



W.P(MD)No.1217 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.1217 of 2024 and
WMP(MD) Nos.1224 & 1225 of 2024

Mohammed Ismail

... Petitioner

Vs

1.The Principal Chief Conservator of Forest,
and Chief Wild Life Warden,
Chennai.

2.The District Forest Officer,
Tirunelveli District.

3.The Forest Ranger,
Kadayanallur,
Tenkasi District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the first respondent in Proc.No.WL1/17508/2023, dated 07.11.2023 and quash the same as illegal, arbitrary and further directing the first respondent to restore the Elephant Jainy to the Dargah for the



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purpose of effectively managing the Dargah affairs without any hindrance.

For Petitioner : Mr.H.Arumugam
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

This writ petition is filed challenging the impugned order, dated 07.11.2023 passed by the Principal Chief Conservator of Forests and Chief Wildlife Warden, Chennai, to hand over the elephant namely "Jainy", maintained by Magdoom Gnaniyar Pallivasal, Kadayanallur Town, Tenkasi District to the Wild Animal Rehabilitation Centre, Trichy.

2.The learned counsel appearing for the petitioner submits that Magdoom Gnaniyar Pallivasal located at Kadayanallur Town, Tenkasi District is owning an elephant by name "Jainy" by way of an exchange in the year 1998 from one Rajaram, by which, a male elephant Saleem belonging to the Dargah was handed over to the said Rajaram. The ownership certificate granted by the Forest



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Department stood in the name of Rajaram at the time of exchange in the year 1998. The female elephany Jainy is utilised by the Dargah for Kanthuri festival celebrated by the Dargah every year. In the said festival, carrying a tall flag-pole on the elephant's back is an integral part of the festival and it is celebrated from time immemorial. According to the learned counsel, the elephant Jainy is nourished and maintained well in hygienic condition by the Dargah. More over, the elephant was inspected and examined every three months by the Government Veterinary doctors. At this juncture, the respondent has passed this impugned order to hand over the elephant to the Wild Animal Rehabilitation Centre, Trichy without providing an opportunity of hearing to the petitioner.

3.The respondents have taken a stand that a notice was already issued to the petitioner and they have also produced a copy of the proceedings in Na.Ka.No.195/2022 dated 10.11.2023. In the said notice, they have referred to the impugned order and has intimated that they are making arrangements to take the petitioner's



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elephant for rehabilitation camp. According to the respondents, the retirement age of captive elephant is sixty years. However, Jainy is fifty eight years. At this stage, making the elephant to carry pole flag is not in the interest of the health of the elephant.

4.This Court considered the rival submissions made and also perused the materials placed on record.

5.An elephant, namely "Jainy" is maintained by Magdoom Gnaniyar Pallivasal, Kadayanallur Town, Tenkasi District from the year 1998. The petitioner has also produced a fitness certificate of the elephant, dated 27.11.2023 issued by the Veterinary Doctor. According to the petitioner 'Kanthuri festival' is celebrated in the Pallivasal as time immemorial. The respondents have passed this impugned order to hand over the elephant to Wild Animal Rehabilitation Centre, Trichy without providing an opportunity to the petitioner. As such, the elephant was also taken by the respondents on 28.11.2023.



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6.In view of the above, the impugned order is set aside on the violation of principles of natural justice. This writ petition is allowed. The respondent shall return the elephant to the petitioner and provide him an opportunity and thereafter take a decision. No costs. Consequently, connected Miscellaneous Petitions are closed.

01.02.2024

NCC: Yes/No
Index:Yes/No
Internet:Yes
vrn

Note: Issue order copy on 18.03.2024.

To

- 1.The Principal Chief Conservator of Forest,
and Chief Wild Life Warden,
Chennai.
- 2.The District Forest Officer,
Tirunelveli District.
- 3.The Forest Ranger,
Kadayanallur,
Tenkasi District.



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B.PUGALENDHI, J.

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