

BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE AT CHENNAI

(UNDER SECTION 18(A) READ WITH S.14 OF THE NATIONAL GREEN TRIBUNAL, ACT)

Application No.157 of 2020 (SZ)

In the matter of :

People for Cattle in India (PFCI)
Represented by its Founder
Mr.G.Arun Prasanna having office at
8/22, Ragaviah Road,
T.Nagar, Chennai – 600 017.

.....Applicant

Vs

1. Additional Principal Chief Conservator of Forests

Coimbatore Circle,
Kurinji, Mettupalayam Road,
Coimbatore – 641 043.
Ph:0422-2453114
Email – cfcbe@tn.nic.in

**2. Principal Chief Conservator of Forests/
Chief Wildlife Warden (Chennai)**

No.1, Jeenis Road, Panagal Maaligai
Saidapet, Chennai – 600 015
Ph.044-24348059
Email: tnforest@tn.nic.in

3. Additional Chief Secretary

Environment and Forest Department
Government of Tamil Nadu
Secretariat, Chennai – 600 009
Ph: 044 25671511
Email: forsec@tn.gov.in

4. Secretary

Ministry of Environment, Forest and Climate Change
Government of India
Indira Paryavaran Bhawan
Jorbagh Road, New Delhi – 110 003
Ph: 044 24695262
Emai : Secy-moef@nic.in

5. Regional Deputy Director (SR)

Wildlife Crime Control Bureau
C2A, Rajaji Bhavan, Besant Nagar
Chennai – 600 090
Ph: 044 24916747
Email : rddsr@wccb.gov.in



District Forest Officer
Coimbatore Division
Coimbatore - 541 043

6. District Collector
Coimbatore
Collectorate Building
Coimbatore – 641018
Ph: 044 2301114
Email : collrcbe@nic.in

7. District Forest Officer
Coimbatore Division
Avinasilingam Home Science College Post
Mettupalayam Road
Coimbatore – 641 043
Ph: 0422 2456911
Email : dfofbe@tn.nic.in

.....Respondents

COUNTER AFFIDAVIT FILED BY THE 7th RESPONENT

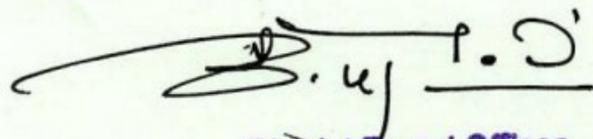
I, D.Venkatesh, S/o. Durairaj, aged about 46 years, working as District Forest Officer, having office at Coimbatore Forest Division, Coimbatore, do hereby solemnly affirm and sincerely state as follows:-

(1) It is respectfully submitted that I am the 7th respondent in the above Application and as such I am well acquainted with the facts of the case.

(2) It is submitted that no remarks are being offered to the averments made by the petitioner in paras 1 to 4 (a) & 4(b)

(3) It is submitted that with regard to Para 4 (c) & 4 (d) of the application that the applicant claims that as early as in December 2018 sent a letter to Principal Chief Conservator of Forest seeking to take action against people threatening to shoot and kill elephants in Thadagam Valley near Coimbatore and further stated that it was sent by email. During a farmers grievances meeting, the farmers association president and members who participated in the meeting which was conducted by the District Collector, Coimbatore in his office represented that fewelephants are causing extensive damage to crop and properties in the fringe villages of Coimbatore and Periyanaikenpalayam Ranges. One of these elephants even killed a forest staff who was engaged in driving back the elephants into the forests.Frequent damages to the crops and properties coupled with a life loss created a constant fear among the public in these areas.

Since the livelihood of the farmers was affected, the farmers were in a desperate mood.Lot of agitation and demonstration were conducted by them demanding the removal of the problematic elephants identified by them. Hence out of agony and self pity the farmer's leader uttered those


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words. This cannot be considered to be a crime. Even in acts, there are no provisions for initiating a criminal or legal action against the farmers.

