

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN  
&  
THE HONOURABLE MR. JUSTICE G.GIRISH

Friday, the 9<sup>th</sup> day of February 2024 / 20th Magha, 1945  
WP(C) NO. 16514 OF 2023

**PETITIONER:**

SANGITA IYER, AGED 61 YEARS, D/O MR. K. ANANTHARAMAN AND K.S. MEENAKSHI, PERMANENTLY RESIDING IN TORONTO CANADA, PRESIDENT, VOICE FOR ASIAN ELEPHANTS SOCIETY, 60 PAVANE LINKWAY, UNIT 709, TORONTO, ON, CANADA M3C 1A1, REPRESENTED BY HER POWER OF ATTORNEY ALINA ANNA KOSE, D/O KOSE MATHEW, AGED 25 YEARS, RESIDING AT PATLAT HOUSE, WEST VENGOLA P.O, PERUMBAVOOR, ERNAKULAM, PIN - 683556.

**RESPONDENTS:**

1. GURUVAYUR DEVASWOM REPRESENTED BY ITS SECRETARY, GURUVAYURDEVASWOM, GURUVAYUR, THRISSUR \*CORRECTED \*DETAILS OF R1 CORRECTED AS GURUVAYUR DEVASWOM MANAGING COMMITTEE, REPRESENTED BY ITS ADMINISTRATOR, GURUVAYUR, THRISSUR - 680101 , PIN - 680101
2. STATE OF KERALA CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM FOREST HEADQUARTERS, VAZHUTHACUAD, THIRUVANANTHAPURAM \* CORRECTED \*DETAILS OF R2 CORRECTED AS STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695001, PIN - 695014
3. SECRETARY FOREST AND WILDLIFE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM \* CORRECTED \*DETAILS OF R3 CORRECTED AS ADDITIONAL CHIEF SECRETARY TO GOVERNMENT, KERALA FORESTS AND WILDLIFE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695001, PIN - 695014
4. SECRETARY DEPARTMENT OF DEVASWOM, SECRETARIAT, THIRUVANANTHAPURAM \* CORRECTED \*DETAILS OF R4 CORRECTED AS ADDITIONAL CHIEF SECRETARY TO GOVERNMENT, REVENUE (DEVASWOM) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695001, PIN - 695014
5. CHIEF WILD LIFE WARDEN AND PRINCIPAL CHIEF CONSERVATOR OF FORESTS FOREST HEADQUARTERS, VAZHUTHACUAD, THIRUVANANTHAPURAM \* CORRECTED \*DETAILS OF R5 CORRECTED AS PRINCIPAL CHIEF CONSERVATION OF FORESTS (WILDLIFE) AND CHIEF WILDLIFE WARDEN, FOREST HEADQUARTERS, VAZHUTHACUAD, THIRUVANANTHAPURAM - 695014 DETAILS OF R1 TO R5 SUO MOTU CORRECTED AS PER ORDER DATED 25-05-2023., PIN - 695014
6. ANIMAL WELFARE BOARD OF INDIA NATIONAL INSTITUTE OF ANIMAL WELFARE CAMPUS, DELHI-AGRA HIGHWAY, NH-2, VILLAGE-SEEKRI, BALLABHGARH, FARIDABAD, HARYANA. REPRESENTED BY ITS SECRETARY, PIN - 121004
7. THE DIRECTOR DEPARTMENT OF MUSEUMS AND ZOOS, MUSEUM AND ZOO CAMPUS, PALAYAM, THIRUVANANTHAPURAM, PIN - 695033
8. CENTRAL ZOO AUTHORITY OF INDIA B1 WING, 6TH FLOOR, PT. DEENDAYALANTHODAYA BHAWAN, CGO COMPLEX, LODHI ROAD, NEW DELHI 110003, REPRESENTED BY ITS MEMBER SECRETARY.

