



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF APRIL, 2025

PRESENT

THE HON'BLE MR N. V. ANJARIA, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE M.I.ARUN

WRIT PETITION NO. 16219 OF 2024 (GM-RES-PIL)



BETWEEN:

1. HIGH COURT OF KARNATAKA
BENGALURU
REP. BY THE REGISTRAR GENERAL.

...PETITIONER

(BY SRI PUTTIGE R. RAMESH., SENIOR ADVOCATE/
AMICUS CURIAE)

AND:

1. THE UNION OF INDIA
MINISTRY OF ENVIRONMENT
FORESTS AND CLIMATE CHANGE
INDIRA PARYAVARAN BHAWAN
JORBAGH ROAD, NEW DELHI - 110 003
REP. BY ITS SECRETARY.
2. STATE OF KARNATAKA
VIDHANA SOUDHA
BENGALURU - 560 001
REP. BY CHIEF SECRETARY.
3. STATE OF KARNATAKA
DEPARTMENT OF FOREST,
ECOLOGY AND ENVIRONMENT
708, M.S. BUILDING





7TH FLOOR, NEAR
VIDHANA SOUDHA,
AMBEDKAR VEEDHI
BENGALURU
KARNATAKA - 560 001
REP. BY ITS SECRETARY.

4. THE PRINCIPAL CHIEF CONSERVATOR OF
FORESTS (WILDLIFE)
AND CHIEF WILDLIFE WARDEN
KARNATAKA FOREST DEPARTMENT
2ND FLOOR, ARANYA BHAVAN
18TH CROSS, MALLESHWARAM
BENGALURU - 560 003.
5. THE DIVISIONAL FOREST OFFICER
ARANYA BHAVAN
ASHOK PURAM,
MYSURU DIVISION
MYSURU - 570 008.

...RESPONDENTS

(BY SRI A. ARVIND KAMATH, ASGI A/W
SRI H. SHANTHI BHUSHAN, DSGI FOR R-1,
SRI KIRAN V. RON, AAG A/W
SMT. NILOUFER AKBAR, AGA FOR R-2 TO R-5 & R-12,
SRI H.V. DEVARAJA, ADVOCATE FOR R-6 &
SRI PRASHANT T. PANDIT, ADVOCATE FOR R-11)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO
ISSUE WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE
WRIT, ORDER/S OR DIRECTION/S TO THE RESPONDENTS TO
FURNISH REPORT IN THE MATTER, WITH REGARD TO THE
ISSUES RAISED IN PARAGRAPH 10 OF THE DIVISION BENCH
ORDER DATED 14/06/2024 & ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND
RESERVED FOR JUDGMENT, COMING ON FOR
PRONOUNCEMENT THIS DAY, JUDGMENT WAS
PRONOUNCED AS UNDER:



CORAM: HON'BLE THE CHIEF JUSTICE MR. JUSTICE
N. V. ANJARIA
and
HON'BLE MR JUSTICE M.I.ARUN

C.A.V. JUDGMENT

(PER: HON'BLE THE CHIEF JUSTICE
MR. JUSTICE N. V. ANJARIA)

One Ashwathamma died due to electrocution on 11th June 2024. The elephant was a recent and one more victim of unnatural death which occurred in Mysuru. The unforeseen mishap was reported in news-daily 'Bangalore Mirror' of Thursday dated 13th June 2024.

2. The event was stirring for the constitutional court committed to preservation of ecologically compatible climate in general and for protection of wildlife in particular. In the State of Karnataka and also elsewhere, the elephants are treated as an animal-God. They are intelligent animals. An elephant is friend of man.

2.1 The Hon'ble Supreme Court wrote the punch-line,

“Despite being a figure of traditional, cultural reverence, today the elephant species is severally threatened in India. The crux of the problem is one that affects all wildlife in the Country : land.”



3. Taking cognizance of the news-item, in exercise of *suo motu* powers under Article 226 of the Constitution, this Court passed order on 14th June 2024 registering public interest petition.

3.1 The said order dated 14th June 2024 was as hereunder,

"The elephants and other wildlife in the State of Karnataka, as a matter of fact in the entire Country, are an asset. They deserve protection and care for their health and life. The authorities have corresponding statutory duty.

2. The Court felt anxious and concerned, upon noticing the report titled "Fell in his prime: Jumbo death leaves all shocked", figured in news daily 'Bangalore Mirror' Thursday, dated 13th June 2024. The news item related to unnatural death of an elephant named Ashwathama who died out of electrocution. The newspaper report quoting conservationists mentioned that the death was because of sheer negligence on the part of the authorities in taking precautionary measures.

3. The death of this elephant occurred in Mysuru. One more death of the elephant was reported from Chikkamagaluru District and two other deaths, also of elephants were reported from Madikeri District. All who are stated to be on account of electrocution.

3.1 It is further mentioned in the newspaper report thus Between January 2021 and now (June 12, 2024), Karnataka has lost 35 elephants to electrocution. Out of these, 12 cases were recorded in 2021, nine in 2022 and 2023 each, and five deaths have been registered this year.



Overall, 47 cases of unnatural deaths in jumbos have been recorded in the given period, which include deaths by gunshots, electrocution, road and train accidents, and snaring."

4. Copy of the aforesaid newspaper report is attached herewith.

5. Whether inside the sanctuary or outside the sanctuary, the elephants and other wildlife would need care. Their safety is to be ensured at all costs by keeping the vigil and by taking appropriate measures. The forest and other authorities owe statutory duty in this regard. Their exposure to electrocution or to the other unnatural causes of death have to be prevented.