(4) It is submitted that with regard to Para 4 (e) of the application that it is true that an elephant was shot dead by two farmers who are doing cultivation close to the reserved forest area. The incident occurred on 2.7.2020 in wee hours. The farmers were guarding their crops and a herd of elephants entered in the field and started grazing. In the process of grazing, as usual, the crops got damaged. In order to safeguard their crops they tried to drive the elephants from their field. But elephants started chasing them. In a bid to escape from the elephant attack, one of them shot from a country made gun and one of the elephants was killed. Since their action is punishable under section 9 of Wildlife (protection) Act, both were arrested and remanded to the judicial custody. The gun was also seized. A complaint has been lodged with the police to take appropriate action under Arms Act since the gun was an illicit one.

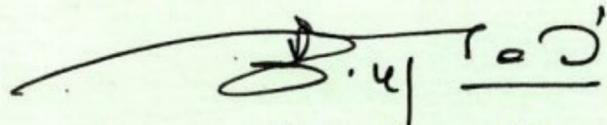
(5) It is submitted that with regard to Para 4 (f) of the application that the applicant has sent an email to the forest officials to take action against the persons referred in his earlier email. That is the leader of farmers association, who had stated that the crop raiding elephants will be shot dead if the department fails to remove the problematic elephants. As already stated above, his request is not sustainable as per law in force. A letter in reply was also sent to him by the Additional Principal Chief Conservator Forests, Coimbatore circle on 10.07.2020 via email. It reads as follows:

Dear Mr. ArunPrasanna

Thank you for your mail. We are pleased to see your concern for saving our wild elephants and wish to inform that the two accused persons who gunned down the elephant were arrested and remanded to judicial custody. Action is afoot to prosecute the case so as to ensure its culmination in the award of deterrent punishment which will help to keep the offenders, actual and potential, at bay in the years to come.

As for your complaint against Kandasamy and others who are said to have openly threatened in 2018 to shoot the elephants, you will appreciate that the narrative is not about loss elephants alone in Human-Elephant conflict scenarios. More often than not, some wild elephants despite our best efforts at anti-depredation, do cause damage to the humans by way of crop raiding, property damage, injury or even liking people. People affected by loss of crops or lives of near and dear ones, make such statements in a moment of emotional outburst. We need not take them literally but should empathise.

As you must be aware, we have long moved away from the enforcement centric paradigms of wild life conservation. The potential of education, advocacy and outreach to achieve the large interest of conservation is well recognized now. It has been the constant endeavour of the Government to minimize the conflicts and facilitate a scenario of healthy co-existence of man and wild life.


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That said, the problem is quite complex and requires the concerned action of all stakeholders for a sustainable solution.

We would look forward to your joining us in the endeavour.

*Regard
Additional Principal Chief Conservator of Forests,
Coimbatore circle,*

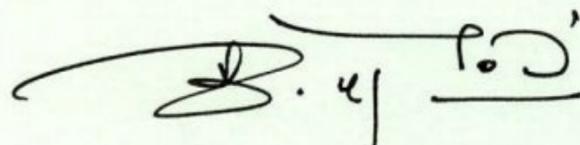
(6) It is submitted that with regard to Para 4 (g) of the application that we cannot take action against the leader of the farmers who in a desperate condition, in a grievance day meeting, pleaded for the safety of their crop and properties and also life. This was well explained to the applicant by the above letter. Even after that relying upon a news paper article, the applicant insists to take action against him, which is not only sustainable as per law and also will spoil the good will and relationship between the farmers and the department.

(7) It is submitted that with regard to Para 4 (h) of the application that the contention of the applicant is totally unacceptable. All necessary preventive measures are taken by the forest department to check the wildlife crimes. In spite of this, in some occasions, such incidents occur. It is beyond the control of the department. It is unfair to put blame on the forest department for some incidents which happens beyond the control of the department.

