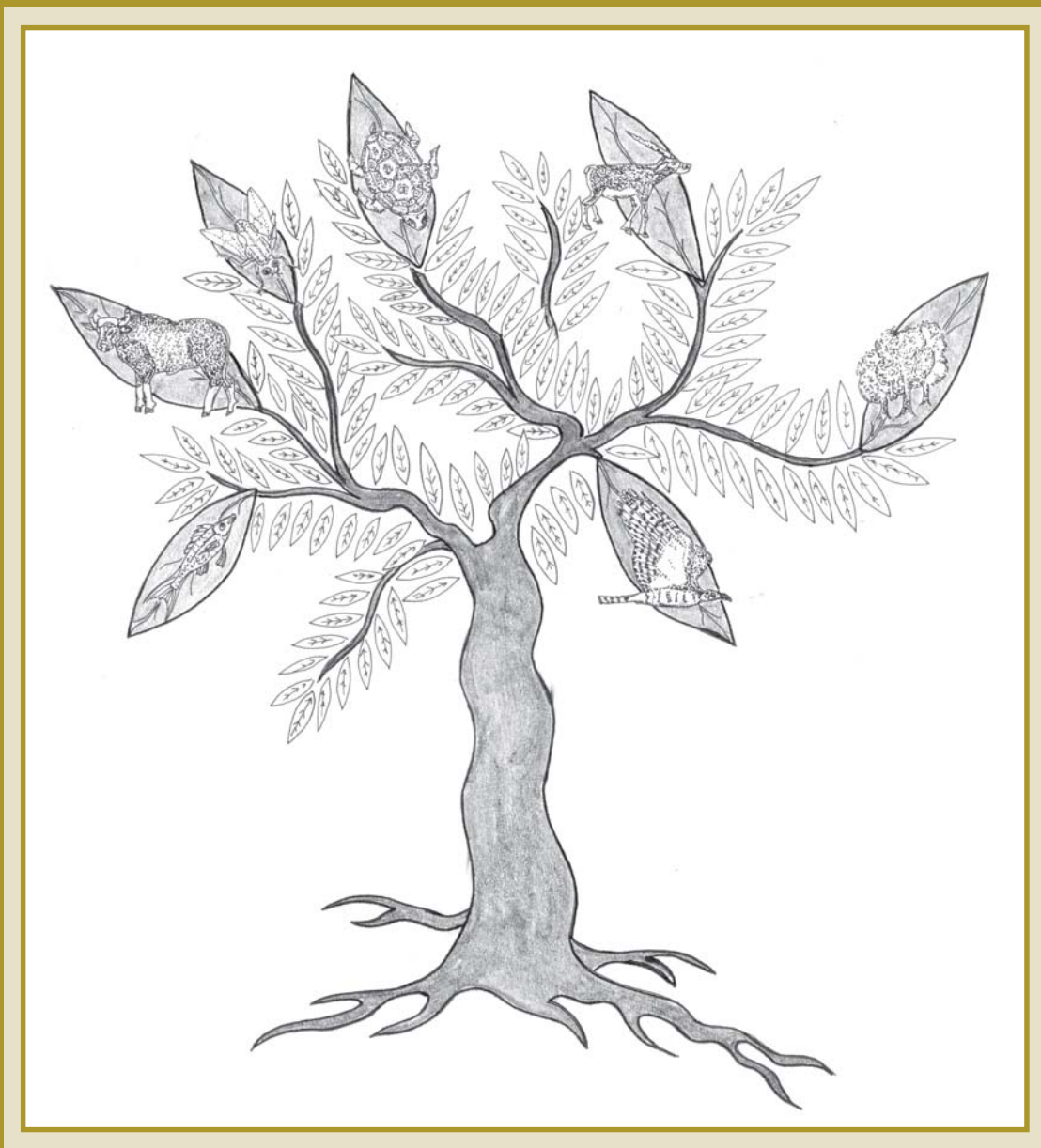




CONSERVING PROTECTED AREAS AND WILDLIFE



A JUDICIAL JOURNEY

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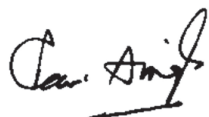
Foreword

In the national context, the role of environment law in fostering sustainable development is significant. For this purpose, WWF India established the Centre for Environmental law in 1993 to strengthen the professional and educational support base for environmental law and policy in India. The Centre for Environmental Law is a unique experiment in institution building which combines research and education with legal activism. To address environmental issues in various ecologically important areas, the Centre for Environmental Law instituted cases ranging from protection of biological hotspots like Bhittarkanika in Orissa to getting a better protection status for the Delhi ridge in respective High Courts.

Through these cases and other studies it was felt that the provisions of the Act under which the Protected Areas of our country have been notified are not being implemented to secure them. Thus CEL filed a public interest litigation in the Supreme Court in 1995. This legal intervention brought the issue of the status of our national parks and sanctuaries to the forefront. It generated significant concern on how these biologically important areas were being managed. The case has had immense impacts on the ground in the way our PAs are managed.

This would not have been possible without the late Mr. Chattrapati Singh, the then Director of the Centre for Environmental Law who was instrumental in preparing and submitting this petition. WWF India would also like to recognize the support of Mr. Raj Panjwani - our arguing counsel - and his tremendous contribution to this case. He has been following the case since inception and has been at the forefront of the intervention. Credit is also due to my colleagues in WWF who have constantly monitored the case and its impacts on the ground.

This publication, in collaboration with Enviro Legal Defence Firm, is an attempt to understand the impacts that this public interest litigation has had at the National and State level. We hope it will be useful for park managers, lawyers, environmentalists, wildlife enthusiasts and organizations working in the field of conservation. We hope that this book will serve the cause of conserving our protected areas.



