjit Banerjee, Additional Solicitor General for the Union of India. Mr Harish N Salve, senior counsel seeks intervention on behalf of the Trust.
- 5 Mr Gopal Sankaranarayanan, senior counsel submitted that the remit of the HPC should also cover the following aspects:
  - (i) Duration of ownership certificates in relation to elephants;
  - (ii) Enquiring into the capacity of the facility where the elephants are proposed to be transferred;
  - (iii) Monitoring of the health and age of the elephants;
  - (iv) Monitoring the facilities for transportation; and
  - (v) The need to shift elephants.
- 6 The HPC contains experts with domain knowledge. The Chairperson of the HPC is permitted Committee is permitted to co-opt an expert specifically in the area of the rehabilitation and care of elephants.
- 7 The remit of the HPC would comprehensively cover all aspects including those which are sought to be raised on behalf of the applicants as noted

above. In other words, all relevant aspects are entrusted to the decision making process of the HPC.

- 8 With the above directions, we dispose of the application.

**IA Nos 96287/2023 & IA No 96279/2023 In WP (C) No 335/2017**

- 1 List the Interlocutory Applications in the week commencing 10 July 2023.

**(CHETAN KUMAR)**  
**A.R. -cum-P.S.**

**(SAROJ KUMARI GAUR)**  
**Assistant Registrar**