



2023:KER:75541

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. A.J.DESAI

&

THE HONOURABLE MR.JUSTICE V.G.ARUN

TUESDAY, THE 28TH DAY OF NOVEMBER 2023 / 7TH AGRAHAYANA,

1945

WP(C) NO. 14757 OF 2023

PETITIONERS:

WALKING EYE FOUNDATION FOR ANIMAL ADVOCACY
REG.NO.48/2022, REG. OFFICE AT II/263 A,
KAIPARAMBU, THRISSUR DISTRICT, KERALA STATE -
680 546 REPRESENTED BY ITS FOUNDER AND MANAGING
TRUSTEE VIVEK.K.VISWANATH, AGED 31 YEARS, S/O
K.V. ACHUTHAN HAVING PERMANENT ADDRESS AT
KURUNELLIPARAMBIL HOUSE, KAIPARAMBU.P.O,
THRISSUR, PIN - 680 546.

BY ADVS.
PRATHAP. S.R.K.
MAHENDRAKUMAR K.
ANN OLIVIA VALLAVANADAN
AJITH BHASI
A.S.SANGEETHA

RESPONDENTS:

- 1 STATE OF KERALA REPRESENTED BY THE CHIEF
SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANATHAPURAM, PIN - 695 001.
- 2 THE PRINCIPAL SECRETARY OF FOREST
DEPARTMENT OF FOREST, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001
- 3 THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND
HEAD OF FOREST FORCE, OFFICE OF THE PRINCIPAL
CONSERVATOR OF FOREST, KERALA FOREST DEPARTMENT
HEAD QUARTERS, NANTHAVANAM, THIRUVANANTHAPURAM,
KERALA, PIN - 695 014



W.P.(C)No.14757 of 2023

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- 4 THE CHIEF WILD LIFE WARDEN
OFFICE OF THE CHIEF WILD LIFE WARDEN, RAJEEV
GANDHI NAGAR, VATTIYOORKAVU P.O,
THIRUVANANTHAPURAM, KERALA, PIN - 695 013
- 5 THE DISTRICT FOREST OFFICER
DIVISION FOREST OFFICE, FOREST HEAD QUARTERS,
VAZHUTHACAUD, THIRUVANTHAPURAM, PIN - 695 014
- 6 THE RANGE FOREST OFFICER
OFFICE OF THE RANGE FOREST OFFICER,
KUTTICAL P.O, PALODE, THIRUVANANTHAPURAM
DISTRICT, KERALA, PIN - 695 562
- 7 DR.JACOB ALEXANDER
VETERINARIAN, TRIVANDRUM ZOO, KANAKA NAGAR,
NANTHANCODE, THIRUVANANTHAPURAM,
KERALA, PIN - 695 033
- 8 THE DISTRICT POLICE CHIEF
OFFICE OF THE DISTRICT POLICE CHIEF, PALAYAM,
THIRUVANANTHAPURAM, KERALA STATE, PIN - 695 033
- 9 THE DIRECTOR
STATE INSTITUTE OF ANIMAL DISEASE, PALODE,
THIRUVANANTHAPURAM, KERALA STATE, PIN - 695 563

BY ADVS.

JACOB P. ALEX

JOSEPH P.ALEX(K/1-C/2002)

AMAL AMIR ALI(K/000773/2019)

MANU SANKAR P.(K/000823/2018)

SPL.GP.(FORESTS) NAGARAJ NARAYANAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

Dated this the 28th day of November 2023

A.J. Desai, C.J.

The present petition in the nature of public interest has been filed by an organization functioning for the welfare of animals raising an issue with regard to the inaction or inappropriate procedure followed by the respondents to salvage a sloth bear that fell into a well containing water and ultimately lost its life during the rescue operation.

2. In response to the notice issued by this court, the 5th respondent, Divisional Forest Officer, Thiruvananthapuram, has filed a counter affidavit dated 31.05.2023. The 7th respondent, Veterinarian, Trivandrum Zoo, has also filed an affidavit dated 06.09.2023. An additional counter affidavit dated 10.10.2023 has also been filed by the 5th respondent, producing several documents with regard to the action taken by the Forest officials to rescue the sloth bear from the well.

3. The learned Advocate appearing for the petitioner



would submit that, due to total negligence on the part of the Forest officials, the sloth bear lost its life. He would submit that the respondent authorities have not adopted the appropriate procedure to rescue the bear as per the guidelines. The learned Advocate for the petitioner would submit that as per the said guidelines if the animal is in a water body they should avoid immobilizing. In the present case, instead of the same, the authorities had tranquilised the bear, which ultimately resulted in its death. He would further submit that the affidavits filed by the authorities are silent on this aspect. He, therefore, would submit that the respondents be directed to look into the matter.

4. On the other hand, the learned Advocates appearing for the 5th and the 7th respondents have taken us through the affidavits to submit that, having come to know about the falling of the bear into the well, the authorities had acted immediately. It is submitted that it was not possible to remove the water from the well unless a hose pipe was used for the said purpose. It is the case of the Forest officials that there was a chance that the



sloth bear may destroy the said pipeline which may delay the rescue operations. He would submit that after the bear was netted and while the officials were trying to take it out from the well, again it fell into the well, ultimately resulting in its death. They have taken us through the affidavit to submit that the authorities had taken appropriate steps and the sloth bear lost its life when it accidentally slipped off from the net and fell back into the well. They would submit that the Government hereby assures that in future appropriate action shall be taken to salvage the animals in such situations.