Ravi Singh

Secretary General & Chief Executive Officer
WWF India

In memory of
Late Dr Chatrapati Singh



A pioneer in environmental law

Acknowledgements

Unraveling legal documents, especially affidavits, court orders, bad prints, has never been an easy task. Substantive legal analysis with precision therefore requires a team effort where so many people put in their bit although the primary authors take the credit. So lets me begin by saying that although Amruta and I are seen as principal authors of this effort, I would like to acknowledge our entire team at Enviro Legal Defence Firm including some who have left for greener pastures. Shilpa Chohan, Mohd Shawahiq Siddiqui to name a few. ELDF interns have also put in their effort in putting this whole effort together. Saumya Tandon of Delhi University, Faculty of Law and Sahar Bakht from National Law India University, Bhopal deserve special mention.

The list would be incomplete without the initial discussants Dr. Sejal Worah, Ms. Tara Rao and Ms. Vishaish Uppal of WWF India and their support for the idea.

An equal share of thanks must go to all the advocates on record and arguing counsels for providing their valuable inputs. We especially thank Mr. Raj Panjwani for providing extremely crucial and constructive inputs and also tirelessly attending all the hearings under this case.

I specially want to thank Ravi Singh, CEO and Secretary General, WWF- India for his constant support and guidance in this entire effort.

Last but not the least Vishambar Dutt of ELDF for all the tireless typing of mundane court orders and text which has made him almost a lawyer!

Sanjay Upadhyay

Advocate, Supreme Court of India and
Managing Partner
Enviro Legal Defence Firm

List of Abbreviations

ACR	Annual Confidential Report
ADM	Additional District Magistrate
AFPF	Assam Forest Protection Force
AP	Andhra Pradesh
ASI	Archaeological Survey of India
BDV	Borna Disease Virus
BIP	Ban Sagar Irrigation Project
BML	Bhakra Main Line
BP	Biological Park
BS	Bird Sanctuary
BSF	Border Security Force
CCF	Chief Conservator of Forests
CEC	Central Empowered Committee
CEL	Centre for Environment Law
CISF	Central Industrial Security Force
CRZ	Coastal Regulation Zone
CS	Cadastral Survey
CSS	Centrally Sponsored Scheme
CWP	Civil Writ Petition
CWLW	Chief Wildlife Warden
DBBL	Double Barrel Breech Loading
DCF	Deputy Conservator of Forests
DFO	Divisional Forest Officer
DGP	Director General of Police
DIG	Deputy Inspector General
DM	District Magistrate
EF	Expenditure and Finance
FAC	Forest Advisory Committee
FCA	Forest Conservation Act
FMD	Foot and Mouth Disease
FSO	Forest Settlement Officer
GO	Government Order
GOI	Government of India
HC	High Court
HEH	His Exalted Highness
HF-RT	High Frequency Radio Transmission
HP	Hewlett-Packard
HSV	Herpes Simplex Virus
HWW	Honorary Wildlife Warden
IA	Interlocutory Application
IAF	Indian Air Force

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

IBWL	Indian Board for Wildlife
IFA	Indian Forest Act
IG	Inspector General
ITBF	Indo Tibetan Border Force
J&K	Jammu and Kashmir
KV	Kilo Volt
LMV	Light Motor Vehicle
MoEF	Ministry of Environment and Forests
MOU	Memorandum of Understanding
MP	Madhya Pradesh
NBWL	National Board for Wildlife
NGO	Non Governmental Organisation
NHPC	National Hydroelectric Power Corporation
NOC	No Objection Certificate
NP	National Park
NPV	Net Present Value
ONGC	Oil and Natural Gas Corporation
OT	Official Translation
PA	Protected Area
PCCF	Principal Chief Conservator of Forests
PIL	Public Interest Litigation
R&R	Resettlement and Rehabilitation
ROPs	Resident of Permits
RP	Rinder Pest
RT	Radio Transmission
SBBL	Single Barrel Breech Loading
SC	Supreme Court
SLP	Special Leave Petition
SLR	Self Loading Rifle
STR	Simlipal Tiger Reserve
SWAB	State Wildlife Advisory Board
T	Territorial
TCP	Tiger Conservation Project
THDC	Tehri Hydro Development Corporation
TN	Tamil Nadu
TRAFFIC	Trade Records Analysis of Flora and Fauna in Commerce
UOI	Union of India
UP	Uttar Pradesh
UT	Union Territory
VHF	Very High Frequency
WLPA	Wildlife Protection Act
WP (C)	Writ Petition (Civil)
WPC	Wireless Planning and Coordination
WS	Wildlife Sanctuary
WW	Wildlife Warden
WWF	World Wide Fund for Nature



