

**IN THE HON'BLE HIGH COURT OF KARNATAKA**

**AT BENGALURU**

**(Original Jurisdiction)**

**W.P.No \_\_\_\_\_ /2020 ( \_\_\_\_\_ -PIL)**

**BETWEEN:**

1. Mr. Edward Santosh Martin

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2. MattihalliAhiraj

3. Subhash Chandra N S



**Petitioners**

**AND**

1. State of Karnataka

Respondent No 1

2. State of Karnataka  
Through Principal Secretary (Forests)  
Having its address at 4th Floor,

MS Building, Bengaluru,  
Karnataka — 560001

Respondent No 2

3. State of Karnataka,

4. State of Karnataka,

Respondent No 4

**MEMORANDUM OF WRIT PETITION FILED UNDER ARTICLE 226 & 227 OF  
THE CONSTITUTION OF INDIA, 1950**

The Petitioner most respectfully submits as follows:

1. The Petitioner has filed this Writ Petition in public interest, aggrieved by the rapid decline in the numbers of the Great Indian Bustard, a magnificent species, due to the illegal civil works being undertaken by the Respondents specifically in the habitats of the GIB leading to its extinction. The illegal actions of undertaking civil works such as construction of watch towers and anti-poaching camps by the Respondent within the area of habitat of the species has pushed the species to the brink of extinction which is a blatant violation of Part III, Schedule I of the Wild Life(Protection) Act, 1972, The Ministry of Environment and Forests issued Environment Impact Assessment Notification No. 60(E) ("EIA Notification") prohibiting and restricting the expansion of any activity or new project in protected areas and the guidelines of the Ministry of Environment, Forest and Climate change for the recovery of the species.

2. The Great Indian Bustards, one of India's iconic birds, has now become India's rarest bird. The Respondents have chosen the specific areas within the grasslands to construct the watch towers and the anti-poaching camps which is causing extreme hindrance to the survival of the birds as the birds require open grasslands and scrublands for survival.
3. The present Writ Petition filed under Art. 226 & 227 of the Constitution of India, 1950 is in the nature of a public interest petition and the Petitioner has no personal interest in the matter. The Petition has been filed to identify and seek urgent implementation of conservation measures to recover, protect and preserve the endangered species Great Indian Bustard. These birds are currently facing threat of imminent extinction.
4. The Petitioner No 1, citizen of India and a conservationist has been working in Karnataka towards wildlife and habitat conservation for the last 15 years. He has been appointed the Honorary Wildlife Warden of Ballari district for two terms. He has been working on the rediscovery of the critically endangered Great Indian Bustard since 2003. In 2006 he became successful in rediscovering the group of 6 birds in Siruguppa taluk of Ballari district, Karnataka. He has also been active in writ petitions aimed at environmental conservation in the High Court of Karnataka. He filed a writ petition against the Karnataka State Government for illegally diverting 450 Hectares of forest land for a zoo cum Safari at Hampi.
5. The Petitioner No 2 is a journalist by profession. The Petitioner No 2 came in contact with various groups of nature lovers, wild-life enthusiasts and conservationists in Ballari district. In association with these groups, the Petitioner No 2 was able to throw light on various

issues concerning conservation, protection of wildlife among other things. Notable among them was the inhuman practice of 'ritual hunting' taking place during the 'Ugadi' festival, when people used to kill wild-animals in the Daroji and other surrounding forests and take them out in a procession. After reports appeared in *The Hindu*, authorities concerned began taking initiatives and strict measures to prevent ritual hunting and today there are no reports of wild animals being killed. The Petitioner No 2 had the privilege of being part of the team that discovered the GIB for the first time in Sirguppa taluk of Ballari district and make a news report that was published in the national edition in 2006.

