

R E V I S E D (APPEARANCE)

ITEM NO.15

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(Civil) No. 1212/2021

PRERNA SINGH BINDRA & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 142355/2021 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 01-02-2023 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s)

Mr. Kartik N. Shukul, Adv.
Mr. Abhikalp Pratap Singh, AOR
Ms. Shreya Saxena, Adv.
Ms. Yamini Singh, Adv.

For Respondent(s)

Mr. Mahfooz Ahsan Nazki, AOR
Mr. Polanki Gowtham, Adv.
Mr. K.V. Girish Chowdary, Adv.
Mr. T. Vijaya Bhaskar Reddy, Adv.
Mr. Shaik Mohamad Haneef, Adv.
Ms. Rajeswari Mukherjee, Adv.
Ms. Niti Richhariya, Adv.Mr. Abhimanyu Tewari, AOR
Ms. Eliza Bar, Adv.

Mr. Debojit Borkakati, AOR

Mrs. Prachi Mishra, AAG
Mr. Mahesh Kumar, Adv.
Mr. Dipesh Singhal, Adv.
Mr. Nikhilesh Kumar, Adv.
Ms. Devika Khanna, Adv.
Mrs. V.D. Khanna, Adv.

For M/S VMZ Chambers, AOR

Mr. Arunabh Chowdhury, Sr. Adv.
Ms. Pragya Baghel, Adv.
Ms. Pallavi Langar, AOR

Mr. V.N. Raghupathy, AOR
Mr. Manendra Pal Gupta, Adv.
Mr. Abbula Kalam, Adv.
Mr. Dhanesh Ieshdhan, Adv.

Mr. Nishe Rajen Shonker, AOR
Mr. Alim Anvar, Adv.
Mrs. Anu K Joy, Adv.

Mr. Aaditya Aniruddha Pande, AOR
Mr. Siddharth Dharmadhikari, Adv.
Mr. Bharat Bagla, Adv.
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Mr. Amit Kumar Singh, Adv.
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Mr. Prang Newmai, Adv.

Mr. Shubhranshu Padhi, AOR
Mr. Vishal Bnasal, Adv.
Ms. Rajeshwari Shankar, Adv.
Mr. Niroop Sukirthy, Adv.
Mr. Md. Ovais, Adv.

Dr. Joseph Aristotle S., AOR
Mr. Shobhit Dwivedi, Adv.
Ms. Nupur Sharma, Adv.

Ms. Namita Choudhary, AOR
Ms. Rachana Gandhi, Adv.
Ms. Srishti Choudhary, Adv.

Ms. Astha Sharma, AOR
Mr. Ravinder Singh, Adv.
Mr. Srisatya Mohanty, Adv.
Ms. Raveesha Gupta, Adv.
Mr. Sanjeev Kaushik, Adv.
Ms. Mantika Haryani, Adv.
Mr. Shreyas Awasthi, Adv.
Mr. Himanshu Chakravarty, Adv.
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Ms. Marbiang Khongwir, Adv.

**UPON hearing the counsel the Court made the following
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- 1 The counter affidavit filed by the Union Government (Ministry of Environment, Forest and Climate Change¹) indicates that:
 - (i) The elephant reserve area in the country has increased to 77705.42 square kilometers;
 - (ii) Thirty two elephant reserves exist across the country;
 - (iii) Consent has been issued by the Ministry to declare the Terai Elephant Reserve in Uttar Pradesh; and
 - (iv) In the process of validating elephant corridors across the country, about 52 per cent of the identified corridors listed in the 'Gajah' Report have been validated and the task of completing the validation of the other corridors is under process.