TABLE OF CONTENTS

Chapter 1- THE BEGINNING	1
1.1. Implementation of provisions of the Wildlife Protection Act in Protected Areas areas- sought to be redressed by Court action	1
Chapter 2 - NATIONAL IMPLICATIONS	3
2.1. Meeting of the Indian (now National) Board for Wildlife: Laxity at the National level?	3
2.2. State Wildlife Advisory Boards (now State Board): Laxity at the State level?	5
2.3. Setting time lines and using contempt as a strategy for eliciting responses	6
2.4. Compliance with Wildlife Protection Act provisions: States' responses reflect an interesting pattern	6
2.5. Clarificatory order on necessary steps in order to appoint Wildlife Wardens were required to be taken by the States/Union Territory issued: Still misunderstood!	6
2.6. Tiger conservation	7
2.7. Settlement of rights: Within one year from 22.08.1997?	7
2.7.1. Settlement of rights: Constraint of funds for compensation!	8
2.7.2. Rationalising of boundaries: Task Force created	8
2.8. Guarding denotification or dereservation of Protected Areas: Changing statutory procedures through judicial intervention	9
2.9. Control over poaching: More arms, more communication more equipments!	9
2.10. Increase of Financial Outlay for arms and ammunitions: Planning Commission influenced by Court orders!	9
2.11. Simplifying process	10
2.12. Immunization of livestock: Non compliance results in directions for establishing Veterinary Centre of the Animal Husbandry Department	10
2.13. Money for veterinary facilities provided through Centrally Sponsored Schemes	10
2.14. Registration of arms: Rules to be framed?	10
2.15. Compliance of Court orders: Merely Court orders communicated	11
2.16. General implementation concerns: Passing the buck or a genuine implementation limitation of Government of India?.....	11
2.17. Funds: Availability versus under utilisation	11
2.18. Control over poaching activities within Protected Areas: Combating wildlife crime: Some issues-creating Armed Forces similar to Provincial Armed Constabularies?	12
2.19. Mobility- a concern: Inadequate vehicles at the range level	12
2.20. Strengthening of regional offices	12
2.21. Central legislation implementation: Union cannot pass the buck as States' responsibility	12
2.22. Release and diversion of funds: Two major reasons that impact Park management- Planning Commission needs to act	13
2.23. Diversion of Protected Areas: Court's response and Central Government's response	13

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

2.23.1.	Transfer of forest land for non- forest purpose: No work in expectation of transfer of forest land ..	13
2.23.2.	Fixing accountability at a higher level.....	13
2.23.3.	Expenditure for wildlife conservation sought and analysed: Focus also on tiger conservation	14
2.24.	Diversion of Sanctuary and National Parks land: A process being formulated: Role of Standing Committee emphasised: No approval for destruction in a Protected Area without the approval of Standing Committee ..	14
2.25	No dereservation of Forests, Sanctuaries and National Parks	14

Chapter 3 - STATE RESPONSES - DIVERGENCE OF PERCEPTIONS, PRIORITIES AND WAY FORWARD 15

3.1.	The State of Andhra Pradesh	15
3.1.1.	Introduction	15
3.1.2.	Constitution of Wildlife Advisory Board	15
3.1.3.	Appointment of Wildlife/Honorary Wildlife Warden	16
3.1.4.	Settlement of rights	16
3.1.5.	Status of Protected Areas	17
3.1.6.	Denotification of area under Sanctuary or National park	18
3.1.7.	Control over poaching: Providing wireless sets, equipment and arms and ammunition	18
3.1.8.	Immunization of livestock in and around Protected Areas	18
3.1.9.	Registration of arms within ten km of the boundary of a Sanctuary: Judge induced legislation! ..	19
3.1.10.	Activities prohibited under the Wildlife Protection Act: Steps to prohibit such activities?	19
3.1.11.	Diversion of Protected Area lands in Andhra Pradesh	20
3.1.11.1.	Uranium prospecting allowed	20
3.1.11.2.	Diversion of forestland was required for Indira Sagar (Polavaram Project) across Godavari river	20
3.1.11.3.	Consolidation of land of the Nizam in a National Park	21
3.2.	The State of Arunachal Pradesh	22
3.2.1.	Introduction	22
3.2.2.	Constitution and reconstitution of Wildlife Advisory Boards	22
3.2.3.	Appointment of Honorary Wildlife Warden	22
3.2.4.	Wildlife Wardens	23
3.2.5.	On general protection of wildlife in the State: General order evokes general response	23
3.2.6.	Settlement of rights including Issue of proclamations under Section 21	24
3.2.7.	Status of the determination of rights and acquisition of land or rights	24
3.2.8.	Denotification	25
3.2.9.	Control over poaching along with equipment, arms and ammunition, wireless sets: Some provided some proposed	25
3.2.10.	Immunization of livestock	26
3.2.11.	Registration of arms and the issuances of new licenses	26
3.2.12.	Action report with regard to the activities prohibited in Wildlife Sanctuaries/ National Parks	26
3.2.13.	Additional measures on wildlife conservation: Some suggestions from Arunachal Pradesh	27

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

3.2.14.	Diversion of Protected Area land in Arunachal Pradesh: Lower Subansiri Dam for generation of hydro electricity	27
3.3.	The State of Assam	29
3.3.1.	Introduction	29
3.3.2.	Constitution of Wildlife Advisory Board	29
3.3.3.	Appointment of Wardens, Honorary Wildlife Wardens	29
3.3.4.	Steps taken for wildlife conservation	29
3.3.5.	Status of National Parks and Sanctuaries in Assam	30
3.3.6.	Settlement of rights – proclamation	33
3.3.7.	No denotification in Assam	33
3.3.8.	Control over poaching: Equipment, wireless sets and arms and ammunition	33
3.3.9.	Assam Wildlife Protection Rules framed	34
3.3.10.	Immunization of livestock	34
3.3.11.	Registration of arms and issuances of fresh licence	34
3.3.12.	Some other concerns on wildlife conservation in Assam	34
3.4.	The State of Bihar	37
3.4.1.	Introduction	37
3.4.2.	Setting up of Wildlife Advisory Board: Contempt notices issued	37
3.4.3.	Appointment of Honorary Wildlife Warden and Wildlife Wardens	37
3.4.4.	Settlement of rights including issuance of proclamation	37
3.4.5.	Status of Protected Areas in Bihar	38
3.4.6.	Status of Protected Areas: Post creation of Jharkhand	40
3.4.7.	Ban on removal of forest produce	40
3.4.8.	Control over poaching: A detailed scheme formulated	41
3.4.9.	Registration of arms and issuance of fresh license in and around Protected Areas	41
3.4.10.	Immunization of livestock	42
3.4.11.	Other unique issues on wildlife conservation measures	42
3.5.	The State of Chhattisgarh	44
3.5.1.	Introduction	44
3.5.2.	Status of National Parks and Sanctuaries in Chhattisgarh including settlement of rights	44
3.5.3.	Diversion of National Parks and Sanctuaries in Chhattisgarh	45
3.5.4.	Conversion of forest villages to revenue villages	45
3.6.	The State of Delhi	47
3.6.1.	Introduction	47
3.6.2.	Constitution of the Wildlife Advisory Board	47
3.6.3.	Appointment of the Wildlife Wardens and Honorary Wildlife Wardens	47
3.6.4.	Settlement of rights Including issuance of proclamation	47
3.6.5.	Registration of arms and issuance of fresh licenses	48
3.6.6.	Immunization of livestock	48
3.6.7.	Other unique issues on wildlife conservation measures	49
3.7.	The State of Goa	51
3.7.1.	Introduction	51
3.7.2.	Constitution of Wildlife Advisory Board: Till contempt is issued	51
3.7.3.	Wildlife Wardens/Honorary Wildlife Wardens: No confusion here!	51