6. The Petitioner No 3 has worked as a journalist in various media since last 20 years including Nine years in Deccan Herald as a High Court correspondent. He is passionate reporting on Wildlife and Environment having covered several major events pertaining to conservation. A few PILs were filed in the High Court of Karnataka based on his. One such PIL was to ban the night traffic at Bandipur to protect animals from the road kills. The suo moto PIL petition by the High Court to protect elephants was based on an editorial of Deccan Herald, which was based on his series of stories on frequent electrocution and poisoning of the jumbos in the state. He is a recipient of State Media academy award for the year 2018 from the Government of Karnataka. Now, he is a principal correspondent and District correspondent of the New Indian Express in Uttara Kannada district since January 2020. He worked in Ballari as a district correspondent between early 2017 to 2019 December and knows the entire GIB habitat very well.

7. The Petitioner No 1 submits that he is one of the Petitioners in a matter pending before the Hon'ble Supreme Court to declare Great Indian Bustard as a protected species in line with Project Tiger and Project Elephant. The present petition is filed challenging the illegal construction

activities being undertaken by the Respondents within the specific areas of grasslands and scrublands in the area of Siruguppa in Karnataka where the remaining very small number of birds inhabit. Therefore, the present writ petition addresses the grave concern about the rapid decline in the number of the Great Indian Bustard. The Special Leave Petition pending before the Hon'ble Supreme Court does not specifically address the issues concerning the decline in the numbers of the Bustard due to the illegal civil works undertaken by the Respondents in Karnataka but concerns the general threat of extinction of the species in India as a whole. The Petitioner is before this Hon'ble Court standing up for the protection and preservation of the critically endangered species, Great Indian Bustard.

**BRIEF FACTS OF THE CASE**

8. The Respondent No.1 is the State of Karnataka, represented by the Principal Chief Conservator of Forests & Head of Forest Force. The Respondent No. 2 to 4 are the other officers in the State of Karnataka holding posts connected with the concerned ministry in the State.
9. The Great Indian Bustard (*Ardeotisnigriceps*) (hereinafter referred to as "GIB") is a large, brown and white bird, with a black crown and white marks in its wings. It is one of the heaviest flying birds in India, standing a lit a meter in height. Males have a white neck with a relatively thick black breast-band and a black cap extending up to the eye. Females are smaller, with a greyish white neck and typically thinner, incomplete or no breast-band and a black cap that does not extend to the eye. Males typically weigh about 10-15 kilograms, and females around 5-10 kilograms. Photographs of the Great Indian Bustard are annexed herein as **ANNEXURE A**

10. The GIB is a bird with an average age of about 12-15 years. Studies have shown that it lays about one egg every one to two years. In case of a drought, the bird may lay no eggs at all. Under ideal circumstances, the bustard chicks hatched have a survival rate of 60-70%. The Great Indian Bustard holds the highest projection under Indian law, listed under Part III, Schedule I of the Wild Life (Protection) Act, 1972. The bird has been protected under the Act from the time of inception.
11. In 1961, the prominent ornithologist Dr. Salim Ali, recommended that the GIB be made the National Bird of India due to its threatened status. In 1972, Mr. M.K. Ranjitsinh as the Director of Wildlife Preservation of India, recommended the same. However, eventually the Indian Peafowl (*Pavocristatus*) was declared the National Bird of the country. The GIB was adopted as the state bird of Rajasthan in 1982, where it is locally known as Godavari.
12. In 2007 the GIB was included as a priority species in the Recovery Program under the 'Integrated Development of Wildlife Habitats', a centrally Sponsored Scheme of the Ministry of Environment and Forests, Union of India (as it then was). In 2011 in the Red List of Threatened Species, International Union for Conservation of Nature ("IUCN") reclassified, the bird as 'Critically Endangered' - ranking given to a species just short of becoming extinct in the wild. The GIB is listed in the Convention on International Trade in Endangered Species of Wild Fauna and Flora.
13. Around the time of Independence, the GIB was found throughout Western India, spanning eleven states, including Rajasthan, (across the border shared with Pakistan), Haryana, Madhya Pradesh, Maharashtra, Andhra Pradesh, Gujarat, and Karnataka. Today, however, the bird has

disappeared from over 90% of its traditional habitat. It is now restricted to fragmented pockets with very low populations in Rajasthan, Andhra Pradesh, Karnataka, Maharashtra and Gujarat.