5.1 The successive and repeated incidents of the death of elephants in the State of Karnataka in different areas due to electrocution or for other unnatural causes is a serious matter to worry. The report reflects that the incidents take place for want of diligence on part of the authorities concerned incharge of ensuring safety measures for the elephants in particular, and the wildlife in general.

6. The incidents reported and noted as above, are taken as representative cases. The elephants and wild life have right to live in safe environment, not to die unnatural death, as they stand under statutory protection.

7. This Court invokes its power under Article 226 of the Constitution to suo motu registered Public Interest Petition on the above score.

8. In these proceedings, following shall be arraigned as party- respondents,



(i) The Union of India
(notice to be served through the
Ministry of Environment, Forests and
Climate Change,
New Delhi).

(ii) State of Karnataka
(notice to be served through the
Chief Secretary to Government of
Karnataka,
Bengaluru).

(iii) State of Karnataka
(notice to be served through the Secretary,
Department of Forest, Ecology and
Environment,
Bengaluru).

(iv) The Principal Chief Conservator
of Forests (Wildlife)
and Chief Wildlife Warden,
Karnataka Forest Department,
Bengaluru.

(v) The Divisional Forest Officer,
Mysuru

9. The above authorities shall respond to the
present proceedings by putting forward the facts
and figures by filing their reply.

10. The Court calls upon the authorities to
apprise the Court about the following aspects as
well,

(a) What steps and measures are presently
taken for ensuring the safety and protection to
the life of elephants and other wildlife assets in
the State of Karnataka.



(b) What are the steps proposed to be taken in future, in light of the repeated deaths of the elephants occurring and reported, to prevent such instances of unnatural deaths.

(c) What is the statutory machinery activated by the authorities in this regard.

(d) What is the mechanism adopted and developed for the safety and safeguard of the elephants and other wildlife within the sanctuary area as well as outside the reserved area.

(e) In what way the authorities fix the liability of officers when such kind of deaths of elephants and wildlife occur

11. The Registrar General is directed to register the suo motu public interest petition. Notice shall be issued to the parties returnable on 2nd July 2024.

Learned Senior Advocate Mr. Puttige R. Ramesh is requested to assist the Court as Amicus Curiae."

3.2 The 'Bangalore Mirror' news item which was the basis of the present *suo motu* action by the Court *inter alia* read as under,

"Between January 2021 and now (June 12, 2024), Karnataka has lost 35 elephants to electrocution. Out of these, 12 cases were recorded in 2021, nine in 2022 and 2023 each, and five deaths have been registered this year.

Overall, 47 cases of unnatural deaths in jumbos have been recorded in the given period, which include deaths by gunshots, electrocution, road and train accidents, and snaring."



3.3 The Registrar General of the High Court Sri. K.S. Bharath Kumar registered *suo motu* writ petition observing that the report in the newspaper was about an anxious event. It was stated that after the incident of Ashwathamma at Mysuru, one more death of elephant was reported from Chikkamagaluru District. Two further deaths of elephants in Madikeri District came to knowledge.

3.4 It was highlighted that the safety of the elephants is to be ensured at all cost, both inside and outside the sanctuary area, by keeping a vigil and by taking appropriate measures to prevent the exposure of the elephants to the electrocution or other unnecessary causes resulting into their deaths. The forest and the other authorities owed a duty in this regard. It was noted that the incidents of death of the elephant either by electrocution or in unnatural way, were occurring with repeated occurrence becoming serious matter to worry. Incidentally, despite passage of long years, the State authorities and forest authorities in particular appears to have failed in ensuring the safety of the elephants who succumb to unnatural causes, including electrocution to cost their lives.



3.5 Even as 12 years back, this court had an occasion to take up the issue regarding mysterious death of elephants in the Mysore forest area and showed concern to address the executive and the officers for their duty for protection of wild animals, birds and plants in general, and for protection of elephants in particular, which was perceived to be part of environmental and ecological security. Not only for the flora, fauna and the wildlife, but in the larger interest of human kind as well.

3.6 A beautiful poem by National Poet Sri Rabindranath Tagore in 'Gitanjali' with which the judgment in the aforesaid *suo motu* proceedings **[(2012) 5 Kant LJ 313 (DB)]**, bears a recurrent relevance,

“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



3.7 The focal issue addressed in this public interest petition is the death of innocent elephants on account of electrocution often resulting due to unserviced, unattended and poorly maintained power lines by the electric companies. The lack of maintenance of power lines and the power voltage passing therein, becomes a major cause for unnatural death of the elephants who unknowingly come into contact with live lines and suffer nothing less than a death.

4. In response to the present public interest petition, affidavits-in-reply came to be filed by the Union of India, as well as the State of Karnataka through forest authorities.

4.1 Learned Amicus Curiae placed on record the following interesting facts about the elephants in Karnataka,

(a) There are 27,000 elephants in India out of which it is claimed by the Karnataka Forest Minister that there are around 5914 to 6877 in Karnataka based on the elephant census conducted from May 17 to 19, 2023.

(b) There is an increase in elephant population in the last thirteen years in as much as it has risen from 5740 in 2010 to 6395 in 2023 as detailed hereunder:



Year	Elephants
2010	5740
2012	6072
2017	6049
2023	5395

(c) There are 32 forest divisions in Karnataka, of which Bandipur tiger reserve has the highest number of 1116 elephants followed by Nagarahole tiger reserve with 831 elephants.