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

3.7.4.	Settlement of rights: Detailed status given for each Protected Area category including proclamation notification	52
3.7.5.	Rationalisation of two new Wildlife Sanctuaries: Mining an excuse?	54
3.7.6.	Implementation of Wildlife Protection Act	54
3.7.7.	Immunization of livestock	54
3.7.8.	Registration of firearms	55
3.7.9.	Control over poaching: Wireless, arms and ammunition etc.	55
3.7.10.	Wireless networking	55
3.7.11.	Improving mobility	56
3.7.12.	Some other wildlife concerns and measures	56
3.8.	The State of Gujarat	58
3.8.1.	Introduction	58
3.8.2.	Constitution of Wildlife Advisory Board	58
3.8.3.	Wildlife Wardens and Chief Wildlife Wardens and Honorary Wildlife Wardens	58
3.8.4.	Implementation of the Wildlife Protection Act	58
3.8.5.	Settlement of rights including issuance of Proclamation	59
3.8.6.	Status of Protected Areas	59
3.8.7.	Immunization of livestock	60
3.8.8.	Registration of firearms	60
3.8.9.	Control of Poaching: Modern arms, ammunitions and wireless sets	61
3.8.10.	Other unique issues for wildlife conservation measures	61
3.9.	The State of Haryana	63
3.9.1.	Introduction	63
3.9.2.	Status of National Parks/Sanctuaries in Haryana	63
3.9.3.	Settlement of rights: Proclamation under Section 21 for initiating settlement of rights	64
3.9.4.	Proposal for denotification of Sanctuary on community lands: Courts response	65
3.9.5.	The way out : By the Standing Committee	65
3.9.6.	Wildlife Advisory Board	66
3.9.7.	Appointment of Wildlife Life Warden, Honorary Wildlife Warden	66
3.9.8.	Control over poaching	66
3.9.9.	Communication equipments, wireless sets, arms and ammunition	66
3.9.10.	Immunization of livestock	67
3.9.11.	Registration of arms and new issuances	67
3.9.12.	Action report with regards to activities prohibited in Wildlife Sanctuaries/National Parks	67
3.9.13.	Larger measures on wildlife conservation as per information sought by the Central Government	67
3.9.14.	Diversion of Protected Area land	68
3.10.	The State of Himachal Pradesh	69
3.10.1.	Introduction	69
3.10.2.	Wildlife Advisory Board	69
3.10.3.	Appointment of Wildlife Wardens and Honorary Wildlife Wardens	69
3.10.4.	Settlement of rights including issuance of proclamation	70
3.10.5.	Status of Protected Areas in Himachal Pradesh	70
3.10.6.	Denotification of Protected Areas	72

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

3.10.7.	Control of poaching	73
3.10.8.	Immunization of livestock	73
3.10.9.	Registration of arms and issuances of fresh license	73
3.10.10.	Other unique issues for wildlife conservation measures	73
3.10.11.	Hydro electric project in Dhauladhar Wildlife Sanctuary	74
3.11.	The State of Jammu and Kashmir	76
3.11.1.	Introduction	76
3.11.2.	Wildlife Advisory Board	76
3.11.3.	Denotification and role of State Wildlife Advisory Board	76
3.11.4.	Appointment of Wildlife Wardens and Honorary Wildlife Wardens: Army too!	77
3.11.5.	Status of Protected Areas including settlement of rights including issuance of proclamation notification	77
3.11.6.	Immunization of livestock	78
3.11.7.	Registration of arms in the vicinity of Protected Areas	78
3.11.8.	Issuance of any fresh arms license within an area of ten km of a Sanctuary	78
3.11.9.	Larger measures on wildlife conservation as per information sought by the Central Government	79
3.11.10.	Some other unique issues on wildlife conservation	80
3.11.11.	Other issues	80
3.11.12.	Diversion of Protected Areas	81
3.12.	The State of Jharkhand	82
3.12.1.	Introduction	82
3.12.2.	Diversion of Dalma Wildlife Sanctuary for water project	82
3.13.	The State of Karnataka	83
3.13.1.	Introduction	83
3.13.2.	Constitution of Wildlife Advisory Board	83
3.13.3.	Appointment of the Wildlife Wardens, Honorary Wildlife Warden	83
3.13.4.	State of the tiger: Karnataka reports steady increase in population within Tiger Reserve and non Tiger Reserve areas!	84
3.13.5.	Settlement of rights including issuance of proclamation notification	84
3.13.6.	Proposed denotification	85
3.13.7.	Status of Protected Areas	85
3.13.8.	Issuances of final notification	85
3.13.9.	Proclamation notification	85
3.13.10.	Immunization of livestock	86
3.13.11.	Registration of arms and issuances of fresh licence: Rules framed and last opportunity given	87
3.13.12.	Control over poaching: Arms and ammunition, wireless sets	87
3.13.13.	Other wildlife conservation measures	87
3.14.	The State of Kerala	89
3.14.1.	Introduction	89
3.14.2.	Constitution of Wildlife Advisory Board	89
3.14.3.	Appointment of Wildlife Wardens and Honorary Wildlife Wardens	89
3.14.4.	Implementation of the Wildlife Protection Act and Rules	89