(8) It is submitted that with regard to Para 4 (i) of the application that the department is taking every earnest step to preserve the forest and wildlife including the elephants. Since it is keystone species, the department is well aware of the importance of the presence of elephants in a given landscape. Many elephants were rescued and rehabilitated. Injured elephants were treated and saved. Constant patrolling is done to prevent crimes. Antipoaching watchers, anti-depredation squads, Rapid Response Teams are employed for monitoring the movements of elephants. Based on the informations passed by them, the farmers and other public are warned suitably to be safe. The strayed elephants are carefully guided back to the forests.

(9) It is submitted that with regard to Para 4 (j) of the application that the applicant claims that the respondents are violated National Green Tribunal Act and listed out the alleged violations. It is irrelevant and baseless.

(10) It is submitted that with regard to Para 5 (a) of the application that the respondents are exercising their duties without any slackness. They cannot be fixed for the incidents happening beyond their control. The alleged violations listed out by the applicant are irrelevant and there is no violation on the part of the respondents.



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(11) It is submitted that with regard to Para 5 (b) of the application that the incident mentioned by the applicant occurred in Kerala for which the Kerala Forest Department had taken appropriate action as per law.

(12) It is submitted that no remarks are being offered to the averments made by the petitioner in paras 5 (c), (d) and 5 (e)

(13) It is submitted that with regard to Para 5 (f) of the application that the applicant's claim that the respondents are solely responsible for the catastrophe caused is baseless. He referred a case for his claim which is irrelevant to the present case.

(14) It is submitted that no remarks are being offered to the averments made by the petitioner in paras 5 (g), (h) and 6

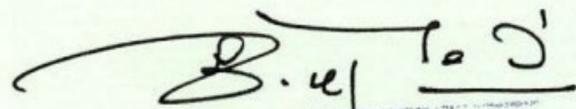
(15) It is submitted that with regard to Para 7 of the application that the applicant is praying for an interim direction to form an emergency response team to prevent human-elephant conflict appropriately attend to the injured and / or wandering the elephants and to relocate such elephants to forests. Already there is a Rapid Response Team (RRT) formed by the department and functioning since 2017. The main responsibility of the team is to attend man-animal conflict as soon as they receive the informations. Apart from this the Anti-depredation watchers / anti-poaching watchers are also support the forest department personals in the following works carried out to mitigate man-animal conflict.

- a) Driving back the elephants in to forests
- b) Rescue of the elephants and relocation.
- c) Treating the elephants who are sick and injured.
- d) Monitoring the movements of elephants inside as well as outside the forests.
- e) Supply of water to the elephants by cleaning and refilling of the water troughs periodically.
- f) Early warning about movements of elephants inside as well as outside the forests.
- g) Creation of awareness among the farmers and public.

We are dedicated Forest Veterinary officer along with supporting staff are employed by department as well as borrowed from veterinary department on deputation to assist forest department in the above operation especially rescue, treatment, rehabilitation etc..

(16) It is submitted that with regard to Para 8 (a) of the application that as already stated *supra* dedicated team is already established by department and discharging their duties as much as possible.

(17) It is submitted that with regard to Para 8 (b) of the application that a special committee consisting of elephant experts, veterinarians NGOs under chairmanship of one

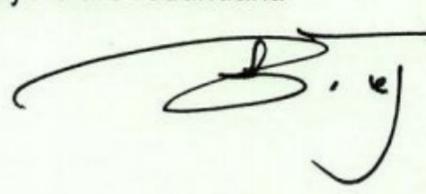


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Additional Principal chief conservator of forests with a District Forest Officer as convenor was formed by Principal chief conservator of forests and Chief Wildlife Warden in his proceedings No.WL4/15008/2020 dated 02.07.2020 for carrying the following tasks.

- i. The scientific investigation of cause of death of elephants
- ii. To study the individual incidents with reference to location and evaluate and circumstances of the death that has occurred.
- iii. The evaluation of deaths with reference to habitation, diseases, other natural caused and any other reasons other than natural causes.

(18) Hence the application is not maintainable since the prayers of the applicants were already executed by the department and the prayers are redundant.



16.3.21

Solemnly affirmed at Coimbatore on this 16th day of March 2021 and signed his name in my presence

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Before me