14. Research has shown that the species require vast expanses of arid and semi-arid grasslands, open country with thorn scrub, and tall grass interspersed with cultivation. They are far-ranging birds that roam over a 1000 sq. km. They extensively use agricultural fields and scrub areas, and their diet can include dryland crops such as jowar and other millets. However, they need open short grasslands for lekking and displaying and disturbance to these habitats leads to breeding failure.
  
15. Ranebennur, in Karnataka, was one of the last known places to spot GIB in Karnataka. As their numbers began to reduce, the government notified the Ranebennur Blackbuck Sanctuary to jointly protect the blackbuck and the GIB. The habitat was apt for both the blackbuck and the GIB as well as other grassland and open habitat species like Indian wolf, Indian golden jackal, Indian fox and several species of birds and insects. However, after declaring it as a protected area (PA), the Karnataka Forest Department (KFD) decided to plant trees, construct watchtowers and cement waterholes. The department converted the habitat from a pristine grassland to a plantation largely comprising eucalyptus trees. The last GIB was seen in 1998, after which it was deemed locally extinct in Karnataka.
  
16. In 2006, after years of exploring, a team of wild life enthusiasts including the Petitioner No 1, discovered about nine bustards in a remote corner of Ballari district, Siruguppain Karnataka. They had documented a few young ones as well, indicating that Karnataka had a breeding population. Since then, the NGO, along with local volunteers and KFD, have been monitoring sightings of this species. Recently, as part of

CAMPA, JSW Limited (a massive private conglomerate in steel, energy, cement and infrastructure sectors) had purchased 250 acres of land in Ballari where the GIB was seen, and had handed it over to the KFD towards protection of the bustard. In 2016, a rapid assessment survey by the NGO found 12 GIBs here.

17. In May 2020, the KFD began digging hundreds of pits to plant saplings of tall trees in the very same area the GIBs were found. Converting a grassland to a tree plantation is not conducive for the GIB. The GIB is an open-country bird that avoids areas with dense and tall plants. In addition to this, anti-poaching camps and five watchtowers are being constructed in great haste. These buildings and tall trees will cause hindrance to the birds and cause them to fly away in search of favourable habitats.

18. Great Indian Bustards have stopped breeding in every part of the country except Sirguppa ( according to GIB experts DrAsadRahmani and MrRanjitsinh, the person who drafted Wildlife Protection, Act 1972) when naturalists have been documenting effective breeding every year. The presence of tall structures (such as the ones built now by the Karnataka Forest Department) will adversely impact these low flying birds which have poor frontal vision. GIBs prefer open grasslands without structures and tall trees. Many GIB deaths have been reported in India when these birds hit power lines, tall structures or tall wind power generators because of poor frontal vision.

19. Great Indian Bustards stopped breeding in Karnataka's only GIB Sanctuary, Ranebennur because the Forest Department built tall structures. GIBs disappeared in India's many other GIB Sanctuaries, Nanaj in Maharastra, Rollapadu in AP; Karera Sanctuary in MP are

examples where human interference drove away birds from breeding and all perished outside as they could not adopt to a new breeding places.