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

3.14.5.	Denotification of Protected Areas	90
3.14.6.	Settlement of rights	90
3.14.7.	Status of Protected Areas in Kerala	90
3.14.8.	Control of Poaching: Equipment, wireless sets and arms and ammunition	92
3.14.9.	Immunization of livestock	92
3.14.10.	Registration of firearms and issuance of new licences	92
3.14.11.	Other unique issues concerning wildlife conservation measures	93
3.15.	The State of Madhya Pradesh	95
3.15.1.	Introduction	95
3.15.2.	Constitution of the Wildlife Advisory Board	95
3.15.3.	Appointment of Wildlife Warden: Confusion between Wildlife Warden and Honorary Wildlife Warden	95
3.15.4.	Settlement of rights: Phase wise program of relocation and acquisition of rights requested ...	96
3.15.5.	Determination and Settlement of rights: Post the division of State: Focus on critical habitats and realignment of boundaries	97
3.15.6.	Resettlement and rehabilitation: Voluntary is a priority, Net Present Value a barrier	97
3.15.7.	On obligations and specific steps being taken under the Wildlife Protection Act	98
3.15.8.	Tiger population: Don't worry be happy!	98
3.15.9.	Immunization of livestock	98
3.15.10.	Registration of arms	99
3.15.11.	Control over poaching: Equipment, wireless network and arms	99
3.15.12.	Larger measures on wildlife conservation as per information sought by the Central Government	100
3.15.13.	Exclusion of protected forest areas for notifying the Gangau Wildlife Sanctuary	100
3.16.	The State of Maharashtra	102
3.16.1.	Introduction	102
3.16.2.	Constitution of the Wildlife Advisory Board	102
3.16.3.	Appointment of Honorary Wildlife Warden	102
3.16.4.	Settlement of rights	103
3.16.5.	Status of Protected Areas in State of Maharashtra	103
3.16.6.	Status of rehabilitation process in Protected Areas	105
3.16.7.	Immunization of livestock	105
3.16.8.	Registration of arms and issuance of licences	106
3.16.9.	Control of poaching: Communication facilities, arms and ammunition	106
3.16.10.	Other issues relating to wildlife conservation	106
3.16.11.	Diversion of Protected Areas	108
3.16.11.1.	Regularization of Agri Silvi plots along with conversion of forest villages into revenue villages	108
3.16.11.2.	Construction of minor irrigation project in Bhimashankar Sanctuary	108
3.16.11.3.	Construction of water project within the Radhanagri Wildlife Sanctuary	109
3.16.11.4.	Regularization of land in two Wildlife Sanctuaries	110
3.16.11.5.	Construction of Bamangaon Minor Irrigation Project in Tadoba Tiger Reserve	110
3.16.11.6.	Water project for drought affected areas	111
3.16.11.7.	Water scarcity: Water pipelines in Pench National Park	111

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

3.16.11.8. Diversion of forest land for regularization of Eksali and Dali plots	112
3.16.11.9. Construction of earthen dam in Radhanagari Wildlife Sanctuary	112
3.17. The State of Manipur	113
3.17.1. Introduction	113
3.17.2. Wildlife Advisory Board	113
3.17.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens	113
3.17.4. Status of Protected Areas	114
3.17.5. Settlement of rights including issuance of proclamation notification	114
3.17.6. Immunization of livestock	115
3.17.7. Registration of arms	115
3.17.8. Control over poaching: Equipment, wireless sets, arms and ammunition	115
3.17.9. Some other unique issues on wildlife conservation measures	115
3.17.10. Other issues	116
3.17.11. Exemption of the order dated 22.07.1998 relating to issuance of arms to Forest Guards	118
3.18. The State of Meghalaya	119
3.18.1. Introduction	119
3.18.2. Wildlife Advisory Board	119
3.18.3. Appointment of Honorary Wildlife Wardens	119
3.18.4. Implementation of the provisions of Wildlife Protection Act	119
3.18.5. Status of Protected Areas	119
3.18.6. Settlement of rights including issuance of proclamation notification	120
3.18.7. Immunization of livestock	120
3.18.8. Registration of arms and issuances of new license	120
3.18.9. Control of poaching: Equipments, arms and ammunition, communication and wireless sets	121
3.18.10. Dereservation of Protected Areas	121
3.19. The State of Mizoram	122
3.19.1. Introduction	122
3.19.2. Wildlife Advisory Board	122
3.19.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens	122
3.19.4. Settlement of rights including issuance of proclamation notification	122
3.19.5. Status of Protected Areas in Mizoram	123
3.19.6. Proposed Protected Area	124
3.19.7. Rehabilitation Status	124
3.19.8. Immunization of livestock	125
3.19.9. Control of poaching: Equipments, arms and ammunition and wireless sets	125
3.19.10. Registration of firearms	126
3.19.11. Larger measures by the State on wildlife conservation	126
3.20. The State of Nagaland	127
3.20.1. Introduction	127
3.20.2. Wildlife Advisory Board	127
3.20.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens	127
3.20.4. Status of Protected Areas	127