9. UNION OF INDIA REPRESENTED BY THE SECRETARY TO GOVERNMENT OF INDIA, MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE, INDIRA PARYAVARAN BHAWAN JORBAGH ROAD, NEW DELHI- 110003.  
ADDITIONAL R10 AND R11
10. THE DEVASWOM COMMISSIONER, GURUVAYUR DEVASWOM, GURUVAYUR, THRISSUR - 680101
11. LIVE STOCK MANAGER, GURUVAYUR DEVASWOM, GURUVAYUR, THRISSUR - 680101  
ADDITIONAL RESPONDENTS 10 AND 11 SUO MUTO IMPLEADED AS PER ORDER DATED 25-05-2023.  
ADDITIONAL R12
12. THE ASSISTANT CONSERVATION OF FOREST, THRISSUR SOCIAL FORESTRY, PALACE ROAD, CHEMBUKAVU.P.O., THRISSUR - 680020 SUO MOTU IMPLEADED AS PER ORDER DATED 25-08-2023 IN WPC 16514/2023.  
ADDITIONAL R13
13. THE DEPUTY ADMINISTRATOR (LIVESTOCK) GURUVAYUR DEVASWOM, GURUVAYUR, THRISSUR, PIN - 680101 SUO MOTU IMPLEADED AS PER ORDER DATED 30-09-2023 IN WPC 16514/2023

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 direct the respondents to

a. To provide proper hygiene of the place by prompt removal and cleaning of filth and refuse from the premises and keeping the area used for housing of the elephants clean at all times, and to ensure that the elephants don't have to stand in their own refuse;

b. To Lengthen and loosen chains of elephants and install a one-inch thick rubber/ canvas (or other soft padding) sheathing below the chain and of tethered elephants to prevent the chain from cutting into the flesh of elephants

c. To provide properly diverse diet to the elephants appropriate for their health and nutritional needs based on expert scientific opinion and studies on the same;

d. To identify and retire those elephants that are aged, or are not being used by the temple in a rehabilitation center, where they can roam freely in an open enclosure chain-free;

e. To provide proper environmental enrichment for each elephant and to provide facility for proper exercise and movement for the elephants and to maintain a log book for the same;

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 05.02.2024 and upon hearing the arguments of M/S. M.R.HARIRAJ, THANUJA ROSHAN, VISWAJITH C.K., GISHA G. RAJ, REJIVUE K.C., VIDYA A.K, AKHILA S., MEGNA MARIYAM M. and GAYATRI VISWANATHAN, Advocates for the petitioner, STANDING COUNSEL for the respondents 1 and Addl R11, SRI. S RAJMOHAN,

SENIOR GOVERNMENT PLEADER for the respondents R2, R4 and Addl R10, SRI NAGARAJ NARAYANAN, SPECIAL GOVERNMENT PLEADER (FOREST) for the respondents 3, 5 & 7 and 12, SRI. JAYASANKAR.V.NAIR, CENTRAL GOVERNMENT COUNSEL for R6, SRI.S.MANU, DEPUTY SOLICITOR GENERAL of INDIA for the respondents 8 & 9 and of SRI.K.P.SREEKUMAR, SENIOR ADVOCATE, ADVOCATE COMMISSIONER, the court passed the following:

P.T.O



**ANIL K. NARENDRAN & G. GIRISH, JJ.**

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**Dated this the 9<sup>th</sup> day of February, 2024**

**ORDER**

**Anil K. Narendran, J.**

The Range Forest Officer, Social Forestry Range, Chembukavu, Thrissur-680020 and the Divisional Forest Officer, Flying Squad Division, Sonia Nagar, Palarivattom, Ernakulam-682025 are *suo motu* impleaded as additional respondents 14 and 15.

2. The learned Special Government Pleader (Forests) enters appearance for the additional respondents 14 and 15.

3. The petitioner has filed this writ petition invoking the provisions under Article 226 of the Constitution of India, seeking a writ of mandamus commanding the 1<sup>st</sup> respondent Guruvayur Devaswom Managing Committee to comply with the statutory stipulations under the Kerala Captive Elephants (Management and Maintenance) Rules, 2012 as well as Ext.P1 guidelines issued by the Ministry of Environment and Forest for care and management of captive elephants, by providing sufficient gazing area for food and other stipulations for the elephants of Guruvayur Devaswom, which are kept in 11 Acres of land in Punnathur Anakkotta.