(d) The male and the female elephants are also known as bull elephants and cow elephants. However, there is a large gap. between the population of the two with bull elephants accounting for only 32.8% as against 67.2% of cow elephants. The detailed brake up as published by the Forest department in the year 2007 is furnished hereunder:

Age class	Age structure (%)		Sex Ratio
	Male	Female	
Calf	7.2	7.2	1:1.0
Juvenile	4.4	9.7	1:2.2
Sub-adult	4.5	15.1	1:3.4
Adult	16.8	35.3	1:2.2

(e) The reason for reduced number of presence of bull elephants is attributed to the fact that bulls are poached for its ivory which is not available in the cow elephants. These ivories have very high price in the market and as such are in great demand by smugglers. As a matter of fact, around 2000 to 3000 bull elephants were shot dead by forest brigand Veerappan before he was killed in an encounter on 18th October, 2004.



(f) Elephants weigh upto 3 to 4 tons and require about 200 to 300 kgs of fodder. They consume berries, bark, leaves, roots and foliage and in search of their food, they keep wandering across vast areas of forests upto around 18 hours a day.

(g) However, while wandering they disburse seeds in their dung which account to around 250 pounds per elephant per day. Majority of these seeds thus dispensed settle in the earth to grow as trees and it is these trees that gives us oxygen to breath while absorbing Carbon dioxide.

(h) Normally, elephants travel around 20 to 30 kms a day and when they move around, they have the power and dexterity to trample across forests and create pathways that lead to waterholes and fodder, helping other animals to sustain themselves. Clearly elephants are necessary for the survival of forest ecosystems, and indeed many creatures. In other words, elephants, through their regular movement within the forest ensure adequate air and light to the ground and the said air and light are essential for the healthy growth of plants.

(i) Unfortunately, death of elephants have been taking place regularly. It is reported that 287 wild elephants died since 2021, seven of them this month alone.

(j) Two elephants are reported to have died when they were moving in search of water. An article appeared in this regard on 09th June, 2024 was produced on record.



(k) Though bull elephants are small in number, majority of accidental deaths of wild elephants are of bull elephants. This raises a doubt as to whether they died accidentally or were killed for extraneous considerations.

4.1.1 About human-animal conflict, more particularly, in respect of nexus between human activity with elephant security, the following aspects were highlighted.

(i) The elephants consume large extent of vegetarian items and when they find scarcity of it they wander into adjoining villages in search of food. When they move around to villages they damage the crops enroute and many a times such damage takes place unintentionally.

(ii) The fact remains that the villagers lose their crops because of the movements of elephants in their plants.

(iii) The villagers are affected not just by elephants but by several other wild animals such as wild pig, cheetah etc.,

(iv) In order to prevent the entry of such wild animals to their villages, the villagers have invented their own methods, many a times such inventions are crude in nature. They set up barricades with live power and also set up bombs in food balls such as ragi balls.

(v) Though it is stated that such bombs are placed to deter small animals like wild pigs, they also attract elephants which consume them resulting in bombs



exploding in their mouth there by causing severe damage to their body.

4.1.2 As noticed, elephant Abhimanyu died due to electric shock it received from solar fencing. Earlier elephant Arjuna died due to a mistake committed by its care taker in tranquilising it during an operation to tame another wild elephant. Both these wild elephants are captured elephants and are trained to be part of the world famous Dussera procession, an annual event that takes place at Mysore on the Vijayadashami day.

4.1.3 'Udayavani' newspaper reported in its issue dated 19th June 2024, that a wild elephant fell into a open well and died there. This again is a male elephant and the death has taken place even after this Hon'ble Court expressed anguish over deaths of elephants on 14th June 2024.

4.2 The respondent-State forest authorities stated the following facts on oath,

- (a) Karnataka has the highest number of free-ranging Asian elephants in the country. The number stands at 6395, as per the Elephant Estimation Exercise, 2023.
- (b) With the growing population of wildlife and humans and the fragmentation of forest areas, the State experiences several



challenges in managing its population and ensuing conflict.

- (c) The conflict is in the form of crop damage, property damage and the loss of lives of humans and elephants.
- (d) The Karnataka Forest Department has taken many initiatives to arrest the conflict cases and create awareness about wildlife conservation for sustainable growth.
- (e) Among the causes of unnatural deaths of elephants, electrocutions account for the majority, followed by train accidents, gunshots, and road accidents.
- (f) Electrocution is a significant cause of unnatural elephant deaths in Karnataka. Since 2021, Karnataka has reported 46 elephant deaths due to electrocution.
- (g) Elephants are electrocuted when they stray from the forest and come into contact with these live wires.
- (h) These incidents are primarily caused by illegal practices where farmers in forest fringe areas connect wire fences around their lands to regular power supply sources, particularly at night.”

4.2.1 Regarding the incidents of the electrocution of the elephants and the resultant deaths of the animal assets, it was stated that the fatalities on this count occur primarily due to two factors.



(a) First is Sagging Power Lines and Illegal Electric Fences. The transmission lines can sag due to inadequate maintenance, leading to dangerous contact with elephants. The National Board for Wildlife guidelines specify that the minimum clearance height of power lines should be 20 feet in gentle terrain and 30 feet in steeper areas. However, insufficient pole support and maintenance, especially in hilly regions, often result in sagging lines. Sagging electric lines pose a threat to elephants and endanger human lives and property.

(b) In respect of Illegal Electric Fences, the same becomes dangerous for the elephants when the farmers near forest fringes electrify fences to protect their crops. They illegally connect these fences to 220 V power sources for pump sets or houses, especially at night. When elephants stray out of forests and come into contact with these live wires, they are electrocuted.