- 2 On 29 August 2019, the MoEF&CC circulated the minutes of the 54th Meeting of the National Board of Wildlife. The minutes record that the task force which was constituted in pursuance of the directions of this Court had recommended several measures for implementation by electricity supply units; Power Grid Corporation of India Limited, the Central Electricity Authority² and the State Electricity Boards. For convenience of reference, the recommendations which have been set out in

1 "MoEF & CC"

2 "CEA"

the minutes are extracted below:

- “(1) Immediate rectification of sagging transmission lines and cable of existing transmission line in the protected areas by the Electricity Supply Utilities, PGCIL, CEA, and SEBs.
- (2) Joint inspection of every transmission/distribution line passing through the protected areas or passing through the vicinity of protected Areas (which are frequented by wild animals) by officials of Electricity Department and Forest Department would be undertaken regularly, at least thrice a year once before onset of monsoon and once after monsoon so as to identify potential problem stretches.
- (3) Forest Department shall inform the concerned power supplier/line owner of the area about every electrical accident occurring in and around forest area involving human/animals which in turn shall submit an accident report in Form A (Form for reporting electrical accidents) as given in the Intimation of Electrical Accidents (Form and Time of Service of Notice) Rules, 2005 duly completed in all respects to Electrical Inspector of the Appropriate Government. All electrical accidents should be investigated by Electrical Inspector and suitable measures should be taken as proposed in the investigation report.
- (4) To prevent death of animals in the forest areas due to electrocution by the distribution lines, the distribution companies shall preferably use ABC (aerial bunched cables) or underground cable. In case of the overhead lines, the clearance above ground of the lower conductor of 11 kV/33kV overhead lines should be as per CEA Regulations.
- (5) Rule 59(3) of the CEA (Measures Relating to Safety and Electric Supply) Regulations, 2010 (as Amended) would amend as follows:

In case of laying of transmission lines of 33 kV and below passing through habitated urban and rural areas, any forest area other than National Parks, Wildlife Sanctuaries, Conservation Reserve, Community Reserve, Eco-Sensitive Zones around the protected areas and Wildlife Corridors, underground cable or aerial bunched cables or covered conductors shall be used.

Further new Section would be added as Rule 59(4) reading as below:

In case of as in case of laying of transmission lines of 33 kV and below passing through protected areas (National Parks, Wildlife Sanctuaries, Conservation Reserve, Community Reserve), Eco-Sensitive Zones around the protected areas and wildlife corridors, underground cable should be used. In cases where these areas are aquatic and marine in

nature, aerial bunched cables or covered conductors would be used as alternative to the underground cables.

- (6) Right of Way (RoW) for 11kV transmission lines can be optimized keeping in view the corridor requirement for the future by adopting suitable alternative of multi-circuit/or multi-voltage lines. Conductors of appropriate size shall be selected considering power flow requirements and other system considerations in consultation with neighboring transmission and generation utilities. For transmission lines of 400kV or higher voltage class, bundle conductors (minimum two conductors per phase for 400 kV AC and four conductors per phase for 500kV DC and 765 kV AC shall be used for satisfactory performance of transmission lines from corona and interference aspects. The conductors may be of type aluminum conductor steel reinforced, all aluminum alloy conductor or other new technology conductors depending on system requirements and should avoid base conductors.
- (7) The existing transmission lines should be replaced retrospectively with insulated cables/ or underground cables on priority basis by Electricity Supply Units, Power Distribution Companies and Power Grid Corporation of India Ltd.
- (8) A sub-committee consisting of one representative from CEA, DIG(FC) and DIG(WL) would examine Right of Way (RoW) requirements for laying of transmission lines in the protected areas.
- (9) Early planning and rigorous Environmental Impact Assessment are two principal requirements for reducing wildlife mortality due to transmission lines, as well as minimizing the risks of costly power outages. A nationwide strategy should be developed and supported to undertake the long-term planning of electricity grid networks as a priority. Planning should include the use of state-of-the-art wildlife protection equipment, and burying low to medium-voltage transmission lines below the ground where feasible.