20. The major threat for this bird is loss of grasslands along with adjoining farmland habitat. In the last few years, solar / wind energy projects with high tension wires have also led to a steep decline in GIB numbers. The region in which the GIBs were spotted now has the activity of tractors, concrete mixers and movement of people just before the GIB's breeding season. This construction activity in the core GIB area has forced these rare species to move away.
21. Habitats for the species of GIB may be divided into 3 categories
  - a. Critical Habitats: Areas used for breeding where males display in "leks" to attract females, crucial for reproduction and survival of the species. Females usually, nest between 5-10 kilometers radius of these leks. These traditional breeding sites, once disturbed, are lost forever.
  - b. Semi-Critical Habitats: Outside of the breeding season, present populations of these birds form unisex groups, and cover larger areas in search of food. These areas are important to support non-breeding ecological needs and to maintain genetic connectivity between bustard population, an essential element of their long-term persistence.
  - c. Potential Habitats: Areas which are conducive bustard habitats and can be used by these species, once their populations regenerate and are able to repopulate.
22. Studies have shown that the primary threats faced by this species is electrocution by powerlines, collisions with power lines and wind turbines, degradation and depletion of grassland habitats, intensive agriculture with the use of pesticides, hunting, trampling of eggs by

grazing livestock and predators such as free ranging dogs and wild animals. An increasing number of powerlines and wind turbines have come up in the habitats of the GIB. Studies conducted by Wildlife Institute of India in 2018, highlight the high frequency of GIB collisions with powerlines, as much as 15% of the population per year. Death of GIB due to collisions with and electrocution by powerlines have significantly increased over the last 10 years.

23. Bustard species around the world are at a particularly high risk of collision with powerlines due to their poor frontal vision and inability to see from a distance. Their large size and heavy flight make it additionally difficult for them to move away from powerlines in time. This especially affects male bustards which are heavier and fly longer distances and more frequently than the females, to mate, and which has caused exponential decimation of males, and even the extinction of males.

24. A team of 6 conservationists including the Petitioners conducted a detailed inspection of the area of Siruguppa and submitted a report with its following recommendations:

- a. Immediate stoppage of any civil works at Siruguppa.
- b. All the four civil structures should be demolished and the debris removed from the site.
- c. The five water holes should be removed
- d. Electric lines of about one kilometre should be removed and the bore well abandoned.
- e. No plantation should be done in the vicinity of 50 kms.
- f. A small room only in ground floor built for protection staff outside the GIB area
- g. Form an advisory committee comprising experts to suggest/monitor GIB activity

The above recommendations were also published in the article News Minute. A copy of the article in News Minute is attached herein as

**ANNEXURE B**

25. The degradation and depletion of habitat of the species due to the civil works and the constant movement of people has caused the birds to go in search of conducive habitats. The depletion and degradation of grasslands is a crucial threat for the species. The GIBs need undisturbed patches of short-height grasslands with low lying dry scrubland which are traditionally used for pasture. The construction of multi-storied buildings as watch towers and anti-poaching camps by the Government in the habitats of the GIB has caused a huge threat to the endangered species. There will subsequently be electric lines laid down to supply electricity to the watch towers which is a bigger threat to the birds as many have been killed because of the same.

26. Despite multiple reminders and warnings by environmentalists and conservationists about the threat to these birds and the reason causing such a threat to the extinction of the birds, the Respondents continue to turn a deaf ear to the same. The Respondents merely give false promises and assurances that the civil works would be stopped and immediate steps would be taken for preservation. However, nothing has been done so far. Plenty of articles have been published demonstrating the serious threat to the habitat of the GIBs. Copies of some articles about the GIBs are attached herein as **ANNEXURE C**

27. It is pertinent to note that a number of books have also been published by famous ornithologists. One such book written by famous ornithologists of the world Dr. Salim Ali and Dr. S. Dillon Ripley, titled ***the Handbook of the Birds of India and Pakistan*** is considered a Bible for birdwatchers of the Indian subcontinent. Books such as ***Birds***

*of Indian Subcontinent* by Richard Grimmett, Carol Inskipp and Tim Inskipp and *Birds of South Asia: the Ripley Guide* by Pamela C. Rasmussen and John C. Anderson and *The Great Indian Bustard*, by Dr. Asad R. Rahmani (1989), and *Great Indian Bustard: A pictorial Life History*, by Dr. Asad R. Rahmani, DeveshGadhavi and Kedar Gore (2016) have described the grasslands habitat that the GIB prefers. Therefore, no one can say that they did not know about the conducive habitat of the GIB.