4.3 It was stated that the purpose of better forest management and protection of wildlife include the elephants. Presently, the State of Karnataka has provided 60 protected areas, comprising of 5 national parks, 36 wildlife sanctuaries, 18 conservation reserves and 1 community reserve. The Forest Department works to



address the challenges often posed in co-existence of human population and wildlife habitat. In order to protect the elephants from coming into contact of live wire lines, the physical barricades like rail barricading, solar tentacle fencing, elephant-proof trenches and solar fencing are created to mitigate the issue.

4.3.1 It was stated that regular patrolling is done by more than 2700 departmental staff. Anti poaching camps are established. Rapid Response Teams are formed to drive the elephants away. The Elephant Task Force (ETF) is created. Created in eight districts which experience significant Human-Elephant conflict are the targeted enhanced response capabilities. Elephant Task forces have been established in conflict-prone areas, including Kodagu, Hassan, Chamarajanagar, Mysuru, Chikkamagaluru, Ramanagar, Bannerghatta, and Bandipur. These task forces ensure timely response to conflict situations and safeguard human and elephant populations.

4.4 Following further measures are highlighted,

(i) The patrolling staff regularly track and observe elephant movements and alert farmers and villagers via wireless messages, SMS, announcements, and digital displays. Timely alerts about



elephant movements help prevent human- elephant encounters and reduce conflicts.

(ii) Special Tiger Protection Force conducts regular combing operations and anti-electrocution activities in Tiger Reserves. These operations help remove threats to wildlife, such as snares and electrification, illegal contributing to elephant safety. Monthly reports are submitted to the National Tiger Conservation Authority.

(iii) Advanced Technologies are implemented such as Garuda E-Surveillance system with AI-coupled CCTV cameras for instant alerts, GSM Camera Traps and CCTV for Monitoring wildlife and alerting communities, Radio Collaring is done for tracking elephant movements through a web-based dashboard, drones are employed for locating and monitoring conflict elephants.

(iv) The Habitat development works such as grassland development, bamboo regeneration, and water hole creation with solar pumps are undertaken. These measures restrict elephant movement into human areas and provide necessary resources within forests, reducing the need for elephants to stray.



(v) Interstate Coordination Committee (ICC) Charter-2024, in recognition of the critical need for cooperative and proactive measures to address escalating human-animal conflicts are established.

(vi) By Electrical Line Management and by Raising Power Lines, proper height of electrical lines is ensured to reduce risk of elephant electrocutions.

(vii) The State has issued directives to ensure that fencing around plantations and estates does not endanger elephants through improper electrical installations or power theft.

4.4.1 The Staff, it is stated, conducts drives to raise awareness about the dangers of illegal power connections and snaring in fringe villages, educates local communities on legal and safe practices. Warning Signboards are also installed on roads and near village limits where elephant movements are frequent. The department undertakes awareness generation programs to educate the public about the behaviour of wildlife, their importance in the ecosystem and the conservation benefits to the human society. This is to prevent straying of humans in forest areas, avoid



the wildlife encounters by humans and prevent the wildlife related conflict. Such programs were conducted in 1183 villages of the State in 2023-24 alone.

4.4.2 Further, the conflict animals are captured and translocated to rescue-centres or elephant camps or released back into the wild after health assessments. Responsible management ensures their safety and reduces human-elephant conflicts.

4.4.3 Regular meetings are conducted under the chairmanship of the Chief Wildlife Warden of Karnataka to assess the causes of unnatural deaths of elephants in the State and review the status of offence cases booked. The field officers were directed to closely follow the progress of the offence cases and strengthen the liaison activities with the line departments to prevent such unfortunate deaths in future, it was stated.

4.5 The futuristic measures stated to have contemplated by the Forest authorities include as stated (i) Reorganization and Enhancement of Field Staff Operations, (ii) Using the Advanced Technological Interventions including use of drones and alert systems, (iii) Implementing the e-surveillance system, (iv)



Enhancing GSM-Based Cameral Traps and CCTV Cameras, (v)
Applying Radio Collaring technique in which the elephants, tigers and leopards are fitted with radio collars and their movements are monitored through a web-based dashboard.

4.6 There are still other steps and measures indicated,

(a) Erecting physical barriers along forest boundaries is a critical strategy. These barriers deter elephants from entering human settlements and agricultural fields.

(b) Different types of barricades have been installed across the state, tailored to the terrain, soil type, and level of conflict. The physical barriers including the Railway barricades which extend to approximately 332.62 Kms. and the same are specifically designed to guide the elephants away from vulnerable areas.

(c) The second is Elephant Proof Trenches (EPT). Such EPTs of the length of 2420 Kms. have been created.

(d) In the third place, during last ten years, approximately 3426 Kms. of solar fences are installed. The solar fences are one more mode to implement the physical barriers for protection of the



elephants. They deliver a brief shock when an animal come into contact with such fencing.

(e) The farmers often deploy illegal techniques of electric fencing in the forest area, in ordering entry of elephants. The Karnataka Forest provides subsidy of 50% for the purpose of installing the solar powered electric fence.

4.7 The Assistant Conservator of Forests in his affidavit made available the figures seeking to establish that the deaths of elephants by electrocution accord almost nil and in least numbers compared to the deaths occurred during last two years for the reason coming into contact of illegal electric fencing and sagging power lines. It was stated that in the year 2023-2024, out of 13 deaths by electrocution, 10 were reported due to illegal electric fencing, 3 by the reason of sagging power lines and there was death on account of solar fences. It was further mentioned that for the year 2024-2025, the figures indicate that total deaths of the elephants occurred due to electrocution was 12, out of which 5 was because of illegal electric fences, 6 because of sagging power lines and 1 on account of solar fences.



