



W.P.No.26829 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2024

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.26829 of 2018

1.G.Jayaraman

...Petitioner

Vs.

1.The State of Tamil Nadu
Rep by its Chief Secretary to Government
Fort St.George,
Chennai – 9.

2.The State of Tamil Nadu
Rep by its Secretary to Government
Department of Forest,
Fort St.George,
Chennai – 9.

3.The Principal Conservator of Forest and
Chief Wild Life Warden
Department of Forest,
No.1,Jennis Salai, Panagal Maligai,
Saidapet, Chennai – 15.

4.The Conservator of Forest,
Trichy Circle,
J.K.Nagar, Trichy

5.The District Forest Officer
Nagapattinam.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
for issuance of a Writ of mandamus to direct the respondents to grant



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permission and no objection certificate for transporting Elephant named Suman aged about 6 ½ years, Micro Chip No.0007195FB9 from Rajasthan to Nagore Dargah, Nagapattinam in Tamil Nadu by considering petitioner's representation dated 23.07.2018.

For Petitioner : Mr.N.Ponraj

For respondents : Mr.S.Rajesh, Government Advocate

ORDER

This writ petition has been filed to grant permission and no objection certificate for transporting Elephant named Suman aged about 6½ years, Micro Chip No.0007195FB9 from Rajasthan to Nagore Dargah, Nagapattinam in Tamil Nadu and by considering petitioner's representation dated 23.07.2018.

2. The case of the petitioner is that he belong to Hindu Religion and having strong faith on Nagore Dargah Aandavar and famous for its Religious harmony, ceremony and dignity. The Dargah was having elephants from 1926 for its own needs. The last elephant by name Fathima Beevi maintained from 1986 was died on 15.12.2015. The petitioner is willing to offer an Elephant to the Dargah and requested the Trust office to accept it by a letter dated 16.12.2015. The Dargah also



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accepted the request of the petitioner by a letter ROC.No.388/2015 dated

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18.12.2015 and took various attempts to bring Elephant, but those were

not fructified. The petitioner's friend Samir Khan who is having

M/s.Moonlight Circus at Jaipur in Rajasthan State came forward to donate

his circus female elephant named Suman aged about 6½ years, Micro Chip

No.0007195FB9. The petitioner approached Rajasthan Government to get

permission and No Objection Certificate to transport the Elephant from

Rajasthan to Tamil Nadu and submitted a representation dated

04.04.2016. In turn, the Additional Principal Chief Conservative Forest

and Chief Wild Life Warden of Rajasthan by a letter dated 25.04.2016

insisted us to get permission and No Objection Certificate from the State of

Tamil Nadu as per guidelines related to the provisions of Section 40(2) of

the Wild Life (Protection) Act, 1972 issued vide Ministry of Environments

& Forest, New Delhi's letter dated 08.01.2010.

3. Subsequently, the petitioner and the Dargah Trust approached

the respondents 1 to 4 requesting them to grant permission and no

objection certificate to transport the elephant from Rajasthan to Tamil

Nadu. The respondents informed that under Section 9(3)(b) of the Tamil

Nadu Captive Elephants (Management and Maintenance) Rules, 2011 also



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says that “No elephant from other states shall be transported to Tamil Nadu without obtaining No objection certificate from the Chief Wildlife Warden, Tamil Nadu”. Thereafter, the respondents 4 and 5 inspected the Dargah and found that Dargah is having all the facilities to have the Elephant and forwarded the report dated 19.03.2016 to the 3rd respondent for further action. Having no response from the respondents, the petitioner filed the present writ petition.

4. The learned Government Advocate appearing for the respondents submitted a copy of the proceedings dated 02.06.2020 in Proc.No.WL1/44438/2018 an interim relief was sent to the applicant vide Principal Chief Conservator of Forests & Chief Wildlife Warden Ref.No.WL1/31384/2018 dated 28.08.2018 stating that clarification has been sought from the Ministry of Environment, Forest and Climate Change, Government of India for procurement of Captive Elephant by way of gift. On 09.10.2019, the Chairman of the Director General of Forests & Special Secretary, Ministry of Environment Forests and Climate Change conducted a meeting regarding illicit trading of captive elephants in the Country and stated that “No elephants can be gifted or sold and the ownership can only be transferred by way of inheritance or acquisition by



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Government agencies by captive transfer etc.,” and rejected the claim under Section 40(1)(2) of Wildlife Protection Act, 1972 and guidelines issued by the Government of India. Today, the copy of the aforesaid proceeding is also communicated to the counsel for the petitioner.

5. Under these circumstances, it is to be noted that the Sanctuary by name Vantara at Jamnagar, Gujarat is having more than 200 captive elephants. The petitioner is at liberty to work out the remedy under the Captive Elephant (Transfer or Transport) Rules 2024. Further liberty is also given to the petitioner to challenge the proceedings dated 02.06.2020 in Proc.No.WL1/44438/2018 rejecting the claim of the petitioner for transferring the elephant from Jaipur, Rajasthan State to Tamil Nadu.

6. With the above observation, this writ petition is disposed of.

No costs.

16.04.2024

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Internet : Yes

Index : Yes

Speaking order : Yes / No



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V.BHAVANI SUBBAROYAN, J.

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To

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