IN THE HIGH COURT AT CALCUTTA

(Constitutional Writ Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 24470 of 2025

Dr. Debashis Banerjee

Vs.

State of West Bengal & Ors.

Mr. Vivekananda Bose

Mr. Ratikanta Pal

Mr. Sattwik Dutta

....For the petitioner.

Ms. Ranjana Chatterjee

Mr. Akash Adak

....For the State.

Hearing Concluded On : 13.11.2026

Judgment Delivered On : 20.11.2026

Judgment Uploaded On : 20.11.2026

Krishna Rao, J.:

1. The petitioner has filed the present writ petition praying for setting aside the rejections dated 31st October, 2023 of registration of Live Spices under the Voluntary Disclosure Scheme. The petitioner has been breeding more than 150 species of exotic birds and 6 species of primates, including those which are on the verge of extinction and have been listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), with remarkable success at Sunshine Bird World Avian Breeding and Research Centre.

2. On 11th June, 2020, the Ministry of Environment, Forest and Climate Change issued an advisory to streamline and formalize the process of importing Exotic Live Species and also to streamline the possession, breeding, declaration of progeny, acquisition and transfer of Exotic Live Species in India. The Ministry has framed the procedure for declaration of stock of Exotic Live Species, import of exotic live species, registration/ declaration of progeny of previously held stock and transfer/ transport of stock, in India online through 'PARIVESH Portal'. A period of six (6) months was provided for voluntary disclosure for those who are in possession of exotic live species in the country.

3. The petitioner has declared his stock of exotic birds and animals on 14th December, 2020. Physical verification of premises, birds and animals was conducted by the office of the respondent no. 4 and status of proposal on the PARIVESH Portal was approved on 31st October,

2023, except three species, namely (i) Common Marmosets, (ii) Cotton Top Tamarins and (iii) Sugar Gliders by showing 'Rejected' in their individual "Status" columns of the approved letter uploaded on the Portal. The reasons for rejections of all three species in the remark column are mentioned as "*To prevent zoonotic pathogens, unconventional agents that can spread human or native species. May cause threat to native wildlife population".*

4. Mr. Vivekananda Bose, Learned Advocate, representing the petitioner submits that there is no provision in the Advisory empowering the Chief Wild Life Warden (hereinafter referred to as "CWLW") to reject a declaration based on a subjective or substantive assessment of the animal's potential 'zoonotic risk' or 'threat to native biodiversity'.

5. Mr. Bose submits that on 1st April, 2023, the Wild Life (Protection) Amendment Act, 2022, came into force and on 28th February, 2024, the Living Animal Species (Reporting and Registration) Rules, 2024, were notified by the Ministry. As per the Rules, every person who is in possession of any animal species has to make an application for registration electronically to the Management Authority or to the authorized officer in Form-I within six (6) months from the date of commencement of the Rules. It is further mentioned that where the animal species was acquired prior to the commencement of the Wild Life (Protection) Amendment Act, 2022, the application shall be accompanied with the proof of acquisition prior to such commencement.

6. Mr. Bose submits that the petitioner has applied for possession of all birds and animals declared under the Voluntary Disclosure Scheme on 26th July, 2024, as "proof of acquisition". The physical verification was conducted by the office of the respondent no. 4 on 23rd August, 2024 but the status of the application on the PARIVESH Portal is showing as 'Pending to fill Part-2'.

7. Ms. Ranjana Chatterjee, Learned Advocate, representing the respondent authorities submits that the breeders of species licence is for breeding Schedule-IV, Appendix-I species which are given the highest level of protection in accordance with the Convention of International Trade in Endangered Species of Wild Fauna and Flora, which is an international agreement between Governments.

8. Ms. Ranjana submits that the protection given to Schedule-IV Appendix-I species is at par with the protection given to animals mentioned in Schedule-I of the amendment Act, 2022. The aim is to ensure that the trade in species covered under Schedule-IV Appendix-I do not threaten the survival of the species which may eventually lead to extinction if not closely regulated.

9. The Parivesh Rules of 2020, are the relevant guidelines. Clause-I provides for "Developing an inventory of exotic live species in India through Voluntary Disclosure Scheme" which reads as follows:

> *"a) The phrases "exotic live species" used in this advisory shall be construed to mean only "the animals named under the Appendices I, II and III of*

the Convention of International Trade in Endangered Species (CITES) of Wild Fauna and Flora" for the purpose of this advisory and does not include species from the Schedules of the Wild Life (Protection) Act 1972.

b) It is stated through this advisory that the declarer would not be required to produce any documentation in relation to the exotic live species if the same has been declared within six months of the date of issue of the advisory. For any declaration made after 6 months of the date of issue of this advisory, the declarer shall be required to comply with the documentation requirement under the extant laws and regulations.

c) A period of 6 months (from the date of the order) may be given for voluntary disclosure for those who are in possession of exotic live species in the country.

d) All exotic live species shall be declared by the owner/ holder (stock, as on 1 January 2020) to the Chief Wildlife Warden (CWLW) of the concerned State or UT in a format at Annexure-1 of this Advisory.