4.8 Placing and erecting the electric fences illegally is the practice which violates several laws, including the Wildlife (Protection) Act, 1972, the Indian Electricity Act and the Indian Penal Code. The shift towards high-investment cash crops make the farmers desperate to protect their fields, leading to illegal and dangerous measures that result in electrocutions.

4.9 It is to be noted that in cases of deaths of elephants by use of illegal electric fencing with unregulated voltage, the offenders are prosecuted under Section 9 of the Wildlife Protection Act, 1972 since the deaths would amount to willful hunting.

5. The elephant is a large agrarian animal, many of them have the weight upto 4 – 5 tons. They require everyday 200 to 300 kilograms of poddar comprising of various plants and species. With increase in the human population on one hand, and the fast decline of forest and congenial habitat for the wildlife including the elephants, the movements of the elephants have increased.

5.1 The elephants often travel to and injecting the territories occupied by the humans, to become prey to accidental mishaps for the reasons attributable for human activities and the works of the



human. This trend of elephant movement and the damage to the agricultural crop by the elephants, the farmers are led to indulge into erecting and establishing illegal electric fencing.

5.1.1 The State of Karnataka is the home to many small and big animals, birds, reptiles and other wildlife. The primary habitat of the animals including the elephants is the forest area, however, for various reasons, the elephants roam around to intrude into the residential areas or agricultural fields posing risk to the crops and often to the human life. The elephants themselves risk their life while attempting to cross the forest area to come to human habitat. They often attempt to cross the barriers created for them.

5.1.2 The instances of electrocution happen during such attempts by the elephants to cross the barriers and when they come in contact with the sagging power lines. It is stated that since the year 2021, the death of elephants on account of train and road accidents have also occurred. All these instances, in which, whether the death of the elephants are by electrocution or accidents or through any other mishaps, in ultimate analysis, highlight the challenges which the State and Society have to negotiate through its law enforcement to protect the elephants and



other wildlife and to minimize the incidents of deaths and to avoid human-elephant conflict.

5.2 What needs to be prevented by taking suitable effective measures are habitat fragmentation, physical road barriers, the factors which force the animals to cross the said zone of forest to dangerous zones to access the territories other than their own natural habitat, collision with the vehiculars such as trains and buses and the death by all course of electrocution.

5.3 The human-elephant conflict has increased in its intensity and extent. The reasons are various, which include expansion of residential colonies touching and intruding the forest areas. The creation of infrastructure and energy requirements to cater to the large population for which, forest lands have to be in some manner utilized and the depletion of natural habitat of the elephants. For the reasons attributable to the human conduct and modernization, the elephants' natural places becomes surrounded by human habitation, agricultural activities, mining activities, roads and railways laid nearby.



5.3.1 This has the result of fragmenting and dividing the forest habitats. The elephant herd roam towards distant areas in search for food and water because of the human population in the vicinity, the wildlife in general and elephants in particular feel a sense of insecurity. This also leads them to move further and further go to from one forest area to another. They travel knowingly or unknowingly to the residential areas. The elephants often move through the patches called Elephant Corridors. This corridors are also specially created as they pass through human habitat and human colonies.

5.3.2 The free movements of the elephants forced by the above factors, results into their coming into contact with electrical lines and live wires in the populated areas or nearby such areas. The high voltage passing therefrom will become a reason for unnatural death of elephants by electrocution. In other words, there are multiple factors which are contributed and to be addressed for remedial measures to save the elephants from dying by electrocution.

5.4 It is not the first time that the court had to exercise the *suo motu* in the subject. In the year 2008, the Division Bench of this



Court had an occasion to initiate *suo motu* proceedings which was registered as Writ Petition No.14029 of 2008, when it was reported in the news that 4 elephants had died in Nanjangud Taluka, Mysuru District under mysterious circumstances. Not only that, it was noticed that 9 elephants died in past 7 days and 25 elephants had died in past 6 months around Bandipur-Nagarahole National Park. The court noticed that the authorities had no clue about the disastrous death of the elephants.

5.4.1 In that proceedings, the State Government had filed a comprehensive action plan for protection of elephants and other wildlife on 17.04.2009. An expert, one Dr. C.H. Basappaavar filed an 'Action Plan to Mitigate Human-Elephant Conflict'. In that decision, the court made various observations in paragraph 28 on the basis of the report of the Task Force requiring and directing the authorities to undertake certain measures and steps to be acted upon. These directions aim at mitigating human-elephant conflict in general.

5.5 As the issue flagged in this petition is about the electrocuted deaths of the elephants in unnatural way arising out of lack of diligence and care on part of human machinery and governmental



agencies responsible in that regard, measures on this score have to be chalked out.

5.6 In course of the hearing one of the aspect highlighted by the learned Amicus Curiae was about the solar power fencing erected had different places, which often becomes cause of death of elephants, when the elephants come into contact solar power fences.

5.6.1 From the decision of the Madras High Court, learned Amicus Curiae highlighted that in the letter dated 11.11.2009 issued by the Ministry of Environment and Forests, Project Elephant, Government of India had addressed to the Chief Wildlife Wardens of all the States, in which a specific direction was given to ensure that no solar power fences are erected in future. It was observed that whenever the death of elephants occur due to electrocution in such places, the management needs to be prosecuted for hunting and such fencing needs to be removed at once.

5.6.2 The reference of the said letter dated 11.11.2009 was found in decision in the Madras High Court in group of Writ petition No.10098 of 2008 and others, which were the cases related to the



Forest of the District, Nilgiris. While one batch of petitions pertained to ensure safe elephant movement across the areas, the other group of petitions before the High Court was about the rights of the tribals and traditional forest dwellers in the District of Nilgiris, whose dwelling houses often found to have been located on the lands of elephants corridors authorisedly or unauthorisedly.