4. On 25.05.2023, when this writ petition came up for

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consideration, Adv. K.P. Sreekumar, a Senior lawyer of this Court was appointed as an Advocate Commissioner, who was directed to conduct an inspection at Punnathur Anakkotta of Guruvayur Devaswom, on 04.06.2023, with the assistance of the Assistant Forest Veterinary Officer, Punalur and the Divisional Forest Officer, Flying Squad, Ernakulam, and submit a report before this Court, regarding the care, management and maintenance of elephants at Punnathur Anakkotta, with reference to the provisions under the Kerala Captive Elephants (Management and Maintenance) Rules, 2012, especially Rules 3 and 6, and also Ext.P3 report on welfare and veterinary status of captive elephants at Punnathur Anakkotta, submitted by a committee constituted by the 6<sup>th</sup> respondent Animal Welfare Board of India.

5. In terms of the aforesaid order, the learned Advocate Commissioner conducted inspection at Punnathur Anakkotta on 04.06.2023 and submitted a detailed report dated 09.06.2023. On 09.08.2023, the learned Standing Counsel for Guruvayur Devaswom Managing Committee has placed on record the minutes of the meeting of the Expert Committee held on 15.07.2023.

6. On 25.08.2023, the learned Senior Counsel for the petitioner pointed out Circular No.1 of 2019 issued by the 5<sup>th</sup>

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respondent Principal Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden, in order to ensure proper management and welfare of captive elephants and the recommendations of Expert Committee on the death of captive elephants. By the order dated 25.08.2023, this Court directed the additional 12<sup>th</sup> respondent Assistant Conservator of Forests (Thrissur), Social Forestry Department, to ensure strict compliance of the provisions in Circular No.1 of 2019 and the said respondent was directed to conduct an inspection at Punnathur Anakkotta, within a period of one week.

7. Pursuant to the direction contained in the order dated 25.08.2023, the additional 12<sup>th</sup> respondent conducted an inspection and submitted a report dated 12.09.2023. By order dated 29.09.2023, this Court directed the learned Standing Counsel for Guruvayur Devaswom Managing Committee to make available for the perusal of the Court the Feeding Register referred to in the report dated 12.09.2023 of the additional 12<sup>th</sup> respondent. In the order dated 30.09.2023, after perusing the Feeding Register, this Court *prima facie* found that the Guruvayur Devaswom has not maintained a proper Feeding Register of the elephants (41 in number) at Punnathur Anakkotta, as per the

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statutory requirements.

8. On 05.12.2023, on behalf of the 6<sup>th</sup> respondent Animal Welfare Board of India a counter affidavit dated 20.11.2023 has been placed on record, producing therewith Ext.R6(a) guidelines for the care and management of the captive elephants. The petitioner has also filed I.A.No.1 of 2023 seeking an order directing the respondents to make necessary provisions for proper exercise of the elephants in Punnathur Anakkotta and to provide proper training for the mahouts engaged by Guruvayur Devaswom. The petitioner has also filed I.A.No.2 of 2023 seeking an order to accept Exts.P16 to P18 as additional documents, which are the press reports that appeared in Times of India, Kerala Kaumudi and Mathrubhoomi dailies regarding an incident that happened on 08.11.2023, in which a mahout by name O.A. Ratheesh sustained fatal injuries, when he was attacked by the elephant by name Chandrasekharan, which has been tethered in the elephant yard, in the same spot, for nearly 30 years. By the order dated 05.02.2023, this Court directed the learned Standing Counsel for the 6<sup>th</sup> respondent Animal Welfare Board of India to get instructions from the Board with reference to the averments in paragraphs 8 and 9 of the affidavit filed in support of I.A.Nos.1

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and 2 of 2023.

9. On 30.01.2024, when this writ petition came up for consideration, this Court directed the learned Standing Counsel for the 6<sup>th</sup> respondent Animal Welfare Board of India to get instructions as to whether another inspection can be conducted at Punnathur Anakkotta, in view of the issues pointed out in this writ petition.

10. On 05.02.2024, the learned Senior Counsel for the petitioner addressed arguments with reference to the provisions under Sections 11(a), 39, 40, 41 and 42 of the Wildlife (Protection) Act. The learned counsel has also referred to Ext.R5(a) Government Order dated 26.02.2016 and Ext.R5(b) order of the Apex Court dated 04.05.2016 in I.A.Nos.25 & 27 of 2016 in Writ Petition (Civil)No.743 of 2014.

