

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR
&
THE HONOURABLE MR. JUSTICE GOPINATH P.**

Friday, the 6th day of September 2024 / 15th Bhadra, 1946

WP(C) NO. 27607 OF 2024

PETITIONERS:

WALKING EYE FOUNDATION FOR ANIMAL ADVOCACY 263/A, KAIPARAMBU P.O.,
THRISSUR, KERALA, REPRESENTED BY ITS FOUNDER AND MANAGING TRUSTEE,
VIVEK K. VISWANATH, AGED 31, S/O. K.V. ACHUTHAN, KURUNELLIPARAMBIL
HOUSE, KAIPARAMBU P.O., THRISSUR, KERALA, PIN – 680546

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
MINISTRY OF ENVIRONMENT FOREST AND CLIMATE CHANGE, INDIRA PARYAVARAN
BHAWAN, JORBAGH ROAD, NEW DELHI, INDIA, PIN - 110003
2. STATE OF KERALA, REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY,
FOREST AND WILDLIFE DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT,
1ST FLOOR, MAIN BLOCK, THIRUVANANTHAPURAM, PIN - 695001
3. PRINCIPAL CHIEF CONSERVATOR OF FORESTS WILDLIFE & CHIEF WILDLIFE
WARDEN FOREST HEADQUARTERS, VAZHUTHACUAD, THIRUVANANTHAPURAM, PIN -
695014

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue an interim direction restraining the transfer of elephants into the State under the Captive Elephant (Transfer & Transport) Rules, 2024, pending disposal of this Writ Petition.

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S. DHANYA P.ASHOKAN (SR.), M.R.VENUGOPAL, S. MUHAMMAD ALIKHAN & ANJANA S. RAJ Advocates for the petitioner, the court passed the following:

DR. A.K.JAYASANKARAN NAMBIAR, J.
&
GOPINATH P., J.

W.P.(C).NO.27607 OF 2024

Dated this the 6th day of September, 2024

ORDER

Gopinath P., J.

Admit.

Sri.T.C.Krishna, the learned Senior Panel Counsel takes notice for the 1st respondent. The learned Government Pleader takes notice for respondents 2 and 3.

2. Having heard the learned senior counsel appearing for the petitioner, on the instructions of Adv.Sri.M.R.Venugopal, we are *prima facie* of the view that the petitioner is entitled to an interim order, as prayed for. We are inclined to do so especially taking note of the provisions contained in Rule 7 of the Captive Elephant (Transfer or Transport) Rules, 2024, which indicate that permission for transfer shall be permitted only in the circumstances set out in Sub Rule (2) of Rule 7. The proceedings before this Court in W.P.(C).No.13204 of 2021, now re-numbered and entitled "*In Re Captive Elephants v. Union of India - W.P.(C).No.31520 of 2024*", and the various orders that this Court had to issue in the matter of captive elephants indicate that the condition of captive elephants in the State of Kerala is far from satisfactory and can be even termed 'pathetic'.

3. It is reported that large number of captive elephants in Kerala have died due to ill treatment and on account of lack of proper care. The number of captive elephants that have died in captivity from the year 2018 till August 2024 are given below:

2018	34
2019	19
2020	22
2021	24
2022	19
2023	21
2024	15 (Till date)

Thus a total of 154 elephants have died in captivity during the aforesaid period.

In that view of the matter, and especially taking note of the conditions imposed in Sub Rule (2) of Rule 7 of the Captive Elephant (Transfer or Transport) Rules, 2024, we feel it appropriate to injunct, until further orders, the State of Kerala and its Chief Wildlife Warden from issuing any order permitting the transfer of any elephant from outside the State into the State of Kerala under the provisions of the Captive Elephant (Transfer or Transport) Rules, 2024 or in any other manner.

Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
GOPINATH P.
JUDGE