5.6.3 The letter specifically referred to the deaths of elephants due to electrocution by solar power fencing in the State of Karnataka and State of Assam. This aforementioned letter dated 11.11.2009 of the Government of India dealing with the death of elephants by electrocution is extracted from the judgment of the Madras High Court,

"SUB: Death of elephants by electrocution-reg.

Sir,

The Ministry is receiving reports of deaths in tea/coffee estates especially in Assam and Karnataka due to unregulated voltage in the solar power fencing erected by them. This is a serious issue and in fact such an act tantamounts to wilful hunting as perand thus is in violation of Section 9 of the Wildlife (Protection) Act, 1972.

2. You are, therefore, requested to make it known to all the tea gardens, coffee estates and others located in the elephant areas to ensure that no such fencings are created in future. Wherever deaths of elephants due to electrocution in such places have taken place, the



management needs to be prosecuted for hunting and such fencing needs to be removed at once.

Yours faithfully,

Sd/-
(A.N.Prasad),
Inspector General of Forests
and Director (Project Elephant)"

5.6.4 The directions by the Central Government in the aforesaid letter contemplates *inter alia* that the Central Government has asked the State Government to identify and notify the elephant corridors of the respective States by giving protection to the elephants. Secondly, the competent authority of all the State Government are directed to ensure that no solar power fencing is erected in future, so that no death of any animal including elephants, takes place.

5.6.5 In view of the aforesaid aspect of solar fencing erection and its detrimental effect on the elephants including possibility of electrocution of the elephants whereby, the court by the order dated 24.10.2024 passed in the present proceedings called upon the state to explain the aspect and clear its stand.

5.7 Responding to above important aspect, one Mr. Lakshimikanth working as Assistant Conservator of Forest, Hunsur



Sub-division filed affidavit in which, the concerns about the elephants' deaths due to unregulated voltage in the solar power fencing was dealt with and highlights the following aspects,

- (1) Government of India has issued the Government Order dated 16.09.2016 wherein technical specifications for solar fencing are laid down and the Forest Department is required to ensure that the erected fences meet international safety standards and provide an effective safety humane deterrent against wildlife incursions.
- (2) The Ministry of Environment, Forest and Climate Change, Government of India has laid down in the year 2020, the best practices which could be adopted for mitigating the human-elephant conflict in the area of management of human-elephant conflict.
- (3) The solar power high electric fences are considered to be the one of the best practices. It is also cost effective.
- (4) The Project Elephant Division of the Ministry of Environment of Forest, Government of India is in collaboration with the World Wildlife Fund, India have issued certain tips for managing the human-elephant conflict on 27.06.2022 in the Field Manual.



(5) Construction of non-lethal and safe barriers is highlighted to mitigate the human-elephant conflict.

(6) On the basis of research and studies, it is stated that the regulated use of solar power fencing is an effective measure by producing research methods.

(7) Fences where in the nature of Chili and Electric are the most effective method for reducing the damage to the crops on the one hand and intruding of elephants on the other hand.

6. Preserving and protecting the nature, wildlife and the elephants is a statutory and constitutional enjoinder and imperative. The State Government is empowered to undertake the measures for protection of forests and the wildlife, which are within its territory by virtue of Entries 17-A titled 'Forest' and 17-B titled 'Protection of Wild Animals and Birds' in the Concurrent list of the Constitution. The State Government is also vested with the powers under the Wildlife Act to notify the sanctuaries and protected areas as one of the measures to protect the wildlife and the forest. The provisions of Wildlife Protection Act operate.

6.1 Article 21 of the Constitution is a pervasive fundamental right to cover the instant area also in its specific situations. Article 48A



speaks about protection and improvement of environment and safeguarding of forest and wildlife. It says that the State shall endeavor to protect and improve the environment and to safeguard the forest and wildlife in the country. Under Article 51A(g) of the Constitution, it is one of the fundamental duty, 'to protect and improve the natural environment including forest, lakes, rivers and wildlife and to have compassion for living creatures'. All these provisions of the Constitution operating in cojoint manner give a mandate to the State to protect and improve the environment, to maintain the ecosystem and to extend the safeguard and safeguarding measures to the forest and wildlife.

6.2 As part of law of the land emanating from the aforementioned Constitutional provisions, the Constitutional Courts have recognized what is known as 'Precautionary Principle'. It is the duty of every citizen individually, of the society collectively and of the governments under constitution obligation, to protect and improve the natural environment, to preserve the forest and wildlife and to show the compassion to the living creatures. Therefore, taking measures for conservation, protection and promotion to the healthy habitat for the elephants and thereby to lend inclusivity in



human-cum-ecosystem is a duty, societal obligation and constitutional mandate.

7. In **Hospitality Association of Mudumalai vs. In Defense of Environment and Animals [(2020) 10 SCC 589]**, the Supreme Court issued directions to the resort owners and the private land owners in the State of Tamilnadu to vacate and hand over the possession of the lands which was notified by way of Tamil Nadu Government Notification dated 31st August 2020 as Elephant Corridor. In that case, the Court highlighted that it was not only the power of the State Government, but a constitution duty to take all necessary measures for protecting the elephant population.

7.1 The Supreme Court in **Hospitality Association of Mudumalai (supra)**, highlighted about the Elephant Corridor to observe that the Elephant Corridor allows elephants to move freely between secure habitats, without disturbed by the humans and human activities. The elephants are genetically programmed by nature, it was stated, to never inbreed within their birth family and thus need to move around between gene pools in their reproduction activity. It was observed that these corridors become helpful in this process by facilitating the different elephant



populations to inter-mingle, which is essentially for maintaining the vigor of the species and to ensure their long term survival.

