

4 (D/L)
26-03-2021
debajyoti/kole

WPA 10138 of 2020
with
IA No. CAN 1 of 2020
with
IA No. CAN 2 of 2020
with
IA No. CAN 3 of 2021

The Court on its own motion
In Re: Smuggling and Illegal Trading
of Endangered Species of Birds

Mr. Saikat Banerjee,
Mr. V. Tripathi

... For the HCA.

Mr. Kishore Datta, learned Advocate General,
Mr. Sayan Sinha

... For the State.

Mr. Y. J. Dastoor, learned ASG,
Mr. Phiroze Edulji,
Mr. Arijit Majumdar

..... For Union of India.

Mr. Rana Mukherjee

... Intervenor in person in IA : CAN/2/2020.

Mr. Arif Ali

.... For the applicant in CAN/3/2021.

1. We have before us the report in the form of an affidavit sworn to on March 26, 2021, by Shri Shailesh Satyakamal Anand, Conservator of Forests, Wildlife and Chief Wildlife Warden, West Bengal on behalf of the Principal Chief Conservator of Forests, Wildlife and Chief Wildlife Warden, West Bengal. Let copies of the report be made available by learned Advocate General's office to the office of

learned Additional Solicitor General, counsel for the High Court Administration and other learned advocates appearing in this matter.

2. While we appreciate the efforts that are being made by the Principal Chief Conservator of Forests and the different officers under the command of that Commissionerate as well as the Wildlife Department and Forest Department and the Police Department of the State of West Bengal, we see that there are critical areas which are to be treated as fragile in terms of management of wildlife. Such situation needs to be addressed by putting in place requisite measures.

3. As at present, we take note of the views mentioned in paragraph 5(H) of the aforesaid report which reads as follows:

“i. Formation of Inter-State Co-ordination Committee with neighbouring states to deal with problems related to Wildlife Crime especially smuggling of wild animals and their articles.

ii. Formation of Wildlife Squads in each district of the state to effectively deal with the problem.

iii. Deployment of police in special camps for protection in National Parks and Sanctuaries, Tiger Reserves and important forest areas on case to case basis.

iv. Formal coordination with Bhutan, Nepal and Bangladesh to curb illegal wildlife trade.

v. Modernization of Forest Force and to equip them with all modern equipment, transport and arms.

vi. Awareness generation through different media and audio video campaigns at Railway stations, Bus stations, Airport and with village communities.”

4. The aforesaid are the suggestions of the Wildlife Forest Department as actions which are called for to control wildlife crime especially illegal trade and smuggling. Bestowing our anxious consideration to those suggestions made by the Forest Department, we are of the view that these matters are of critical importance in the preservation and management of the forests, forest wealth and the different types of birds and animals of multifarious descriptions. We, therefore, direct the Chief Secretary of the Government of West Bengal and the Secretary of the Home Department, Government of West Bengal to jointly consider the suggestions and place the views of the Government from the angle of governance in an effort to effectuate the need to insulate and secure the wildlife and forest wealth. Let the view of the Government in this regard after deliberations at the level of the Chief Secretary, Government of West Bengal and the Secretary, Home Department, Government of West Bengal and if necessary, with the higher officers in the governance be placed before this Court on the next date of hearing.

5. Paragraph 5(G) of the aforesaid report reads as follows:

“(G) It is seen that birds and smaller animals are often subjected to hunting during

different local festivals involving tribals in the districts of Bankura, Purulia, Paschim Medinipur, Birbhum, Burdwan, Howrah and Purba Medinipur. Melas and different fairs are organized throughout the year on different occasions in West Bengal, wherein live birds are sold and bought openly. In Kolkata and surrounding areas, there are different Pet markets like Galiff Street, Banerjee Hat, Boral Hat wherein Indian birds are sold and bought along other domestic animals. It is also common practice to transport and smuggle live birds through various couriers' services and packages both through inland transport and through Airports. The concerned authorities at these exit points are totally unaware and ignorant about the illegality of such a transport in live Indian birds and other smaller animals.”

6. We are of the view that all illegal activities in relation to birds and animals in whatever form and in connection with whatever melas and other festivals have to be completely stopped by the State, in exercise of its police power, if needed. Therefore, we order that hunting, selling, buying or exchanging of birds either as part of sale of domestic animals or otherwise shall stand prohibited by this order, apart from the prohibitory provisions contained in the different statute laws. We also direct that transport and smuggling of live birds through various courier services or packages or any other mode through inland transport or through airports in any manner shall be prevented by the State Police and Police Authorities, Customs Authorities and security

personnel in charge of the airports as well as police officials and other officials in control of the inland transport system. The officers of the Motor Vehicles Department, the officers of the Police Department and officers of the other concerned departments are directed to give effect to this prohibition and any violation of this prohibitory order will be immediately taken cognizance of by the jurisdictional officers as enjoined by the laws. The Airport Authorities, the Customs Authorities and the Authorities in control of the inter-state boundaries, exit points and entry points, are directed to ensure that transportation of live birds and other small and big animals which are part of wildlife, are intercepted and offenders are brought to book. The restrictions imposed through this order are for compliance throughout the State of West Bengal and this order shall by itself be treated as a prohibition with public notice. For such purpose, this prohibitory order shall be published in the website of the State Government and the website of the High Court and such other websites or modes of publication as the Principal Chief Conservator of Forests may deem fit and appropriate.

7. Non-implementation of this order in its letter and spirit will be looked upon as dereliction of duty and violation of this order on the part of the officers in the administration whose obligation it is to enforce this order.

8 The report/lay-note filed by the Registrar General of this Court be taken on record.

9. Post this matter on May 14, 2021.

(Thottathil B. Radhakrishnan, C.J.)

(Arijit Banerjee, J.)