5. We heard learned Advocates appearing for the respective parties.

6. Apart from the fact that the guidelines produced by the petitioner have no legal force, we examined the case in detail. In the affidavits filed by the authorities, they have described the incident in detail. It also appears from the affidavit that the Divisional Forest Officer has maintained the entire records of the rescue operation and has explained how the sloth bear had



accidentally fallen into the well during the rescue operation and lost its life.

In view of the above, we are satisfied with the action taken by the respondent authorities and, therefore, we do not find any reason to pass any further order as prayed for by the petitioner. The writ petition is accordingly closed.

Pending interlocutory applications, if any, shall stand closed.

Sd/-

A.J. Desai
Chief Justice

Sd/-

V.G. Arun
Judge

vpv

APPENDIX OF WP(C) 14757/2023

PETITIONER EXHIBITS

- Exhibit P1 A NEWS ITEM PUBLISHED BY THE NEW INDIA EXPRESS, KOCHI EDITION ON 21/04/2023
- Exhibit P2 A TRUE COPY OF THE WILDLIFE ENUMERATION PUBLISHED BY THE KERALA FOREST DEPARTMENT
- Exhibit P3 A TRUE COPY OF THE LETTER NO. 15-37/2012 - NTCA DATED 30/01/2013 ALONG WITH RELEVANT PAGES OF THE STANDARD OPERATING PROCEDURE
- Exhibit P4 TRUE COPY OF THE PAPER PUBLISHED BY EXPERTS IN IMMOBILIZATION OF WILD AND ZOO ANIMALS

RESPONDENT EXHIBITS

- Exhibit R5(a) True copy of the order No. KFDHQJ2672|2023-CWW/WL1 of the Chief Wildlife Warden dated 20.04.2023
- Exhibit R5(b) True copy of the Postmortem report dated 4/5/2023.
- Exhibit R5(c) True copy of the Tour Diary of Divisional Forest Officer Sri.K.I.Pradeep Kumar IFS Thiruvananthapuram during the month of April 2023
- Exhibit R5(d) True copy of the Weekly Diary of Sri.Sudheesh Kumar L Range Forest Officer Paruthippally Range during the period from 16.4.2023 to 22.4.2023 along with Typed copy
- Exhibit R5(e) True copy of the Weekly Diary of Sri.V.N.Aneesh Section Forest Officer during the period from 16.4.2023 to 22.4.2023 along with Typed copy



- Exhibit R5 (f) True copy of the Weekly Diary of M.K.Bindhu Section Forest Officer during the period from 16.4.2023 to 22.4.2023 along with Typed copy
- Exhibit R5 (g) True copy of the Weekly Diary of Roshni G.S Beat Forest Officer during the period from 16.4.2023 to 22.4.2023 along with Typed copy
- Exhibit R5 (h) True copy of the Inquiry Report dated 31.5.2023 of Additional Principal Chief Conservator of Forest(V Fi)related to the death of sloth bear along with Typed copy
- Exhibit R5 (i) True copy of the proceedings dated 20.4.2023 of Principal Chief Conservator of Forests(Wildlife)and Chief Wildlife Warden Kerala related to chemical immobilisation of the sloth bear.
- Exhibit R5 (j) True copy of the Post Mortem Report dated 4.5.2023 of Sloth bear submitted by Chief Disease Investigation Officer State Institute of Animal Diseases Palode Thiruvananthapuram
- Exhibit R5 (k) True copy of the relevant pages of Movement Register of RRT team of Paruthippally Range along with Typed copy.
- Exhibit R5 (l) True copy of the relevant pages of Logbook of Vehicle No. KL-01-CU-9934 of Range Forest Officer Paruthippally
- Exhibit R5 (m) True copy of the relevant pages of Logbook of Vehicle No. KL-01-CM-5124 of RRT Paruthippally
- Exhibit R5 (n) True copy of the relevant pages of Log book of Vehicle No. KL-01-BZ-6848 of Divisional Forest Officer Thiruvananthapuram



- Exhibit R7(a) True copy of the order no. MZ(A) - 3786/2013 dated 19-08-2013 issued by the Director, Museums and Zoos
- Exhibit R7(b) True copy of the certificate of appreciation dated 19-02-2018 issued to the 7th respondent
- Exhibit R7(c) True copy of the appreciation letter dated 27-01-2021 issued to the 7th respondent by the 3rd respondent
- Exhibit R7(d) True Copy of the 'Final Report to International Association for Bear Research and Management' authored by Thomas R. Sharp et.al. titled 'Sloth Bear Attack Behavior and a Behavioral Approach to Safety (2017)' published online in Researchgate.net
- Exhibit R7(e) True copy of the request letter dated 20-04-2023 issued by the 5th respondent to the Director, Museum and Zoos
- Exhibit R7(f) True copy of the order no. MZ (F) 2228/2023 dated 20-04-2023 issued by the Director, Museums and Zoos

//true copy//

P.A. to Judge