



W.P.(MD) No.22587 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.22587 of 2024
and
W.M.P.(MD) Nos.19128 to 19130 of 2024**

Sheik Ali

... Petitioner

/vs./

- 1.The Principal Chief Conservator of Forests and
Chief Wildlife Warden,
O/o.The Principal Chief Conservator of Forests and
Chief Wildlife Warden,
Chennai -32.
- 2.The Chief Conservator of Forests,
Tirunelveli Circle,
NGO Colony, RTO Office Backside,
Tirunelveli.
- 3.The District Forest Officer and Member Convener,
District Level Captive Elephant Welfare Committee,
Thoothukudi.
- 4.The District Forest Officer and Member Convener,
District Level Captive Elephant Welfare Committee,
Trichy District.



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5.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Thoothukudi District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 1st Respondent in Proc.No.WL1/20805/2023 dated 11.09.2024 and quash the same and consequently direct the 1st Respondent to issue the ownership certificate/license to the petitioner to have the custody of the elephant Beegam.

For Petitioner : Mr.K.Navaneetharaja

For R1 to R4 : Mr.R.Suresh Kumar
Additional Government Pleader

For R5 : Mr.P.Subbaraj
Special Government Pleader

ORDER

The order impugned herein issued by the first respondent had directed the petitioner, who is in possession of the captive elephant, to transport the same to the Elephant Rescue and Rehabilitation Centre, M.R.Palayam, Trichy, for further maintenance under the provisions of Section 40(2) of the Wildlife (Protection) Act, 1972. It had also indicated that during the transportation, the Tamil Nadu



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Captive Elephant (Management and Maintenance) Rules, 2011 should be strictly adhere to the petitioner. The reason for issuing the said order was that the petitioner did not have the ownership certificate and that the ownership certificate issued by the authority in the State of Kerala had already lapsed.

2. The learned counsel for the petitioner had brought to the notice of this Court to the proceedings of the third respondent in Na.Ka.No.p2/1210/2017, wherein he had forwarded the application made by the petitioner to the first respondent along with an application in respect of four other elephants and had also recommended for grant of ownership certificate with respect to the elephants to their possession. According to the petitioner, the said application is still pending and the same is also acknowledged by the respondents.

3. When an application for grant of ownership certificate is still pending consideration by the first respondent, the first respondent ought not to have directed the petitioner to transport the captive elephant to the Elephant Rescue Camp on the ground that there was no ownership certificate enabling the petitioner to be in continued possession of the captive elephant. Therefore, the



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reason assigned in the impugned order is arbitrary. In such circumstances, I am unable to sustain the order impugned in this writ petition.

4. In fine, the impugned order passed by the first respondent in Proc.No.WL1/20805/2023 dated 11.09.2024 is set aside and the first respondent is directed to act upon the recommendation made by the third respondent in in Na.Ka.No.p2/1210/2017. Till such time, the possession of the elephant with the petitioner shall not be disturbed. The petitioner shall also abide by the Tamil Nadu Captive Elephant (Management and Maintenance) Rules, 2011 and the respondents are at liberty to inspect the elephant periodically.

5. The writ petition stands disposed of, with the above directions. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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K.KUMARESH BABU, J.

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