



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

CRIMINAL PUBLIC INTEREST LITIGATION NO. 1 OF 2019

Earth Brigade Foundation (EBF)

vs.

The State of Maharashtra and ors.

With

PUBLIC INTEREST LITIGATION NO. 4 OF 2019

The Bezubaan Public Welfare Trust and another

vs.

The State of Maharashtra and ors.

CRIMINAL P I. L. No. 1/2019

Mr. S. P. Bhandarkar, Advocate for petitioner.

Mr. K. N. Shukul, Advocate and Mr. Raghav Tiwari, Advocate for respondent nos. 1 to 4.

Mrs. Mugdha Chandurkar, Advocate for respondent no.5.

Mr. Masood Shareef, Advocate and Aadil J. Mirza, Advocate for respondent nos.6 and 7.

Mr. Mohan Sudame, Advocate for respondent nos. 10 and 11.

Mr. D. P. Thakre, Additional Public Prosecutor for respondent no.12.

P I. L. NO. 4/2019

Mr. Disha Chhajed, Advocate h/f Mr. Rohit Joshi, Advocate for the petitioners.

Mr. D. P. Thakre, Additional Public Prosecutor for respondent nos. 1 and 3.

Mr. K. N. Shukul, Advocate and Mr. Raghav Tiwari, Advocate for respondent no.2.

CORAM :- NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATED : 17. 04. 2024

Both these public interest litigations are tagged and heard together as they involve similar issues.

2. In Criminal P I. L. No.1/2019 the reliefs claimed are as under:

- (a) *By appropriate writ, order and/or direction, to appoint a Special Investigating Team for re-investigating the evidences of the killing of the T1 tigress Avni and re-examining all the reports extensively;*
- (b) *By appropriate writ, order and/or direction, direct the respondents 6 and 7 to submit the guns used by respondent 7 to kill the T1 tigress for ballistic investigation;*
- (c) *By appropriate writ, order and/or direction, direct the respondents 1 to 5 to deploy best of the search teams to provide the current status of the stranded cubs, and to rescue the tiger cubs that were stranded due to the killing of the mother T1 tigress, and to institute the same without any further delay;*

(d) By appropriate writ, order and/or direction, direct the respondents 1 to 5 to initiate criminal proceedings against the respondents 6 to 9 for illegal hunting of the T1 tigress, or tampering with evidence at the crime scene, and further dereliction of the duties under Section 9 of the Act of 1972, Section 3 of Arms Act, 1959, Section 30 of the Act of 1985;

(e) Grant any other relief to which the petitioner is entitled to in the facts and circumstances of the petition.

3. In P. I. L. No.4/2019 the reliefs claimed are as under:

(a) That this Hon'ble Court be pleased to admit the present petition at any terms and conditions as this Hon'ble Court may deem fit and proper.

(b) That this Hon'ble Court be pleased to call for the papers and records of the elimination of Tigress Avni T-1.

(b-1) That this Hon'ble Court be pleased to call the papers and records any Orders and or letters absolving the Killer respondent no.11 and 12 and or other officials involves in the incident.

(c) That this Hon'ble Court be pleased to declare that the order of the Chief Wild Life Warden passed on 29th January, 2018 of shooting the Tigress t-1 is illegal and unauthorized.

(d) That this Hon'ble Court be pleased to declare that the act of respondent No. 2, 5 and 6 were not bonafide in the elimination of Tigress T-1.

(e) That this Hon'ble Court be pleased to constitute a Judicial Committee under the supervision of this Hon'ble Court to inquire and to report about the incident of elimination of Tigress T-1

(f) That this Hon'ble Court be pleased to an order/direction to the Central Bureau of Investigation to register FIR and to investigate into the same.

(g) That this Hon'ble Court be pleased to call for the entire records and proceedings and/or Post Mortem Reports of 13 human being which alleged to have been eaten by the Tigress T-1.

(g-1) By appropriate writ, order and /or direction, directed the respondents 1 to 6 to initiate criminal proceedings against the respondents 7 to 12b for illegal hunting of the T1 tigress, tampering with evidence at the crime scene and further dereliction of the duties under Section 9 of the Act of 1972, Section 3 of Arms Act, 1959, Section 39 of the Act of 1985."

4. The petitioner in Criminal PIL No.1/2019 is an organization that aims to identify the exact situation and needs of the forest and wild life so as to maintain the ecology and the rich minerals of the forests in accordance with the provisions of the Wildlife (Protection) Act, 1972 (for short, 'the Act of 1972'). It has also carried out various projects such as providing drinking water by donating solar operated bore-wells to replenish the waterholes and pits for the wildlife.

5. In P. I. L. No.4/2019, the petitioners, claiming to be citizens, pursuing this petition through a Welfare Trust, having aggrieved by the projects of the respondents Officials in systematic and plan elimination of the wildlife animals. The petitioners claim to be the NGOs who are basically working for the protection of the wildlife animals.