28. In an interview with Mr. RamkiSreenivasan, co-founder of Conservation India, a group that initiated “Project Bustard” in Rajasthan, Mr. RamkiSreenivasan states “the cause for rapid decline of the bustard is definitely loss of habitat. These landscapes are poorly appreciated for their ecological value, considered wasteland, and exploited for agriculture, industry, irrigation schemes, and roadways. A more specific issue today is that while the bird may have some habitat protected, its lekking sites are not. When these sites are subjected to disturbance or degradation, Great Indian Bustards may not be able to breed. So, even if large areas of potential Great Indian Bustard habitat are protected, but specific lekking sites are not, Great Indian Bustard numbers will continue to slide. Since there are multiple threats to these sites, such as industrial development, agriculture, irrigation and highways, political will and cooperation by multiple government departments and local communities is vitally needed to protect the lekking sites and save the Great Indian Bustard. He continues to state “While the species is on the brink and continues to slip, we definitely think all is not lost. Species in graver situations (sometimes reduced to just a few remaining individuals) have recovered thanks to strong and strategic conservation initiatives. The California Condor, Mauritius Parakeet, and the Norfolk Island Green Parrot are just a few examples of birds that were virtually written off in the mid-1990s but have been saved by determined conservation efforts”

29. It is pertinent to note that the Respondents on one hand conduct surveys and issue guidelines for the protection and preservation of the remaining species, while on the other indulge in illegal constructions, knowing fully well that such civil works within the habitat of the species affects its free movement and thereby resulting in its extinction. **It is pertinent to ensure that the existing constructions be removed by this winter at the latest so that the GIBs may perhaps breed again in the spring. If they miss the breeding season for the second year at a stretch, their extinction from Karnataka is definite as there are not more than 8 surviving species of GIB in Karnataka.**

30. For the reasons set out herein above, the Petition involves a question of law of public importance which arises for consideration before this Hon'ble Court in its jurisdiction under Article 226 & 227 of the Constitution of India. In view of the above, the Petitioner submits that there is no other equal alternative, equally efficacious remedy available to the Petitioner and if the reliefs prayed herein are granted the same will afford a complete and effective relief to the Petitioners. This Hon'ble Court has jurisdiction to entertain, try and dispose of this Petition as it involves the protection of the endangered species with the last few being spotted in Karnataka. The Petition is filed on time. No other Petition is filed on the same cause of action.

31. The Petitioner has not instituted any other proceedings before this Hon'ble Court or any other forum in respect of the present cause of action.

32. The Petitioner urges the following grounds in support of his contentions, which are independent of and without prejudice to one another

**GROUND**

- A) The Petitioners submit that the failure and neglect on the part of the Respondents to take suitable steps and measures for the conservation of the Great Indian Bustard is actionable, and is liable to be redressed by' issuing appropriate directions under Article 32 of the Constitution of India on the following, amongst other, grounds, set out below without prejudice to one another.
- B) The Constitution of India mandates the preservation and protection of wildlife, which includes the Great Indian Bustard. Every organ of the State is duty bound to take all necessary measures to protect these species from extinction. Article 48A of the Constitution places responsibility on the state to "endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country." Article 51A places a constitutional duty on citizens to protect and improve the natural environment, which includes wildlife. In addition to these provisions, reading the Constitution as a whole, everybody must strive to ensure that the natural heritage including wildlife is treasured, nurtured and protected. The imminent extinction of a species in this case, casts a special responsibility on the State and the citizenry.
- C) The actions of Respondents in commencing unnecessary civil works in the habitats of the species, despite being fully aware of its damaging consequences on the species, displays disregard and disrespect towards wildlife.
- D) The actions of the Respondents have resulted the birds to face the threat of early extinction despite being accorded the highest level of

protection under Part III Schedule I of the Wildlife (Protection) Act, 1972.