11. By the order dated 05.02.2024, this Court directed the learned Deputy Solicitor General of India and also the learned Standing Counsel for the 6<sup>th</sup> respondent Animal Welfare Board of India to suggest the name of those who should be included in the Special Team to be constituted for conducting an inspection on the welfare and veterinary status of captive elephants at Punnathur Anakkotta of Guruvayur Devaswom, from the Project Elephant



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Division under the Ministry of Environment, Forest and Climate Change, the Central Zoo Authority and the Animal Welfare Board of India. The learned Special Government Pleader (Forests) was directed to suggest the name of a Senior Official in the Forest Department.

12. On 06.02.2024, when this matter came up for consideration, the learned Deputy Solicitor General of India, the learned Standing Counsel for the 6<sup>th</sup> respondent and the learned Special Government Pleader (Forests) sought further time to get instructions and accordingly the matter was adjourned to 14.02.2024 for further consideration.

13. Registry was directed to list this matter before us today, on noticing a video which is circulating in social media and the news item that appeared in visual media regarding the torture meted out to two elephants, by name, 'Krishna' and 'Junior Kesavan' by two mahouts of Guruvayur Devaswom, at the Sheeveliparambu of Guruvayur Sree Krishna Temple.

14. The learned Special Government Pleader (Forests) has made available for the perusal of this Court occurrence reports in O.R.Nos.2 of 2024 and 3 of 2024 of Social Forestry Range, Thrissur, against mahouts alleging offence punishable under

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Section 51 of the Wildlife (Protection) Act, 1972 read with the provisions under Kerala Captive Elephants (Management and Maintenance) Rules, 2012. The learned Senior Government Pleader has made available for the perusal of this Court a copy of the FIR in Crime No.74 of 2024 of Guruvayur Temple Police Station, alleging an offence punishable under Section 429 of the Indian Penal Code and Section 11(1)(a) of Protection of Cruelty to Animals Act, 1960.

15. The learned Senior Counsel for the petitioner would point out the direction contained in the order of the Apex Court dated 18.08.2015 in W.P.(C)No.743 of 2014 – **Wildlife Rescue and Rehabilitation Centre v. Union of India and others** - wherein it is made clear that it shall be the duty of the State, the District Committee, the Management of the Devaswom, the Management of the temple and the owners of the elephants to see that no elephant is meted out with any kind of cruelty and, if it is found, apart from lodging of criminal prosecution, they shall face severe consequences which may include confiscation of the elephants to the State.

16. As held by this Court in **Mohanan K.S. v. State of Kerala [2023 (6) KHC SN 8: 2023:KER:53986]** the legal

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status of Guruvayur Devaswom Managing Committee constituted under Section 3 of the Guruvayur Devaswom Act, 1978 is that of a trustee in management of the Devaswom properties and the Committee is duty bound to scrupulously follow the stipulations contained in the Act of 1978. The Managing Committee, being the trustee in management of Devaswom properties, is legally bound to perform its duties with utmost care and caution.

17. In **Sree Kumar v. Travancore Devaswom Board [2005 (1) KLT 43]**, in the context of the Kerala Captive Elephants (Management and Maintenance) Rules, 2003, a Division Bench of this Court held that the Travancore Devaswom Board is the custodian of the animals which are entrusted by the devotees with the fervent hope and expectation that they will be looked after well. These animals are in a way offerings to the deities. Therefore, it is the paramount duty and responsibility of the Board to take proper care of these animals at all costs. If the animals are not looked after well, necessarily it will amount to cruelty to them. This, in turn, will attract the provisions of the Prevention of Cruelty to Animals Act, 1960.

18. The law laid down by this Court in **Sree Kumar [2005 (1) KLT 43]** apply with equal force in the case of Guruvayur

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Devaswom Managing Committee, which is a trustee in management of Devaswom properties. The elephants in Punnathur Anakotta are in a way offerings to Lord Guruvayoorappan, by the devotees. Therefore, it is the paramount duty and responsibility of Guruvayur Devaswom Managing Committee to take proper care of the elephants at Punnathur Anakkotta, at all costs. If the elephants are not looked after well, necessarily it will amount to cruelty to animals, which in turn will attract the provisions of the Prevention of Cruelty to Animals Act, 1960.