6. By these PILs, they are trying to canvass the grievances in a manner inhuman and contrary to the statutory provisions of elimination of Tigress 'Avni' (alleged man eater) referred to as T1 tigress.

7. In both these PILs this Court has caused notice with an object to examine whether the declaration about elimination of the tigress referred to above is illegal and unauthorized.

8. In response to the notices issued by this Court, respective parties/respondents have filed their affidavits-in-reply.

9. It appears that in P. I. L. No.4/2019 an e-mail for withdrawal was received, as reflected in the order dated 16.06.2021. Since there was

certain confusion, this Court granted time to clarify the said email by speaking order.

10. As far as Criminal PIL No.1 of 2019 is concerned, after the notices were ordered and the responses were received, this Court passed a detailed speaking order on 18.01.2021. The aforesaid order dated 18.01.2021 was based on the report submitted by the National Tiger Conservation Authority (NTCA).

This Court having noticed certain lacunae in the said report called upon the Department to clarify on the certain issues.

11. The Assistant Inspector General of Forests, National Tiger Conservation Authority-respondent no.5 has filed reply in the matter through his affidavit dated 22.01.2021. The said affidavit in detail deals with the aspects of the States Authorities under the provisions of the Wildlife (Protection) Act, 1972, the conservation and the duties.

It further deals with the reports submitted from the respondent - Chief Wildlife Warden as regards the attempts to tranquilize the T1 Tigress and various attempts made to tranquilize her having been exhausted and as such the said report speaks of only option left is that of elimination.

12. The affidavit of the respondent nos. 10 and 11 who are conducted an enquiry in the matter viz. shooting of man eater T1 tigress on 02.11.2018, the receipt carcass of T1 tigress, samples for toxicological and other analysis of T1 tigress and cause of death. The other agencies involved were, the Live Stock Officer from Veterinary Polyclinic, Nagpur and the Regional Forensic

Science Laboratory, Nagpur.

13. We have carefully perused the said affidavit in the light of the order referred to above.

14. The order dated 04.09.2018 passed by the respondent no.2 in exercise of powers under Section 11(1)(a) of the Act of 1972 was subjected to challenge before the Bombay High Court in various proceedings including the present one.

15. Amongst others, Dr. Jeril Avinash Banait has approached the Apex Court vide SLP (Civil) Dairy No.33454 of 2018 and the Apex Court is informed to have dismissed the said SLP and as a consequence of which the validity of the order dated 04.09.2018 was upheld.

It appears that the Apex Court has dismissed the said SLP on 11.09.2018.

Apart from above, the authorization order dated 10.09.2018 issued by the Chief Conservator of Forest (Territorial), Yavatmal, authorizing the team of tranquilize and capture the T1 tigress and if unsuccessful, eliminate her by shooting so as to avoid loss of human life was the subject matter of challenge in P. I. L. No.133/2018 by the Earth Brigade Foundation. The Division Bench of this Court has dismissed the said PIL on 22.10.2018 by a well reasoned order.

16. There appears to be constitution of Committee as directed by the State Government vide order dated 06.11.2018 headed by the PCCF

Production and Management, as a Chairman; along with Director, Central for Wildlife Studies, Bangalore as a Co-chairman; Scientist, Wildlife Institute of India, Dehradun as a Member; President, Wildlife Conservation Trust, Mumbai, as a Member; Scientist, Wildlife Institute of India, Dehradun, as a Member and APCCF Budget and Management, Govt of Maharashtra, as a Member Secretary. The said Committee has specifically looked into the exigencies that arose from the fruitful night which led to the killing of T1 Tigress and submitted its report on 05.12.2018 to the State Government.

17. The respondent nos. 1 to 4 through their affidavit dated 05.02.2021 have assured to take further action in the matter.

The affidavit of the respondent nos.1 to 4 speaks of the Petition being initiated before the Apex Court by one Sangeeta through Contempt Petition (Civil) No.570 of 2021 and also about the summary contents raised in the Contempt Petition. The said contempt petition appears to be dismissed as withdrawn on 26.02.2021.

18. As such there appears to be repeated attempts to pursue the same issues which have travelled upto to the Apex Court and before this Court, on one or the other grounds.

19. Rather, the detailed affidavit placed on record depicts the lacanue which were pointed out by this Court were duly addressed by the respondents through their respective affidavits and the issues sought to be canvassed were appropriately dealt with therein.

20. That being so, we are of the view that no further cause is highlighted to entertain the present P.I.Ls. As such, we dispose of both the Public Interest Litigations by reserving the rights in favour of the petitioners to canvass the grievance if any, for which a fresh cause accrues.

21. Both these public litigations are accordingly disposed of with liberty as observed above.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Andurkar.