- E) The Respondents have failed in their duty to uphold the objects and purpose of the Wildlife (Protection) Act, 1972 by undertaking works hampering the habitat of the species.
- F) The Respondents have neglected the regular reports and recommendations of conservationists and experts in the field to immediately stop the civil works including digging up of holes which is disturbing the habitat of the species.
- G) The actions of the Respondents is in direct contravention of the law laid down in landmark judgments that efforts must be made to implement the spirit of the Wildlife (Protection) Act, 1972.
- H) The actions of the Respondents is violative of the provisions of the Environment (Protection) Act, 1986. Under the Environment (Protection) Act, 1988, the Government has the power, and obligation to implement measures to protect and improve the environment, prevent hazards rising from human intervention, to human beings, other living creatures and plants. However, despite the object of the 1986 Act and the power granted thereunder, the Respondents have failed in their duty to protect the birds from the threat of extinction.
- I) The alarming decline in the populations of Great Indian Bustards, is indicative that the Respondents' efforts to safeguard this species have been inadequate and/or poorly designed, and that there is simply a lack of administrative will on the part of the Respondents. Despite the availability of sufficient expertise, technical material and finances being available, the Respondents have failed and neglected to take

appropriate measures to restore the populations of the species which is a pride of Karnataka.

- J) The actions of the Respondents in engaging in illegal civil works within the areas declared as protected zones for the GIB is contrary to the measures and guidelines issued by the very same Respondents for its protection and preservation. The Watchtowers, water holes and anti-poaching camps are a requirement in the dense areas of the jungle and not on grasslands that are habitats for the GIB.

**GROUND FOR INTERIM RELIEF:**

- K) The civil constructions such as construction of watch towers, anti-poaching camps and digging up water holes is causing a serious threat to the extinction of the GIBs as it is a nuisance and hindrance to its survival. **The watchtowers act as scarecrows and have caused the birds to fly away leaving not more than 8 surviving GIBs in Karnataka.** The GIBs are extremely wary birds and avoid any human disturbance or human presence and will even abandon their nests if disturbed. It is the duty of all citizens of this country more specifically the Respondents to preserve the last breeding ground of the GIB. **If the surviving 8 GIBs do not breed this winter, Karnataka will lose its pride forever. Hence there is an absolute urgency in taking immediate measures for the preservation of the remaining few birds so that they can breed and multiple during this winter season.** Therefore, in view of the same, it is most respectfully prayed that this Hon'ble Court might be pleased to issue immediate ban on all civil works in the habitat of the GIBs and order removal of the existing constructions and towers until the disposal of the case by this Hon'ble Court in the interest of justice and equity.

**PRAYER**

Wherefore, the Petitioner prays that this Hon'ble Court may be pleased to:

- i. Issue a writ of mandamus, directing the Respondents to take immediate measures by preparing and implementing a plan for the protection and preservation of the GIB
- ii. Issue a direction to the Respondents on the immediate ban of all civil works within the habitat of the GIB and removal of existing structures in the habitats of the GIB
- iii. Issue a direction to ban the encroachment of grasslands in and around the habitats of the GIB and adopt a grassland conservation policy on an immediate basis.
- iv. Issue a writ of mandamus to appoint an empowered committee to oversee the implementation of directions issued by this Hon'ble Court to preserve and manage the habitats of the species.
- v. Pass such other order/orders as this Hon'ble Court may deem fit in the interest of justice and equity.

**INTERIM PRAYER**

The Petitioner prays that this Hon'ble Court be pleased to issue immediate ban on all civil works and removal of already constructed structures in the habitat of the GIBs until the disposal of this Writ Petition in the interest of justice and equity.

**Bengaluru**

**Date: .10.2020**

**Advocate for Petitioner**

**(N. Gowtham Raghunath)**

Address for service