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

3.20.5.	Settlement of rights including issuance of proclamation notification	127
3.20.6.	Registration of arms	128
3.20.7.	Larger measures on wildlife conservation as per information sought by the Central Government	128
3.20.8.	Other issues	130
3.21.	The State of Orissa	131
3.21.1.	Introduction	131
3.21.2.	Constitution of Wildlife Advisory Board	131
3.21.3.	Appointment of Wildlife Wardens and Honorary Wildlife Wardens	131
3.21.4.	Status of Protected Areas in Orissa	131
3.21.5.	Immunization of livestock	134
3.21.6.	Registration of arms licence and issuance of new licences	134
3.21.7.	Control over poaching: Guns, ammunition etc	135
3.21.8.	Larger measures on wildlife conservation as per information sought by the Central Government	135
3.21.9.	Diversion of Protected Areas	137
3.22.	The State of Punjab	138
3.22.1.	Introduction	138
3.22.2.	Constitution of the Wildlife Advisory Board	138
3.22.3.	Appointment of Wildlife Wardens and Honorary Wildlife Wardens	138
3.22.4.	Settlement of rights including issuance of proclamation notification	138
3.22.5.	Immunization of livestock	139
3.22.6.	Registration of arms	140
3.22.7.	Control over poaching: Guns, ammunition etc	140
3.23.	The State of Rajasthan	141
3.23.1.	Introduction	141
3.23.2.	Constitution of the Wildlife Advisory Board	141
3.23.3.	Appointment of Wildlife Wardens and Honorary Wildlife Wardens	141
3.23.4.	Settlement of rights including issuance of proclamation notification	141
3.23.5.	Status of Protected Areas in Rajasthan	142
3.23.6.	Status of settlement proceedings	142
3.23.7.	Immunization of livestock	143
3.23.8.	Setting up of Veterinary Centres	143
3.23.9.	Registration of arms and issuances of fresh license	143
3.23.10.	Control over poaching: Wireless sets, arms, ammunition and equipment	144
3.23.11.	Larger measures on wildlife conservation as per information sought by the Central Government	144
3.23.12.	Diversion of Protected Areas	146
3.23.12.1.	Exploration survey by Oil and Natural Gas Corporation in Desert National Park ..	146
3.23.12.2.	Laying of pipeline in the Gharial Wildlife Sanctuary for drawing water from Chambal River	146
3.24.	The State of Sikkim	147
3.24.1.	Constitution of Wildlife Advisory Board	147

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

3.24.2.	Appointment of Wildlife Wardens and Honorary Wildlife Wardens	147
3.24.3.	Status of Protected Areas in Sikkim	147
3.24.4.	Settlement of rights including issuance of proclamation notification	149
3.24.5.	Immunization of livestock	149
3.24.6.	Registration of arms	149
3.24.7.	Control over poaching: Guns, ammunition etc	150
3.24.8.	Larger measures on wildlife conservation as per information sought by the Central Government	150
3.25.	The State of Tamil Nadu	152
3.25.1.	Introduction	152
3.25.2.	Constitution of the Wildlife Advisory Board	152
3.25.3.	Appointment of the Wildlife Wardens	152
3.25.4.	Status of Protected Areas	153
3.25.5.	Immunization of livestock	154
3.25.6.	Registration of arms	154
3.25.7.	Control over poaching: Guns, ammunition etc	155
3.25.8.	Larger measures on wildlife conservation as per information sought by the Central Government	155
3.26.	The State of Tripura	156
3.26.1.	Introduction	156
3.26.2.	Constitution of Wildlife Advisory Board	156
3.26.3.	Appointment of Wildlife Wardens/Honorary Wildlife Warden: The confusion remains	156
3.26.4.	Settlement of rights including issuance of proclamation notification	156
3.26.5.	Immunization of livestock	157
3.26.6.	Registration of arms	158
3.26.7.	Control over poaching: Modern arms and communication facilities to the Forest Guards	158
3.26.8.	Larger measures on wildlife conservation as per information sought by the Central Government	159
3.26.9.	Other issues	160
3.27.	The State of Uttar Pradesh	161
3.27.1.	Introduction	161
3.27.2.	Constitution of the Wildlife Advisory Board	161
3.27.3.	Appointment of Wildlife Wardens and Honorary Wildlife Wardens	161
3.27.4.	Status of Protected Areas	161
3.27.5.	Settlement of rights including issuance of proclamation notification	162
3.27.6.	Immunization of livestock	162
3.27.7.	Registration of arms	163
3.27.8.	Control over poaching: Guns, ammunition etc	163
3.27.9.	Larger measures on wildlife conservation as per information sought by the Central Government	163
3.27.10.	Diversion of Protected Areas	165
3.27.10.1.	Diversion of land in Kaimur Wildlife Sanctuary for Ban Sagar Irrigation project	165