19. In **Prema Kumar P. v. Travancore Devaswom Board and others [2022 (6) KHC 90]**, a Division Bench of this Court directed all concerned, including Guruvayur Devaswom Managing Committee, to ensure strict compliance of the provisions under the Wildlife (Protection) Act, 1972 and the Kerala Captive Elephants (Management and Maintenance) Rules, 2012, while parading elephants in connection with temple festivals, functions, etc. The provisions under Rule 10 of the said Rules shall be complied with in letter and spirit by all concerned and any person, who contravenes the provisions of the said Rules, shall be dealt with appropriately, as provided under Section 51 of the Wildlife

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(Protection) Act.

20. The facts and circumstances disclosed from the materials made available for the perusal of this Court by the learned Senior Government Pleader and the learned Special Government Pleader (Forest) would *prima facie* show that the statutory provisions referred to hereinbefore and the directions contained in the order of the Apex Court and the judgment of this Court referred to hereinbefore are being flouted by those who are in charge of captive elephants in Guruvayur Devaswom. Guruvayur Devaswom Managing Committee, which has the paramount duty and responsibility to take proper care for the elephants at Punnathur Anakkotta, has also failed to discharge its duties and responsibilities in an appropriate manner, which cannot be viewed lightly.

21. The learned Senior Counsel for the petitioner would point out that one of the reliefs sought for in this writ petition is for installation of CCTV Cameras at Punnathur Anakkotta to ensure that proper care is given to all the elephants of Guruvayur Devaswom, in strict compliance with the relevant statutory provisions and the directions contained in the orders of the Apex Court and the judgment of this Court.

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22. Having considered the submissions made at the Bar, we deem it appropriate to direct the additional 13<sup>th</sup> respondent Deputy Administrator (Livestock), Guruvayur Devaswom and the additional 15<sup>th</sup> respondent Range Forest Officer, Social Forestry Range, Thrissur, to file an affidavit before this Court explaining the facts and circumstances with specific reference to the incidents which are subject matter in O.R.Nos.2 of 2024 and 3 of 2024 of Social Forestry Range, Thrissur and Crime No.74 of 2024 of Guruvayur Temple Police Station. The additional 15<sup>th</sup> respondent Divisional Forest Officer, Flying Squad Division, Ernakulam shall conduct an inspection at Punnathur Anakkotta, today itself, and submit a report before this Court, in which he shall state as to whether the mahouts of Guruvayur Devaswom are using iron anguish (ഐഷ്വരി) to control the elephants. The Administrator of Guruvayur Devaswom Managing Committee shall file an affidavit explaining the action taken against the mahouts, who are arrayed as accused in O.R.Nos.2 of 2024 and 3 of 2024 of Social Forestry Range, Thrissur and Crime No.74 of 2024 of Guruvayur Temple Police Station. In that affidavit, he shall also explain the steps, if any, taken for installing CCTV cameras in Punnathur Anakkotta.

23. The affidavits as directed above shall be placed on

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record by 13.02.2024. The 1<sup>st</sup> respondent Guruvayur Devaswom Managing Committee and its officials shall ensure that there is proper care to all elephants of Guruvayur Devaswom in Punnathur Anakkotta, in strict compliance with the relevant statutory provisions and also the directions contained in the order of the Apex Court and the judgment of this Court referred to supra.

24. The learned Deputy Solicitor General of India, the learned Standing Counsel for the 6<sup>th</sup> respondent Animal Welfare Board of India and the learned Special Government Pleader (Forest) would submit that the name of those who have to be included in the Special Team to be constituted for inspection at Punnathur Anakkotta on the welfare and veterinary status of the elephants of Guruvayur Devaswom shall be furnished on the next posting date.

List on 13.02.2024.

Sd/-

**ANIL K. NARENDRAN, JUDGE**

Sd/-

**G. GIRISH, JUDGE**

bkn/-

**APPENDIX OF WP(C) 16514/2023**

**Exhibit P1**

**TRUE COPY OF THE COVERING LETTER DATED 08.01.2008 AND  
THE GUIDELINES ISSUED BY THE MINISTRY OF ENVIRONMENT  
AND FOREST**

