



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.13120 of 2019
and W.M.P. (MD) No.9781 of 2019

N.Sekar

... Petitioner

Vs.

1.The Principal Chief Conservator of Forests,
and Chief Wildlife Warden
Chennai.

2.The Forest Ranger,
Tiruchirappalli Forest range
Tiruchirappalli.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 1st respondent passed in his proceeding Ref.No.WL1/1559/2019 dated 07.05.2019 (14.05.2019) and quash the same as illegal consequently, direct the 1st respondent to grant permission/transit permit to the petitioner to transport the elephant by name Rani having Microchip No.0006592AA2 if the application is submitted along with fitness certificate in accordance with the Tamil Nadu Captive Elephants (Management and Maintenance) Rules, 2011.

For Petitioner	: Mr.T.Leninkumar
For Respondents	: Mr.B.Bhagawathi
	Government Advocate

ORDER

Challenging the order of the 1st respondent dated 14.05.2019 and for a consequential direction to the 1st respondent to grant permission to the petitioner to transport the Elephant, viz., Rani, this writ petition has been filed.

2.Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

3. With the consent of both sides, the writ petition itself is taken up for hearing and being disposed of at the admission stage.

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4. The petitioner is owning an elephant by name Rani and in order to take the elephant to some outstation as per the procedure in vogue, the petitioner had applied to the first respondent for



necessary permission. However, the same has been rejected by the first respondent through the impugned order dated 14.05.2019. In the impugned order, the first respondent has given the reason for such rejection that, the petitioner, without taking any permission on previous occasion, had taken the elephant to some outstation and in this regard, a wild life case had been registered and the same is pending and unless and until the said case is finalised, the present request of the petitioner to transit the elephant cannot be considered and accordingly, his application was rejected/returned through the impugned order. Challenging the same, the present writ petition has been filed.

5. I have heard the learned counsel for the petitioner, who would submit that, actually on 09.05.2019 in order to participate in a function at Salem, the petitioner got permission for the elephant and pursuant to the said permission only, the elephant was taken to Salem on 08.05.2019 and on the evening of 08.05.2019 ie., at 7.00 p.m., the first respondent visited the elephant and found that, the elephant was not there in its place and it has gone to some outstation and only in that pretext now the reason has been given stating that, the petitioner, without permission, had transmitted the elephant to some outstation.

6. The learned counsel for the petitioner would further submit that, the fact remains that, for the function to be participated by the elephant on 09.05.2019, for which, permission has already been given, the elephant left on the previous day. Therefore, when the respondents visited on 08.05.2019 at 7.00 p.m., definitely, the elephant would not have been there and therefore, without verifying the factual matrix, they allegedly registered a case against the petitioner and by citing the said reason, now the present permission sought for by the petitioner has been rejected, which is clearly incorrect and therefore, on that alleged reason, the impugned order could not have been passed by the first respondent.

7. I have heard the learned Government Advocate, who would submit that, when the first respondent visited the elephant, it was not available on 08.05.2019 at the time of inspection, based on which, a case was registered and therefore, when the case is pending, unless it is decided one way or the other, further permission cannot be granted and only on that reason, the present impugned order has been made.

8. I have considered the above submissions and perused the materials placed before this Court.

9. The permission for the elephant to be moved for a function to be held on 09.05.2019 was obtained, in fact, by the petitioner and the copy of the permit has also been filed by the petitioner in the typed set of papers, which discloses that, the elephant was permitted to move outside, ie., Salem to participate on 09.05.2019. In order to participate the function on 09.05.2019



at Salem, the elephant was taken on the previous day, ie., on 08.05.2019 by the petitioner and therefore, on 08.05.2019, when the respondents visited the place, they found that the elephant was not available. Therefore, on that ground, they stated that the elephant was transmitted without any permission.

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10. The said reasoning given by the respondents, prima facie, is not correct, as there has been a permission to move the elephant on 09.05.2019 for a function, that too, at Salem, therefore, possibly the elephant would have left only on the previous day. Therefore, the absence of the elephant at its place on 08.05.2019 cannot be construed as transportation of elephant without any permission being given and therefore, on that ground, the rejection ought not to have been made by the first respondent for the present permission sought for by the petitioner and therefore, this Court finds that, the impugned order is unjustifiable. Hence, it is liable to be quashed and the matter has to be remanded for reconsideration.

11. Accordingly, the impugned order is quashed and the matter is remitted back to the respondents for reconsideration and while reconsidering the same, the factual merits of the claim made by the petitioner seeking transport permission shall be considered and accordingly, orders to that effect shall be passed within a period of one week from the date of receipt of a copy of this order.

12. With the above direction, the writ petition is ordered. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Crl Side)

// True Copy //

Sub Assistant Registrar(CS)

RR

To

1.The Principal Chief Conservator of Forests,
and Chief Wildlife Warden, Panagal Maaligai, Saidapet,
Chennai - 15.

2.The Forest Ranger, Tiruchirappalli Forest range, Tiruchirappalli.

+1CC TO MR.T.LENIN KUMAR, Advocate Sr. No.68009

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 68337

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