7.2 The Supreme Court in **Hospitality Association of Mudumalai (supra)**, prohibited carrying on the commercial activities for the protection of the Elephant corridors. The deadly confrontations between the humans and the elephants, and because of the human activity and elephant movements, which may occur in any form, have to be kept at bay by undertaking every and all conceivable measures to protect the elephants. In the migration routes of the elephants, which may be identified by the authorities, the electrical lines should be monitored and maintained to protect the elephants from possible threat of electrocution.

7.3 The proper identification and maintenance of elephant corridors where the elephants, their family and the herds would move safely to lead their natural life and live naturally, is of importance. All safeguarding measures in such elephant corridors which may be created and provided by the government and forest authorities, should be taken. This would also include the measures and methods that the corridors remain free from the risk of sagging



lines, live voltage wires nearby and in the surrounding, to avoid for the elephants the risk-proneness of electrocution.

8. Anything attached to the Nature, or part of the Nature and which is a specie of the Nature whether in the form of flora, fauna, all wildlife including Elephant, have invariable, inseparable and inextricably interwoven co-existence with the humankind. Their conservation, protection and preserving is necessary for ensuring the sustenance of human life.

8.1 H.R.H. Prince Philip, the Duke of Edinburgh in his Foreword to the International Wildlife Law says,

“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 all 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...”.

9. Managing sagging lines and monitoring electric lines is a subject of technical expertise. The Task Force for suggesting eco-friendly measures to mitigate impact of power transmission lines and other power infrastructure on elephants and on wildlife in its



second meeting dated 16th May 2019 had made certain recommendations after deliberations, they are relevant to be noticed here.

9.1 These recommendations should be scrupulously adopted and followed by the authorities and implementing agencies,

- (1) There has to be immediate rectification of sagging transmission lines and cable of existing transmission line in the protected areas by the Electricity Supply Utilities and electrical companies operating in the area.
- (2) Joint inspection of every transmission/distribution line passing through the protected areas or passing through the vicinity of protected Areas which are frequented by wild animals by officials of Electricity Department and Forest Department has to be undertaken regularly, at least thrice a year once before onset of monsoon and once after monsoon so as to identify potential problem stretches.
- (3) Forest Department shall inform the concerned power supplier / line owner of the area about every electrical accident occurring in and around forest area involving human/animals which in turn shall submit an accident report in Form A (Form for reporting electrical accidents) as given in the Intimation of Electrical Accidents (Form and Time of Service of Notice) Rules, 2005 duly completed in all respects to Electrical Inspector of the Appropriate Government.
- (4) All electrical accidents should be investigated by Electrical Inspector and suitable measures



should be taken as proposed in the investigation report.

- (5) For preventing death of animals in the forest areas due to electrocution by the distribution lines, the distribution companies shall preferably use Aerial Bunched Cables or underground cable. In case of the overhead lines, the clearance above ground of the lower conductor of 11 kV/33 kV overhead lines should be as per CEA Regulations.
- (6) Rule 59(3) of the CEA (Measures Relating to Safety and Electric Supply) Regulations, 2010 (as Amended) should be amended as below,

In case of laying of transmission lines of 33 kV and below passing through habitated urban or rural areas, any forest area other than National Parks, Wildlife Sanctuaries, Conservation Reserve, Community Reserve, Eco-Sensitive Zones around the protected areas and Wildlife Corridors, underground cable or aerial bunched cables or covered conductors shall be used.

- (7) Further new Section would be added as Rule 59(4) reading as below,

In case of as in case of laying of transmission lines of 33 kV and below passing through protected areas such as National Parks, Wildlife Sanctuaries, Conservation Reserve, Community Reserve, Eco-Sensitive Zones around the protected areas and wildlife corridors, underground cable should be used. In cases where these areas are aquatic and marine in nature, aerial bunched cables or covered conductors would be used as alternative to the underground cables.



- (8) Right of Way for 11kV transmission lines can be optimized keeping in view the corridor requirement for the future by adopting suitable alternative of multi-circuit/or multi-voltage lines. Conductors of appropriate size shall be selected considering power flow requirements and other system considerations in consultation with neighbouring transmission and generation utilities. For transmission lines of 400 kV or higher voltage class, bundle conductors, minimum two conductors per phase for 400 kV AC and four conductors per phase for 500 kV DC and 765 kV AC shall be used for satisfactory performance of transmission lines from corona and interference aspects. The conductors may be of type aluminum conductor steel reinforced, all aluminum alloy conductor or other new technology conductors depending on system requirements and should avoid base conductors.
- (9) The existing transmission lines should be replaced retrospectively with insulated cables / or underground cables on priority basis by the Electricity Supply Units, Power Distribution Companies and Power Grid Corporation of India Ltd.
- (10) A sub-committee consisting of one representative from CEA, DIG(FC) and DIG(WL) would examine Right of Way requirements for laying of transmission lines in the protected areas.
- (11) Early planning and rigorous Environmental Impact Assessment are two principal requirements for reducing wildlife mortality due to transmission lines, as well as minimizing the risks of costly power outages. A nationwide strategy should be developed and supported



to undertake the long-term planning of electricity grid networks as a priority. Planning should include the use of state-of-the-art wildlife protection equipment, and burying low to medium-voltage transmission lines below ground where feasible.