Burying transmission lines effectively removes the problem of wildlife electrocution. Environmental Impact Assessment is an invaluable tool to inform decision making, helping to ensure that transmission lines are appropriately routed and designed.

- (10) The routing of transmission lines and shifting transmission structures should be done collaboratively, involving the electricity supplier company, government bodies, conservation agencies, land owners and other interested and affected parties, culminating in one or more memoranda of understanding.
- (11) Birds frequently collide with the earth wires (less visible wire) installed at the top of transmission lines, as it is less visible and smaller in diameter. Removal of the earth wire would reduce bird collisions

however this is rarely a viable option since the earth wires protect the power-line installation from lightning strikes. This is only possible in areas where there is very low lightning and to a limited extent. Where the earth wires cannot be removed, line marker devices/bird reflectors should be used in sufficient numbers to deflect the birds to take alternate path. Marker devices are available in several colours and are visible to birds from a long distance. Many types of marker devices are available, such as spheres, swinging plates, spiral vibration dampers, strips, flight diversion, bird flappers, ribbons, tapes, flags, and crossed bands.

- (12) Line markers should be as large as possible. The spacing between them should not be more than 5 m to 10 m. Marker devices should be chosen to contrast as much as possible with the background colours, and importantly, should be visible at night, for most bird collisions are said to occur at night.
- (13) There is a need to set up reinforced electric poles fitted with spikes to prevent elephants rubbing against them and lifting of sagging overhead power lines. This is yet to be done in many protected areas. Also insulate overhead wires across all elephant habitat and elephant movement zones and remove/dismantle all defunct solar powered fences.”

3 After setting out the above recommendations, the Standing Committee has accepted recommendations 1 to 10 and 13. The relevant extract from the minutes is extracted below:

“After discussions the Standing Committee accepted the recommendations (1) to (10) and (13) of the Task Force and suggested to initiate implementation of the recommendations and also the use of insulated transmission line cables over the ground/or underground transmission line cables passing through the protected areas should be the first priority of the user agencies.

- 4 An IA has been filed in these proceedings seeking a joint inspection by the respondent states, MoEF&CC and CEA of all the protected areas and elephant reserves as well as the vicinity of the areas frequented by elephants as recommended above by the Task Force and also in elephant corridors so that the status of compliance can be brought to light.
- 5 At this stage it would also be necessary to note that among the recommendations

which were submitted by the 'Gajah' Report, there is a recommendation to the effect that Project Elephant can be converted into a statutory agency on the lines of the National Tiger Conservation Authority³ and that relevant amendments can be made to the Wildlife Protection Act 1972 so as to effectuate the conferment of statutory status on the authority.

6 The Task Force has proposed that the new body may be termed as the National Elephant Conservation Authority (NETA).

7 Since the proposal in the report of the Task Force would envisage a legislative amendment, this is something on which it should be appropriate to request the MoEF&CC and CEA to respond within a specified time frame.

8 In the meantime, the MoEF&CC and the CEA has on 28 December 2018 constituted a Central Project Elephant Monitoring Committee for the purpose of monitoring and implementation of relevant directions and guidelines in regard to the conservation and protection of elephants.

9 In the course of submitting an updated status report to this Court, it would be necessary that MoEF&CC and CEA apprise this Court of the progress which has been made in that regard.

10 We consequently direct that within a period of four weeks:

- (i) MoEF&CC and the Central Electricity Authority shall ensure that necessary steps are taken for facilitating an inspection of the protected areas so as to facilitate implementation of the recommendations of the Task Force as accepted in the minutes of the 54th Mini Meeting of the Standing Committee of the National Board for Wildlife held on 18 July 2019 as communicated on 29 August 2019;
- (ii) MoEF&CC shall respond to the recommendation made in the 'Gajah'

Report on conferring statutory status on the proposed body namely the National Elephant Conservation Authority (NETA); and

- (iii) In terms of the statement of Ms Aishwarya Bhati, Additional Solicitor General, MoEF&CC shall collect the requisite information from the States in respect of compliance with the recommendations contained in the 'Gajah' Report as accepted at the meeting held on 18 July 2019.