e) The CWLW shall, after physical verification, register the stock and maintain a record in their office and issue an online certificate of possession within six months of the date of the voluntary disclosure.

f) The CWLW or the officer(s) authorized shall be provided with free access to the exotic live species being declared and housed at the facility round the clock on any given day for verification

g) Any acquisition/ death/trade/ change of possession, taken place after the declaration should be informed to the respective CWLW within 30 days of such acquisition /death/trade and the CWLW shall issue an acknowledgment in this regard as per format at Annexure-II

h) The Register of stock shall include details such as species imported/acquired, the number of animal of each species imported/acquired, photographs (for the purpose of identification of the

species), and the address where the exotic live species have been kept.

i) If the owner/holder of the stock desires of surrendering the stock (part of the stock) to a recognized Zoo, the concerned Zoo may consider the request for acceptance appropriately, within the specified parameters for ensuring the exotic live species is free of infections/diseases

j) For violation of any of the above procedures laid down, action as appropriate would be taken by the Chief Wild life Warden."

10. In terms of the said scheme, the petitioner has declared all stocks, progeny and acquisition and transfer within six (6) months through the PARIVESH Portal on 14th December, 2020. Physical verification of the premises and the birds and animals was done by the office of the respondent no.4 and was approved on the PARIVESH Portal on 31st October, 2023, after the period of two (2) years, ten (10) months and 17 days though the mandated period is six (6) months except three spices, namely (i) Common Marmosets, (ii) Cotton Top Tamarins and (iii) Sugar Gliders by showing 'Rejected' in their individual "Status" columns of the approval letter uploaded on the portal. The reasons for rejections of all three species in the "remarks" column are mentioned as "*To prevent zoonotic pathogens, unconventional agents that can spread human or native species. May cause threat to native wildlife population".*

11. In the case of ***Sukanta Mallick Vs. Union of India and Others*** reported in ***2023 SCC OnLine Cal 5438***, the Coordinate Bench of this Court held that:

*"**34.** Sub-clause (g) of Clause I thereafter provides that any acquisition/death/trade/change of possession taking place after the declaration should be informed to the respective CWLW within 30 days of such acquisition/death/trade, upon which the mere function of the CWLW is to issue an acknowledgement as per format as Annexure-II. A detailed procedure of subsequent physical verification and registration, after the stage of declaration, has been envisaged in the Parivesh Rules, 2020.*

***35.** Thus, the CWLW at that stage is indeed a mere 'post-office' and issues an acknowledgement. The CWLW does not have any power of accepting or rejecting or adjudicating on the declaration at that stage. Sub-clause (h) of Clause I provides that the register of stock shall include details such as species imported/acquired, number of animals of each species imported/acquired, photographs, address, etc. Sub-clause (j) provides that for violation of any of the above procedures laid down, action as appropriate would be taken by the Chief Wild Life Warden.*

***36.** Although sub-clause (j) provides scope for action to be taken, at the stage of declaration, there is no scope of any such action.*

***37.** In any event, Clause I (b) merely provides that a voluntary declaration is to be made and there is no scope of any "action" by the CWLW at that stage. As held by the Supreme Court in Swetab Kumer (supra), the Advisory is in the nature of a voluntary disclosure scheme and provides amnesty and is not a penal provision. The Supreme Court also observed in the said judgment that when the Advisory was issued, it was optional, aimed essentially at regulation of import/export and the public at large was not put to notice that failure of opt therefor would lead to penal and other consequences affecting their right to possess the animal."*

12. The respondent authorities have failed to produce any evidence/ documents and law under which the provisions of law, the Chief Wild Life Warden has rejected the approval of three species, namely (i) Common Marmosets, (ii) Cotton Top Tamarins and (iii) Sugar Gliders. The reasons of rejections are not provided in the Parivesh Rules, 2020.

13. The Coordinate Bench of the Court in the case of ***Sukanta Mallick (supra)*** categorically held that the Chief Wild Life Warden does not have any power to of accepting or rejecting or adjudicating on the declaration. The petitioner has submitted the details of species acquired or imported, the number of animals of each species imported or acquired and the address where the exotic live species were kept. The petitioner has submitted the said declaration in compliance of Clause I (h) of the Scheme.

14. The CWLW has the authority to take appropriate action for violation of any of the procedure mentioned in Clause I(a) to (j) of the Scheme but the reason for rejections assigned is not for violation of any of the provisions of the Scheme.

15. This Court finds that the CWLW has exceeded its jurisdiction by rejecting the declaration of the three exotic species of the petitioner, accordingly, the rejection of three exotic species, namely (i) Common Marmosets, (ii) Cotton Top Tamarins and (iii) Sugar Gliders dated 31st October, 2023, are set aside and quashed.

16. The respondent authorities are directed to accept the declaration of the stock of live exotic species submitted by the petitioner in terms of Voluntary Disclosure Scheme within a period of four (4) weeks from the date of receipt of this order.

17. **WPA No. 24470 of 2025** is **disposed of**.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)