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

3.28. The State of Uttaranchal	168
3.28.1. Introduction	168
3.28.2. Hospital in Rajaji National Park	168
3.28.3. Denotification of forest land in Corbett for resettlement and rehabilitation	168
3.28.4. Laying of pipeline and construction of clear water reservoir in Rajaji National Park	169
3.28.5. Permission to construct 132 KV single circuit line in Askot Wildlife Sanctuary	170
3.28.6. Renewal of lease of land in Rajaji National Park by Kailashanand Mission Trust	171
3.28.7. Other Important issues raised in and around Rajaji National Park	172
3.28.7.1. Formation of Rajaji National Park	172
3.28.7.2. Lease of forest land	172
3.28.7.3. Other establishments/groups in Rajaji National Park: Settlement of rights	172
3.28.8. Application against the demolition of leased portion	173
3.28.9. Seeking access to the samadhi of Tat Wale Baba situated in Rajaji National Park (Bhoothnath Gufa)	175
3.28.10. Application against demolition or damage to the temple and to perform regular puja	175
3.28.11. Renewal of leases granted for supply of water by the Kailashanand Mission Trust	176
3.28.12. Resettlement and relocation of Gujjars	176
3.28.13. Laying pipelines for drinking water for a group of villages	176
3.28.14. Seeking permission to allow religious rituals in the Rajaji National Park	177
3.28.15. To grant lease to the Mauni Baba Gufa and Anna Chhetra	177
3.28.16. Pipeline for village water supply in Binsar Wildlife Sanctuary	177
3.28.17. To dereserve the forest land allotted to the Directorate for rehabilitation of displaced persons from the Tehri Dam project	177
3.28.18. For laying drinking water pipelines benefiting the local population	178
3.28.19. Access to the Samadhi of Tat Wala Baba to perform puja on the occasion of Nirwana Diwas	179
3.28.20. Denotification and regularisation of land allotted in terms of earlier policy decision	179
3.28.21. Constructing power house in Askot Wildlife Sanctuary: Cannot wait for National Board for Wildlife endlessly	179
3.28.22. Transfer of reserve forest land in Kedarnath Wildlife Sanctuary for laying drinking water pipelines	180
3.28.23. Bokang Bailing Hydro Electric Project in Askot Musk Deer Sanctuary	180
3.29. The State of West Bengal	181
3.29.1. Introduction	181
3.29.2. Constitution of Wildlife Advisory Board	181
3.29.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens	181
3.29.4. Status of Protected Areas	181
3.29.5. Settlement of rights including issuance of proclamation notification	182
3.29.6. Status of Protected Areas	182
3.29.7. Immunization of livestock	183
3.29.8. Registration of arms	184
3.29.9. Control over poaching: Guns, ammunition etc	184
3.29.10. Larger measures on wildlife conservation as per information sought by the Central Government	185

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

3.29.11.	Settlement of rights	186
3.29.12.	Other issues	186
3.30.	The Union Territory of Andaman and Nicobar Islands	187
3.30.1.	Introduction	187
3.30.2.	Constitution of Wildlife Advisory Board	187
3.30.3.	Appointment of Wildlife Wardens and Honorary Wildlife Wardens	187
3.30.4.	Status of Protected Areas	187
3.30.5.	State Level Environmental Council to function as State Level Coastal Zone Management Authority	192
3.30.6.	Immunization of livestock	192
3.30.7.	Registration of arms	192
3.30.8.	Control over poaching: Guns, ammunition etc	193
3.31.	The Union Territory of Chandigarh	194
3.31.1.	Introduction	194
3.31.2.	Constitution of Wildlife Advisory Board	194
3.31.3.	Appointment of Wildlife Wardens and Honorary Wildlife Warden	194
3.31.4.	Settlement of rights including issuance of proclamation notification	194
3.31.5.	Immunization of livestock	195
3.31.6.	Registration of arms	195
3.31.7.	Control over poaching: Equipments, communication and wireless sets	196
3.31.8.	Some other unique issues on wildlife conservation measures	196
3.31.9.	Larger measures on wildlife conservation as per information sought by the Central Government	196
3.32.	The Union Territory of Dadar and Nagar Haveli	198
3.32.1.	Introduction	198
3.32.2.	Constitution of Wildlife Advisory Board	198
3.32.3.	Appointment of Wildlife Wardens and Honorary Wildlife Wardens	198
3.32.4.	Settlement of rights including issuance of proclamation notification	198
3.32.5.	Immunization of livestock	199
3.32.6.	Registration of arms	199
3.32.7.	Control over poaching: Guns, ammunition etc	199
3.32.8.	Larger measures on wildlife conservation as per information sought by the Central Government	199
3.32.9.	Settlement of rights	200
3.33.	The Union Territory of Daman and Diu	201
3.33.1.	Introduction	201
3.33.2.	Constitution of Wildlife Advisory Board	201
3.33.3.	Appointment of Wildlife Wardens and Honorary Wildlife Wardens	201
3.33.4.	Settlement of rights including issuance of proclamation notification	201
3.33.5.	Immunization of livestock	202
3.33.6.	Registration of arms and issue of license	203
3.33.7.	Control over poaching: Guns, ammunition etc	203
3.33.8.	Larger measures on wildlife conservation as per information sought by the Central Government	203

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

3.34. The Union Territory of Lakshadweep	205
3.34.1. Introduction	205
3.34.2. Constitution of Wildlife Advisory Board	205
3.34.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens	205
3.34.4. Settlement of rights including issuance of proclamation notification	205
3.34.5. Control over poaching	205
Chapter 4 - CONCLUDING REMARKS	206
Annexure I	
Major Intervention Applications	208
Annexure II	
Court Orders in CEL-WWF India Case	218
Annexure III	
Definition of National Park and Sanctuaries.....	265

THE BEGINNING

1.1. Implementation of provisions of the Wildlife Protection Act in Protected Areas - sought to be redressed by Court action.