- 11 The basic aspects of the questionnaire eliciting information which has been placed on the record are in the following terms:

NAME OF THE STATE:

S.NO.	QUERY	STATUS
ELEPHANT CORRIDORS		
1.	Total number of elephant corridors identified	
2.	Total number of elephant corridors notified with specific details about their area and location	
POWER TRANSMISSION LINES		
3.	Number of electricity/power transmission lines passing through protected areas/reserves, priority areas and identified corridors	
4.	Length of the power transmission lines mentioned at S. No. 7 of the Task Force Recommendations	
5.	Details of last joint inspection on sagging power/electricity transmission lines in Elephant Reserves/priority areas	

6.	Status of action taken on the points identified in the Joint Inspection Report as mentioned at S. No. 5	
WELFARE OF CAPTIVE ELEPHANTS		
7.	Number of captive elephant facilities in state	
8.	Total number and average age and sex of elephants present in the facilities at S. No. 7 and in private custody	
HUMAN-ELEPHANT CONFLICT		
9.	Number of elephant deaths because of following reasons (2009-2020): <ul style="list-style-type: none"> ● Electrocution ● Train Accidents ● Poaching ● Poisoning ● Others 	
10.	Number of human-elephant conflict incidents and how many resulted in death of the elephants (2009-2022)	
11.	How many post-mortems of elephants were conducted in furtherance of the Advisory of the MoEF dated 30.08.2022	

12 All the concerned States shall within a period of four weeks communicate relevant information as required by MoEF&CC in regard to the status of the implementation of the recommendations.

13 While filing its status report and affidavit before this Court, the Ministry shall

collate all the information which has been obtained from the States in the questionnaire and place it on affidavit.

- 14 List Writ Petition(Civil) Nos 275 of 2015 and 335 of 2017 along with this writ petition on 14 March 2023.

(MANISH ISSRANI)
COURT MASTER(SH)

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR

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- 6 The Task Force has proposed that the new body may be termed as the National Elephant Conservation Authority (NETA).
- 7 Since the proposal in the report of the Task Force would envisage a legislative amendment, this is something on which it should be appropriate to request the MoEF&CC and CEA to respond within a specified time frame.
- 8 In the meantime, the MoEF&CC and the CEA has on 28 December 2018 constituted a Central Project Elephant Monitoring Committee for the purpose of monitoring and implementation of relevant directions and guidelines in regard to the conservation and protection of elephants.
- 9 In the course of submitting an updated status report to this Court, it would be necessary that MoEF&CC and CEA apprise this Court of the progress which has been made in that regard.
- 10 We consequently direct that within a period of four weeks:
 - (i) MoEF&CC and the Central Electricity Authority shall ensure that necessary steps are taken for facilitating an inspection of the protected areas so as to facilitate implementation of the recommendations of the Task Force as accepted in the minutes of the 54th Mini Meeting of the Standing Committee of the National Board for Wildlife held on 18 July 2019 as communicated on 29 August 2019;
 - (ii) MoEF&CC shall respond to the recommendation made in the 'Gajah' Report on conferring statutory status on the proposed body namely the National Elephant Conservation Authority (NETA); and

⁶ "NTCA"

(iii) In terms of the statement of Ms Aishwarya Bhati, Additional Solicitor General, MoEF&CC shall collect the requisite information from the States in respect of compliance with the recommendations contained in the 'Gajah' Report as accepted at the meeting held on 18 July 2019.

11 The basic aspects of the questionnaire eliciting information which has been placed on the record are in the following terms:

NAME OF THE STATE:

S.NO.	QUERY	STATUS
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- 12 All the concerned States shall within a period of four weeks communicate relevant information as required by MoEF&CC in regard to the status of the implementation of the recommendations.
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