

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1818 of 2021

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Ram Sumiran Sharma @ Sudharshan Guruji Sri 1008 Swami Dharnidhara,
Acharya of Taret Palisthan of Palisthan Taret, P.S. - Naubatpur, District-
Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Chief Conservative of Forest, Bihar (Wild Life Wing), 4th Floor Aranya Bhawan, Sahid Pir Ali Khan Marg, Veterinary College, Patna.
3. The Additional Principal Chief Conservative of Forest - cum- Chief Wildlife Warden, Bihar.
4. The Regional Chief Conservator of Forest, Patna.
5. The Conservator of Forest, Patna.
6. The Divisional Forest Officer, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate with
Mr. Madhav Raj and
Ms. Priyanka Singh, Advocates

For the State : Mr. Jai Prakash Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 21-09-2023

Heard Mr. Yogesh Chandra Verma, learned senior counsel duly assisted by Mr. Madhav Raj, learned counsel for the petitioner and Mr. Jai Prakash Sharma, learned counsel representing the State.

2. The petitioner claims to be a religious person and Mahanth of Taret Pali Asthan falling within Naubatpur Block of Patna District, seeks quashing of the order as contained in



Memo No. Wildlife 446 dated 11.07.2018 issued by the Additional Principal Chief Conservator of Forest-cum-Chief Wildlife Warden, Bihar whereby the application filed by the petitioner seeking permission for keeping elephant for religious purposes by the Ashram has been rejected in view of the decision of the State Board for Wildlife on the ground that no permission is to be given for transfer or custody and transport of any private domestic captive elephant from other State to Bihar by way of gift for the purpose of temporary upkeep or any other mode from the year 2015.

3. It is submitted that Taret Pali Asthan, Naubatpur is a widely known ancient and famous religious place having 50 branches located at different places in India and on auspicious occasion the elephants are worshiped as a symbol of God Ganesha. The Ashram has a tradition of keeping elephant from time immemorial, however, unfortunately the last elephant of the Taret Pali Asthan died in the year 2013.

4. Learned senior counsel appearing on behalf of the petitioner submits that two devotees namely Loknath Borh and Smt. Rinku Mahate Saika Borah being owner of the elephants are willing to donate their respective elephants for religious procession and worship to the Taret Pali Asthan and in this



regard they also sworn affidavits of their willingness.

5. In view of their solemn desire and looking into the religious need of the Ashram, the petitioner filed an application before the Additional Principal Chief Conservator of Forest-cum-Chief Wildlife Warden, Bihar seeking permission to keep the elephants for religious purpose with all required enclosures i.e., ownership certificates, application for NOC, affidavit of intention to transfer of elephant with details of math.

6. He further submits that despite the afore-noted documents and the affidavits filed on behalf of the petitioners the Additional Principal Chief Conservator of Forest-cum-Chief Wildlife Warden, Bihar has refused to grant permission for transfer of elephant from Assam to the State of Bihar *vide* Memo No. Wildlife 446 dated 11.07.2018.

7. While assailing the aforesaid order, it is submitted that apart from cryptic, no reason has been assigned and even the reference, which has been made the basis for rejection of the application of the petitioner has not been disclosed, as to by which decision the State Board of Wildlife has prohibited the transfer of the elephant from other state to the State of Bihar.

8. In course of arguments, learned senior counsel informed this Court that now after coming into force of the Wild



Life (Protection) Amendment Act, 2022 (hereinafter referred to as the 'Act'), an amendment has been brought in Section 43 of the principal Act in sub-section (2) and the following proviso has been inserted which reads as follows:

“Provided that the transfer or transport of a captive elephant for a religious or any other purpose by a person having a valid certificate of ownership shall be subject to such terms and conditions as may be prescribed by the Central Government.”

He next submitted that in view of the amendment as noted above, now the order of rejection dated 11.07.2018 has lost its effect and in view thereof he intent to file a fresh application before the Competent Authority seeking permission for transfer of elephant from the State of Assam to the State of Bihar.

9. Learned counsel for the State submits that if the petitioner would file a fresh application in view of the amended provision, the same would be considered and disposed of, in accordance with law.

10. In view of the submission made hereinabove, the present writ petition stands disposed of with a liberty to the petitioner to file a fresh application before the respondent no. 2



within a period of one week. If such representation is filed, the respondent no. 2 would be under obligation to dispose of the same within a further period of four weeks, by passing a reasoned order considering the amended provision of the Act.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	23.09.2023
Transmission Date	N.A.

