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ITEM NO.4 COURT NO.7 SECTION PIL

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 107 OF 2013

SHAKTI PRASAD NAYAK Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

Date: 10/12/2013 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN
HON'BLE MR. JUSTICE A.K. SIKRI

For Petitioner(s)
Mr. Sanjeeb Panigrahi, Adv.
Mr. Purushottam Sharma Tripathi, Adv.
Mr. Rani Chandra Prakash, Adv.
Ms. Filza Moonis, Adv.
Mr. Nidhi Ram Sharma, Adv.
Mr. Mukesh Kr. Singh, Adv.

For Respondent(s)
Assam Ms. Vartika Sahay, Adv.

Madhya Pradesh Mr. Mishra Saurabh, Adv.

Kerala Ms. Bina Madhavan, Adv.

West Bengal Mr. Avijit Bhattacharjee, Adv.

Chhattisgarh Ms. Sakshi Kakkar, Adv.
Mr. C.D. Singh, Adv. (NP)

M/s. Corporate Law Group (NP)

Mr. Shreekant N. Terdal, Adv. (NP)

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

In the counter affidavit filed on behalf of respondent Nos. 1 and 2, it is stated that during the period 2007-2013, 77 cases of elephant deaths by train hits have been reported. It is also stated that approximately 1593 route kilometers of track passes through reserve forests in the country. It is stated in the affidavit that some measures are proposed to be taken like provision of underpasses/overpasses, ramps, grade separators to separate the railway and elephant paths. Powerful lighting along the railway track on vulnerable stretches with the lights directed at right angles away from the track at night and relocating elephant herds, which have strayed outside their forest habitats, back to their habitat has also been suggested. Furthermore, development of electronic intelligent surveillance systems for obtaining alerts in the railway control rooms and support for research and development of Wireless Animal Tracking System has also been suggested.

In the counter affidavit by the State of West Bengal, it is pointed out that a joint inspection was carried out by the Forest Department and the Railway Authorities and a report was submitted on May 04, 2001 in connection with the writ petition pending

before the Calcutta High Court. The following steps were suggested in that report:

> "To restrict the movement of elephants across the railway line into the crop field, barrier at 1 km. was recommended for Buxa Tiger Reserve.
>
> To make provision of two ramps at 202 - 294 km. to facilitate movement of animals in Jaldapara National Park.
>
> At KM 355/1 - 356/1 it was recommended to strengthen the high retaining wall on the right side & flattening of earthen embankment on the left side for easy movement & escape.
>
> This portion of track called for cautious driving.
>
> Recommended for approach girder bridge having a span of 12.2m for eliminating elephant entry into deep cutting in Mahananda Wildlife Sanctuary.
>
> Growing of crops in railway land to be stopped immediately as it attracted animals for grazing."

It is stated that with regard to the accident that occurred on January 05, 2013, which was brought to the notice of Ministry of Environment and Forests, Government of India by the Principal Chief Conservator of Forests, Wildlife and Chief Wildlife Warden, West Bengal, it was decided to take the following measures:

(i) reducing the speed limit of running trains;
(ii) discontinuation of movement of goods trains at night between Siliguri to Alipurduar; and
(iii) to divert the fast moving and night trains through the Siliguri-Falakata route.

After the above-mentioned accident that occurred on January 05, 2013, a coordination meeting of the Forest and Railway officials was held at Rajabhatkhawa on January 11, 2013. The MoEF has released an amount of ‘241.72 lakhs for civil structural works which has to be undertaken by the Railways in these tracks. It is further pointed out that vide letter dated February 12, 2013, the Divisional Railway Manager, North East Frontier Railway, Alipurduar has been intimated about the risk prone area on Siliguri-Alipurduar railway line for construction of elevated track and the railway authorities have been requested to construct elevated corridors with underpasses at nine vulnerable points for safe train passage. Apart from this, the affidavit also referred to various other measures.

We notice that several suggestive measures have been taken. This Court would like to know whether they have been implemented and if so, the present state of affairs after the implementation.

Today, both the MoEF as well as the Railways are unrepresented so that the aforesaid details could not be ascertained. In such circumstances, we are inclined to direct the respondents to immediately give effect to the following suggestions made in the Inspection Report:

(A) Necessary steps should be taken by the Railways all over

the country to reduce the speed limit of running trains that are passing through dense forests. In case a speed limit is not followed, appropriate action should be taken against the erring drivers and officials concerned.

(B) Railways to take steps to discontinue the movement of goods trains at night between Siliguri and Alipurduar.

(C) Divert fast moving and night trains through Siliguri-Falakata route.

The State of West Bengal also would apprise the Court of the steps they have taken on the basis of the recommendations made after the meeting with the Railway Authorities.

Considering the importance of the matter and in order to examine the steps taken in the State of West Bengal and all over the country, we direct the personal presence of the Secretary (MoEF) and one senior official of the Railways, equivalent to the rank of Secretary, who are well conversant with these matters, in this Court on January 21, 2014, on which date the matter will be taken up.

We are sorry to note that despite service of notice, only few States are represented today. We make it clear that non-representation of the States on the future dates will be viewed seriously.

Petitioner is directed to serve a copy of the SLP brief on the standing counsel for the States, (respondents in the present Writ Petition), who will get instructions in the matter before the next date of hearing and also file their respective counter affidavits. Registry is also directed to show the names of the Standing Counsel in the Cause List.

Put up on January 21, 2014.

|(N.S.K. Kamesh) | |(Renuka Sadana) |
|Court Master | |Court Master |