- (12) Burying transmission lines effectively removes the problem of wildlife electrocution. Environmental Impact Assessment is an invaluable tool to inform decision making, helping to ensure that transmission lines are appropriately routed and designed.
- (13) The routing of transmission lines and shifting transmission structures should be done collaboratively, involving the electricity supplier company, government bodies, conservation agencies, land owners and other interested and affected parties, culminating in one or more memoranda of understanding.
- (14) Birds frequently collide with the earth wires installed at the top of transmission lines, as it is less visible and smaller in diameter. Removal of the earth wire would reduce bird collisions however this is rarely a viable option since the earth wires protect the power-line installation from lightning strikes. This is only possible in areas where there is very low lightning and to a limited extent. Where the earth wires cannot be removed, line marker devices / bird reflectors should be used in sufficient numbers to deflect the birds to take alternate path. Marker devices are available in several colours and are visible to birds from a long distance. Many types of marker devices are available, such as spheres, swinging plates, spiral vibration dampers, strips, flight diversion, bird flappers, ribbons, tapes, flags and crossed bands.



- (15) Line markers should be as large as possible. The spacing between them should not be more than 5 m to 10 m. Marker devices should be chosen to contrast as much as possible with the background colours, and importantly, should be visible at night, for most bird collisions are said to occur at night.
- (16) There is a need to set up reinforced electric poles fitted with spikes to prevent elephants rubbing against them and lifting of sagging overhead power lines. This is yet to be done in many protected areas. Also Insulate overhead wires across all elephant habitat and elephant movement zones and remove / dismantle all defunct solar powered fences.”

10. In light of all the above aspects and in view of the foregoing discussions, it is essential that the competent authorities commit themselves to conserve and preserve the animal-asset-elephant to minimize, avoid and obliterate the risk of the elephants succumbing to death by electrocution. Ensuring that the elephants are kept away from the risk of electrocution is in the hands of Forest Department and measures which could be taken in that regard are under their control. These measures have to be steadfastly taken.

11. In the end, the following directions which are not exhaustive are issued,



- (i) The respondent-authorities should identify and map the risk areas where there is possibility of mishaps on account of sagging power lines and illegal electrical fences which may have come up unauthorisedly within the elephant habitats and fringe areas.
- (ii) The area-wise investigating committees shall be formed by the Chief Conservator of Forests for different forests circles, who shall identify the risk areas periodically.
- (iii) The task force recommendations shall be implemented.
- (iv) The guidelines from the Ministry of Environment, Forest and Climate Change dated 24.10.2016 with regard to laying of transmission lines through forest areas should be implemented and its implementation shall be monitored.
- (v) The forest authorities shall act in co-ordination with the Energy Department for checking the sagging electrical lines and ensure that proper maintenance is made to see that they remain adequate height for the safety of the elephants.
- (vi) The habitats of the elephants and the elephants corridors should be regulated on this count.



(vii) The sagging electrical lines cause greater threat in the hilly regions. This happens due to maintenance of the power lines or on account of non-observation of norms for minimum height for the terrain and for the steeper areas as fixed by the National Board for Wildlife. These norms should be adhered to for continuous maintenance.

(viii) There should be evolved and effective mechanism to check, prevent and destroy illegal electrical fences which the farmers create for their agricultural fields located near the forest land to prevent the elephants entering into their fields.

(ix) The unauthorised illegal fences erected by the farmers often become a cause for the elephants to come into contact and suffer electrocution. Such illegal unauthorised electrical fences should not be permitted by the authorities and should be replaced by the scientific and protective barricades in such areas where farmers grow their crops or where there are residential colonies.

(x) The norms for erecting electrical cables and telecommunication towers should be scrupulously observed. The



underground cabling in the eco-sensitive zones should be promoted.

(xi) The authorities should undertake the community awareness programmes to educate the rural people and community persons as well as the farmers about the illegal electrical fences as also the importance of protection of elephants, who are part of human existence.

(xii) The data collection in respect of all the above should be a continuous process. Anti-poaching camps, rapid response teams, anti-depredation camps and regularly patrolling of the forest area and the areas prone to such incidents of the accidental deaths of elephants by electrocution or otherwise should be patrolled regularly.

(xiii) In order to ensure safe elephant movement, overpass at the places desired should be constructed which would help to mitigate the accidents to the elephants.

(xiv) The authorities shall use advanced technical inventions including e-surveillance system which is stated to be a pilot project undertaken in the Nagarhole Tiger Reserve by using artificial



intelligence software and CCTV camera which provides alerts about wildlife and human movements. Such systems should be extended to all the wildlife areas and human habitat areas, wherever necessary.

(xv) Radio collaring to the animals is one of the method to keep track of the movements of the animals including the elephants.

(xvi) Legal action should be taken whenever, police complaints are lodged for violation of the Wildlife (Protection) Act, 1972, Electricity Act, 2003 and other applicable laws. The investigation process should be expeditious.

(xvii) The liability on the officers and employees of the Forest Department for their negligence and dereliction of duty shall be fixed wherever, it is found that there is an element of human negligence which cause the death of elephants.

(xviii) All the directions issued by the Hon'ble Supreme Court regarding conservation of wildlife including elephants shall be complied for the purpose of their proper and effective implementation.



(xix) The directions issued by this Court in the other petitions shall be strictly implemented.

The Court would be failing in its duty if it does not recognize and acknowledge the services rendered by learned Senior Advocate Mr. Puttige R. Ramesh as *Amicus Curiae* to apprise the Court about the details of the cause and effectively assisting. His services are appreciated. The appreciation is placed on record. Learned *Amicus Curiae* will be paid by the respondent-State Rs.50,000/- towards the remuneration for his services done to the Court in the present *suo motu* petition.

**Sd/-
(N. V. ANJARIA)
CHIEF JUSTICE**

**Sd/-
(M.I.ARUN)
JUDGE**

KPS
List No.: 1 Sl No.: 1