

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4965 OF 2025
WITH
INTERIM APPLICATION NO. 7765 OF 2025

Swasthishri Jinsen Bhattark Pattacharya

...Petitioner

Versus

Union of India & Ors.

...Respondents

Mr. Surel Shah, Sr. Adv. a/w Mr. Manoj Patil for Petitioner.

Mr. Jatin Kochhar a/w Ninad Thikekar i/b Karan Singh Shekhawat for Respondent No.2.

Mr. Shardul Singh a/w Mr. Smeet Savla, Ms. Sayali Sawant for Respondent No.6.

Mr. A. I. Patel, Addl. G.P. a/w Ms. S. S. Bhende, AGP for State.

Mr. Zal Andhyarujina, Sr. Adv. a/w Ms. Akanksha Agrawal, Ms. Maithili Parikh, Ms. Sita Kapadia, Ms. Arunima Athavale i/b Keystone Partners for Applicant/Intervenor PETA India.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE: 28 APRIL 2025

P.C.

1. This petition under Article 226 of the Constitution of India challenges an order dated 27 December 2024 passed by the High Power Committee (for short “the HPC”) in relation to the shifting of the Elephant Mahadevi (or Madhuri) of the petitioner’s ownership from Kolhapur, Maharashtra to the Radhe Krishna Temple Elephant Welfare Trust, Jamnagar, Gujarat (for short “the RKTEWT”).

2. In assailing the impugned order Mr. Shah, learned senior advocate for the petitioner, drawing our attention to an order dated 13 March 2024 passed by a co-ordinate Bench of this Court in Writ Petition No. 3713 of 2024 has submitted that the petitioner was not heard by the High Power Committee in taking the decision to transfer the petitioner’s Elephant to the RKTEWT.

3. With the assistance of the learned senior counsel for the parties, we have perused the reports on the health of the elephant, which were placed on record, on the basis of which the HPC has come to a conclusion that it is in the interest of the elephant, that it needs to be transferred to the RKTEWT. However, we are not in a position to conclusively decide the controversy considering the contention as urged on behalf of the petitioner of not being heard by the HPC and / or in the absence of the petitioner's case against the transfer being considered by the HPC.

4. In this view of the matter, in our opinion, it would be appropriate that the petitioner is heard by the HPC in its ensuing meeting, on all the contentions, it intends to raise including on the reports / documents, which the petitioner intends to rely. We persuaded to take such view also considering that the order dated 13 March 2024 passed by the Division Bench clearly observed the HPC being requested to consider the representation dated 7 February 2024 made by the petitioner by taking a decision thereon, within a period of 15 days and after giving an opportunity to all concerned parties.

5. It appears that subsequent to the said order passed by this Court a sub-committee was appointed by the HPC which submitted its report dated 12 June 2024, as also there was a subsequent report dated 25 November 2024, although the representation of the petitioner was prior thereto (i.e. dated 7 February 2024) which possibly was required to be considered in the light of such subsequent reports. Nonetheless to our mind, it is appropriate that the HPC hears the petitioner on its contentions on the issue in regard to the proposed transfer of the elephant.

6. We clarify that in the event the HPC intends to maintain its decision as taken in the impugned order, the HPC shall address the concerns of the petitioner which are against the transfer of the elephant to the RKTEWT by recording reasons on such contentions. We keep open all contentions of the parties in that regard.
7. The Writ Petition would accordingly be heard, after such decision of the HPC is taken. Such decision be taken by the HPC after granting an opportunity of a hearing to all the stakeholders.
8. We are informed that the next meeting of the HPC is now scheduled on 17 May 2025. Parties are accordingly permitted to appear before such committee either by video-conferencing or otherwise as may be ordered by the HPC.

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9. We find that the cause in the proceedings before the HPC was at the behest of the applicant and in this view of the matter, we find it appropriate to permit the intervention of the applicants. Accordingly, the intervention application is allowed.
10. The petitioner is directed to amend the petition by impleading the applicants as party respondents. Let the amendment be carried out within one week from today. Amended copy of the petition be served on all the parties.
11. List the proceedings on **17 June 2025 (HOB)**.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)