

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13222 of 2022

Sunil Kumar

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Forest and Environment, Sanchai Bhawan, Patna- 800015
2. Secretary, Government of Bihar, Department of Forest and Environment, Sanchai Bhawan, Patna- 800015
3. Additional Principal Chief Conservator of Forests-cum-chief Wild Life Warden, 4th Floor, Arnaya Bhawan, Shaheed Peer Ali Marg, Patna.
4. Conservator of Forests-cum-Chairman Committee for Enpalment of Shooters, 2nd Floor, Arnaya Bhawan, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh, Advocate
For the Respondent/s : Mr. Sarvesh Kr. Singh (AAG-13)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-04-2023

The petitioner is concerned with the shooting of vermin and the empanelment of shooters by the State Government. The petitioner challenges Annexure-3 by which the 4th respondent delegated his power under the Wild Life (Protection) Act, 1972 (hereinafter referred to as ‘ The Act of 1972’) and Annexure-5 by



which the 3rd respondent constituted a committee for empanelment of shooters. The petitioner also challenges a letter dated 07.06.2022 detailing the necessary requirements for such empanelment and the letter dated 12.08.2022 which sets up a method of evaluation of the candidates to be empanelled. The petitioners effectively seek that the orders at Annexure 3-5 are not enforced. It is the case of the petitioner that only proper persons should be empanelled for the purpose of protection of people from vermin. Quite surprisingly, averments are also made regarding ensuring the safety of the wild animals, birds, who are threatened with extinction. Thus, raising contradictory concerns about the extermination of the wild animals and employing more humane methods of capture and relocation, the present writ petition seeks a hotch-potch of reliefs, purportedly in public interest.

2. The DFO, Vaishali, has filed a detailed counter affidavit. The Act of 1972, as has been observed in the counter affidavit, was enacted to provide for protection and conservation of wild life and also provide for ancillary and incidental matters to ensure the ecological and environmental security within the country. While imposing a general prohibition on hunting, especially of species facing extinction, the legislators were also conscious of human-animal conflicts in areas where there is predominant human



habitation. There are also provisions made in the Act of 1972 to ensure a holistic wild life management. This is necessary since in the recent years, there has been a reduction in the number of critically endangered predators which has resulted in the multiplying number of herbivorous animals constantly intruding into the agricultural landscapes created by human beings.

3. In the State of Bihar, *nilgai (ghorparas)* and wild boar are two such animals causing constant interference into the agricultural landscapes thus, adversely affecting the farming activities of human beings and their lives. These animals are hence included under Schedule III of the Act of 1972 enabling invocation of Section 11(1)(b) of the Act of 1972. On the request of the Government Of Bihar, the Government of India has declared the two above mentioned animals as vermin for specified areas under Schedule V of the Act and the Conservator Of Forest and Divisional Forest Officers were notified as authorized officers under the provisions of the Act of 1972. Though, a measure for eliminating the animals was undertaken in various districts, it could not be proceeded with for reason of lack of shooters which has resulted in the State of Bihar, also on the advisory of the Government of India notified the Mukhiyas of Gram Panchayats as authorised officers to order shooting of such vermin with a



view to ensure that the scale and spread of the problem does not escalate.

4. We are of the opinion that it is for the State to look into the balancing considerations so as to mitigate human-animal conflict and decide on the measures to be taken which also has to be in accordance with the Act of 1972.

5. The counter affidavit also speaks of the Chief Wildlife Warden, Bihar, who was authorized as per the advisory of the Government of India, having issued a further order dated 16.03.2022 under Section 5(2) of the Act of 1972 delegating his powers under Section 11(1) (b) of the Act of 1972 to Mukhiyas notified as authorized officers. As per para 2 of the said order, the Mukhiyas could obtain services of any expert shooter; either authorized by the Forest Department or from a panel prepared by the Forest Department or any other expert shooter available locally who possesses a 22 bore rifle with LG cartridge and who also possesses valid licence for the required purpose. Hence, there is no basis for the allegation that even persons who have been issued with licences which does not permit shooting of wild animals are empanelled.

6. As per the Arms Rules of 2016, Rule 35 provides for licence for destruction of wild animals which do injury to human



beings or cattle and damage to crops. The application for such licence under sub-rule (2) has to be in Form IV which also requires the details of the land and cultivation requiring protection and the area in which the arms and ammunition are required to be carried, to be specified. The order issued by the Chief Wildlife Warden also specifies that shooters who have a criminal record or a pending case under the Arms Act should not be empanelled or engaged. It is also pointed out that the single expert shooter who was engaged in Bihar had to be stopped from further operations in the State, since he was involved in a criminal case in Vaishali as an accused under the Arms Act and Rules. While the case was pending, the shooting of wild animals permitted as per the notification came to a standstill resulting in depredation of crops by *Ghorparas* and Wild Boar. It was in that circumstance that it was decided that a panel of shooters within the State of Bihar be brought out, which was the intention of Annexure-4.

7. Section 9 or 11 of the Act, 1972 does not define the category of arms to be used for the purposes of the Act and any compliance of the Arms Act and Rules, especially obtaining the licence required under Rule 35 is the responsibility of the arms holder, the empanelled shooter, and only persons who obtain such licence would be empanelled. The application for empanelment as



shooters is also screened by a committee comprising of not only forest officials but also a D.I.G. rank officer from the Central Reserve Police Force. There is also a test of marksmanship undertaken at the Military Shooting Range under supervision of military officials. The counter affidavit also emphasize that many of the empanelled shooters are so empanelled under the Forest Department of the States of Telangana and West Bengal.

8. As to the contention of the petitioner that rather than shooting the animals, measures could be taken to re-locate them, it is answered that such an exercise was attempted in the year 2021 on a pilot basis with the help of veterinarians trained by Wildlife Institute of India. However, the exercise failed since the time and resources to carry out such operations for the entire State was found to be not feasible and it resulted in only shifting the problem of depredation of crops, from one place to another. It is on the advisory issued by the Government of India that the State Government has taken action under the Act of 1972, especially after also attempting methods to scare away the animals; which when tried on pilot basis, failed to have the desired effect. The Forest Department justified the action under Section 11(1) (b) of the Act of 1972, to be after exploring other measures to avoid human animal conflict and also after finding that such measures



are ineffective in protecting the agricultural operations in dense habitations of human beings, that such a measure was adopted.

9. The counter affidavit has also highlighted the petitioner's intention being not very clear from the writ petition, as we noticed at the outset. The petitioner seems to be aggrieved by the fact that there is a panel of shooters empanelled as against the single shooter, which practice was brought in after finding the engagement of a single shooter for all over the State, to be not effective. The petitioner has also raised concerns about the shooting of animals, which concern was also addressed by the State Government as we see from the counter affidavit by attempting measures of scaring away the animals from human habitations and also relocating them, which proved ineffective and also resulted in another locality being imposed with menace of human animal conflict. The actions of the State Government and the Forest Department are also supported by the Act of 1972 and the State Government, as we see from the counter affidavit, is vigilant to the provisions of the Arms Act and the concerns expressed are duly addressed insofar as the due compliance of the Arms Act and the Rules framed thereunder.

10. We are of the definite opinion that there is no scope for any interference to be caused under the extraordinary jurisdiction



exercised by us, in the present public interest litigation. We close the writ petition and leave the parties to suffer their respective costs.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

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