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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P. (C) No. 6502/2016 & CM No. 26622/2016

% *Date of Decision: 19.08.2016*

SALEK CHAND JAIN

..... Petitioner

Through: Mr. Anurag Dubey with Mr. Vaibhav
Kumar, Advocate.

Versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr. Shiva Lakshmi, GGSC with
Mr. Sarfaraz Ahmed, Mr. Ruchir
Rajan Rai and Mr. Ravi Kumar,
Advocate for UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

MS. G. ROHINI, CHIEF JUSTICE (ORAL)

1. This petition by way of Public Interest Litigation has been filed with the following prayers:

“(a) Committee of experts may be constituted to review the environment laws and Wildlife Act, 1972 for suggesting amendments in environment related laws and also for suggesting amendment in Wildlife Act, 1972.

(b) Pass a direction to the respondents to provide devices Q-3AC and Q-5AC of harmony Q Series invented and developed by Indian Agricultural Research Institute of India.

(c) Any other order(s)/relief(s) which this Hon’ble Court deems fit and proper in the facts and circumstances may kindly be passed in the interest of justice.”

2. The Petitioner, who claims to be a social worker, states that the present petition is based on the newspaper reports and the replies received from the concerned authorities under the Right to Information Act, 2005. It is pleaded that the action of the Respondents in allowing culling of wild animals on the ground that they were posing danger to human life and causing harm to crops has resulted in indiscreet killing of the wild animals. Instead, according to the Petitioner, the Respondents should have adopted the other measures by installing the devices invented by the Indian Agricultural Research Institute of India which can effectively scare away the animals and birds. The Petitioner has also referred to device Q-3AC and device Q-5AC stated to have been invented by the Indian Agricultural Research Institute of India which would be useful for keeping away the animals as well as the birds. Referring to Article 48A of the Constitution, it is contended by the Petitioner that it is the duty of the State to endeavour to protect and improve the environment to safeguard the forest and wildlife of the country. Hence, the Petitioner seeks a direction to the Respondents to constitute a committee of experts to review the statutes related to environment and wildlife and further to direct the Respondents to take steps to install the devices Q-3AC and Q-5AC invented by the Indian Agricultural Research Institute of India.

3. Pursuant to the notice ordered by us, a detailed affidavit has been filed by the Ministry of Environment & Forests and Climate Change explaining the various steps being taken to deal with human-wildlife conflict situation. The relevant paragraphs from the said affidavit may be reproduced hereunder:

“1. It is submitted that the incidences of loss of human lives and damage to crops by wild animals are reported in various parts of the country from time to time.

These issues have been raised in the Parliament and have also been taken up with the Prime Minister and Minister for Environment, Forest and Climate Change by the Member of Parliament and civil society members.

2. It is submitted that the various representations are received by the Ministry of Environment, Forest and Climate Change to take steps towards mitigation of human-wildlife conflict, including delisting these animals from the schedules or listing them vermin in terms of Schedule V of the Wild Life (Protection) Act, 1972 which would result in the fact that hunting of such animals would not amount to an offence under the Act.

3. It is submitted that the Ministry of Environment, Forest and Climate Change had 24.12.2012 issued a clarification as an advisory to the States highlighting the legal provisions available under the Act to deal with such human-wildlife conflict situations. State Governments were requested to give proposal seeking central assistance under the Centrally Sponsored Scheme for Mitigation and Management of Human Wildlife Conflict, and if by objective assessment of the situation it is understood that a notification to include problematic wild animal in Schedule V of the Act for a specified period could be helpful in management of conflict, they were to submit proposals with details of the areas with reason for this step proposed.

4. It is submitted that the Ministry of Environment, Forest and Climate Change issued a further detailed advisory on 01.06.2015 to the State/Union Territory Governments regarding the priority actions for management of human wildlife conflict. The State/Union Territory Governments have been requested to institute a Human Wildlife Management Strategy along with other suggested measures for the

proper management and prevention of human wildlife conflict situations.

5. It is submitted that based on the proposal from the State Governments, the impugned notifications under Section 62 of the Act, which came after objective assessment of the situation, have been issued in the specified locations for a period of one year by the Central Government against the requests for 3 years and 5 years respectively by the States of Uttarakhand, Bihar and Himachal Pradesh. It is further submitted that the Notifications are issued for one year in order to understand the impact covering all the seasons and that the Ministry will be reviewing the impact of these notifications after the said period.

6. It is submitted that the power for removing any species causing massive damage to crops, entirely from the Schedules of the Act or shifting from one schedule to another comes under Section 61 of the Act. The use of powers under Sec.61 would have meant that applicability of placement of these species in Schedule V would be across the country. Therefore, to avoid such situation, as a matter of utter precaution and to ensure that the ecological importance of these species as prey base of wild predators in the forests areas which are manages as the wildlife habitats is not affected, the Ministry chose Section 62 which empowers it to notify such species as vermin in specified locations and for specified period only. The impact could thus be analyzed for any action after the notification period is over....

7. It is submitted that the State Forest Departments have been undertaking all the practical measures to manage human wildlife conflict, like construction/erection of physical barriers, such as barbed wire fence, solar powered electric fence, bio-

fencing using cactus, boundary walls amongst other things, to prevent the entry of wild animals into the crop fields. Moreover, steps have been undertaken to improve wildlife habitat of wild animals by augmenting the availability of food and water in forest areas to reduce the entry of animals from forests to habitations and setting up of anti-depredation squads to drive away problematic animals. The Ministry extends Central assistance to the States for such measures, for example, the centrally sponsored schemes named Integrated Development of Wildlife Habitats, Project Tiger, Project Elephant etc.

8. Lastly, it is submitted that the action taken by the Ministry is entirely in accordance with the given provisions of the Wild Life (Protection) Act, 1972 and after taking into consideration the ecological, human livelihood issues and legal aspect of the matter.”

4. Having heard the learned counsel for both the parties and having taken note of the various steps that have been taken by the Respondents as explained in the affidavit dated 17.08.2016 filed on behalf of the Ministry of Environment & Forests and Climate Change, it appears to us that the action being taken by the Respondents is entirely in accordance with the statutory provisions to coordinate the ecological and human livelihood issues. Hence, no further directions as sought by the Petitioner need be issued.

5. The writ petition is accordingly disposed of.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL

AUGUST 19, 2016/gr