

ITEM NO.3

COURT NO.5

SECTION PIL(W)

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

Writ Petition(s) (Civil) No(s). 107/2013

SHAKTI PRASAD NAYAK

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln.(s) for clarification/modification of courts order)

Date : 16/09/2015 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Dr. A.M. Singhvi, Sr. Adv.
Mr. Sanjeeb Panigrahi, Adv.
Mr. Purushottam Sharma Tripathi, AOR
Mr. Nidhiram Sharan, Adv.
Mr. Abhishek Tripathi, Adv.

For Respondent(s) Ms. Vartika Sahay, Adv.
For M/s. Corporate Law Group, Adv.

Ms. Ranjit Kumar, SG
Mr. Rana Mukherjee, Sr. Adv.
Ms. Movita, Adv.
Mr. Shreekant N. Terdal, AOR

Mr. Gaurav Bhatia, AAG
Mr. Abhishek Chaudhary, Adv.

Mr. Ashok Panigrahi, Adv.

Mr. Avijit Bhattacharjee, AOR
Ms. Upma Shrivastava, Adv.

Mr. B. Balaji, Adv.
Mr. Rakesh Sharma, Adv.
Mr. R. Shashe, Adv.

Mr. C.D. Singh, AOR
Mr. Darpan, Adv.

Mr. Mishra Saurabh, AOR

Mr. Sibbo Sankar Mishra, AOR

Mr. Tapesk Kumar Singh, AOR
Mr. Mohd. Waquas, Adv.

Mr. V.N. Raghupathy, AOR

Ms. Bina Madhavan, AOR

Ms. Rachana Srivastava, AOR

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

Dr. A.M. Singhvi, learned senior counsel has filed a note which pertains to the compilation of various directions issued by this Court from time to time, the reply/compliance and the comments of the writ petitioner and further additional suggestions.

A copy of the same be served on Mr. Ranjit Kumar, learned Solicitor General who shall verify about the directions reproduced therein and the steps taken as well as the response to the suggestions given thereby by the petitioner.

At this juncture, Mr. Bhattacharjee submitted that he has filed an affidavit on behalf of the State of West Bengal. The said affidavit, be it noted, fundamentally relates to the following directions passed on 02.09.2014 :

"At this juncture, we are obliged to take note of the submission made by Mr. Tapesk Kumar Singh, learned counsel appearing for State of Jharkhand that State of West Bengal has decided to take a regressive step by introducing contraceptives so that the elephants do not procreate and avoided. If it is so, it is absolutely impermissible and

counsel appearing for the State of West Bengal shall take instructions in this regard and file an affidavit of the competent authority. However, as adised at present we restrain the authorities of the State of West Bengal from taking any steps to administer any kind of contraceptives or introducing any method of sterilization which hinders natural procreative process of the elephants or any wildlife."

Learned counsel has stressed on paragraphs 5, 6 and 7 of the affidavit which read as follows :

"5. The Wildlife Wing, Department of Forest, State of West Bengal has received a research proposal from WWF - India, entitled "Mitigating Human-Elephant Conflict in North Bengal" for consideration of approval and collaboration. Under the proposal, WWF-India has proposed to develop a human elephant conflict management plan for North Bengal. This plan, if developed shall be of great use for the mitigation of serious human-elephant conflict in Northern West Bengal as elephants as well as people are being adversely affected due to this conflict. The human Elephant Conflict data (from 2004-05 to 2013-14) in North Bengal is annexed (Annexure - WB/1).

6. As a part of this proposal WWF-India has also proposed to test the potentially and efficacy of innovative elephant management measures and will identify "Early Warning System" for human elephant conflict prevention or avoidance. In this proposal WWF India has also proposed a Pilot Project for an experiment to find out the possibilities of suitability of immunocontraception drug on Asian Elephants which has been successfully used on African Elephants as an established population management tool in Africa. Currently, there exists no such drug or method for Asian Elephant which can be used for immunocontraception. This proposed pilot project is purely a scientific research and has no link with elephant's death on railway track.

7. Government of West Bengal has not taken any decision in the matter and hence no work on the issue has commenced. However, it is felt that there is need for serious scientific research on

the subject so as to keep pace with the latest advancement in the matter worldwide and to be in preparedness to deal with human elephant conflict ensuring elephant conservation. The wild elephant population in North Bengal has increased from 175 (Population estimation data of 1989) to 529 (population estimation data of 2010)."

As advised at present, the affidavit required further clarification. That apart, learned counsel for the petitioner, Mr. Ranjit Kumar, learned Solicitor General shall also apprise us about the need for the so called 'scientific research' which has been elusively mentioned in the affidavit filed by the State of West Bengal.

Let the matter be listed on 15.10.2015.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master