The Centre for Environment Law (CEL) – WWF India was formally launched in 1993 and soon developed into an active centre for legal action throughout the country. The Bhitarkanika case to protect the Olive Ridleys against an ecologically flawed jetty construction in Kendrapara, Orissa; the Narayan Sarovar Case against the Sanghi Cements Giant to save the Chinkara in the Narayan Sarovar Sanctuary in Gujarat and then an intervention in the Delhi ridge case in the early 90s have put CEL-WWF India at the forefront of fighting legal battles on wildlife conservation. The TRAFFIC India was equally active on fighting legal battles on specific illegal wildlife trade issues. It was around this time that the M.C. Mehta cases on various aspects of environment including river pollution, coastal areas, urban development were also at the peak of its judicial activism. It was then thought¹ that a piece meal approach may not be the most appropriate manner to tackle wildlife conservation from the legal perspective. A preliminary research brought out that in most of the National Parks and Sanctuaries, the implementation of provisions as envisaged in the Wildlife Protection Act, 1972 (WLPA) is incomplete and therefore, it would be prudent to approach the Apex Court to ensure that the State Governments which were nodally responsible for managing the Protected Areas (PAs), expedite the process and inform the correct position of the Protected Area management in India. It was also felt that the status quo on this integral process is not benefiting either the conservation objectives or the social objectives. It is on this premise that the Civil Writ Petition No. 337 of 1995 was filed by CEL –WWF India in May, 1995 in the Supreme Court of India for the protection and development of the National Parks and Sanctuaries in India.

The **main prayer** was for directions to the concerned authorities (Central Government, State Governments and the District Collectors) to:

- a) discharge their statutory functions provided under Sections 19-25 of the Wildlife Protection Act, 1972, and
- b) enquire into and determine the existence, nature and extent of the rights of any persons in or over the land comprised within the limits of the National Parks and Sanctuaries

In addition to the above contentions, a number of other ancillary issues pertaining to the preservation and protection of wildlife were also raised by the petitioners subsequently after more than one year later in October, 1996. Although, procedurally this seemed awkward, the additional reliefs sought by the petitioner brought to the fore the issues of Tiger Conservation², meeting of the Indian Board of Wildlife³ which had not met since eight preceding

¹ The Principal author was one of the earliest Professionals on Environmental Law at CEL-WWF-India.

² This issue was then individually taken up in Navin Raheja v/s Union of India in the Supreme Court vide WP(C) 47 of 1998.

³ By the Wildlife (Protection) Amendment Act 2002 it was renamed from Indian Wildlife Advisory Board

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

years, constitution of Wildlife Advisory Boards and nomination of members such as Wildlife Wardens as contemplated under Section 6 of the WLPA, appointment of Honorary Wildlife Wardens in each district in accordance with Section 4 of the WLPA and to take appropriate measures to enforce the recommendations⁴ mentioned by the petitioner through a survey conducted on 16 Tiger Reserves in the country. It was a strategic move to broad base the petition that further covered the entire gamut of implementation of the Wildlife Protection Act, 1972.

Whether the strategies worked or not will be clear in the subsequent sections, which analyses the impact of Court orders not only at the national level but also the trends that emerged or are emerging at the States' level. The analysis does not question the merit of the Court's observations but attempts to capture the trends as well as make an assessment of the *raison de etre*' of the case and whether it had achieved what it set out to do or not as yet!

The Court upon hearing the petition admitted the case and issued notices to various State Governments and to the Union of India in February, 1997⁵ i.e. two years after the petition was filed. While carefully scrutinizing the case it can be seen how time and again the Court has used several strategies including contempt notices to the Union and the States to adhere to its orders for implementing the relevant provisions of the Act. The current analysis follows two broad patterns. The analysis of orders which have national implications and those which have State implications. The attempt is also to capture the trend that is emerging within each State and the seriousness with which each State has responded on the fast depleting wildlife in the country.

⁴ As stated in Annexure III of the affidavit dated 24.10.1996 (Vol I Pg: 152-153)

⁵ See order dated 24.02.1997

NATIONAL IMPLICATIONS

The first significant order in March, 1997⁶ directed the Union of India to take steps to call a meeting of the Indian Board of Wildlife and submit a report within a period of one month about the progress that has been made in the area of wildlife conservation. Further the respondents - States were directed to inform the Court regarding the steps they have taken with regard to the constitution of the Wildlife Advisory Boards and appointment of Wildlife Warden. The timeframe given to the respective States for this task was a month. The Court further advised that the State has to ensure that persons having an idea about the protection of wildlife alone are appointed as Wildlife Wardens.

Three things emerged from this significant order. The Court wanted

1. *to assure itself of the apex planning body's view and functioning on wildlife conservation.*
2. *to examine the status of the highest State planning body on wildlife conservation.*
3. *to understand the status of personnel entrusted with the job of wildlife conservation and the merits on which they are selected.*

As a response to the above orders and the following actions were initiated by the Centre and State.

2.1. Meeting of the Indian (now National) Board for Wildlife: Laxity at the National level?

In response to the aforesaid order⁷, the Ministry of Environment and Forest (MoEF) informed the Court that the meeting of the then Indian Board for Wildlife had not been convened for past eight years. It has been reconstituted with Prime Minister as its Chairman in 1996⁸. The Board had held its XIX meeting on 13.03.1997 under the Prime Minister's Chairmanship. Further, the follow up action on the recommendations of the Board will be soon initiated⁹. (See Box 1 for the major recommendations of the then Indian Board of Wildlife.) *This brings out the laxity of the Union Government and their Counsel who obviously was not aware about the IBWL meeting held on 13.03.1997 and had failed to inform the Court till its order dated 25.03.1997 asking for such information. Clearly, such wastage of Supreme Court's precious time was unwarranted.*

⁶ See order dated 25.03.1997

⁷ See order dated 25.03.1997

⁸ Vide a Government resolution dated 24.12.1996

⁹ Counter affidavit by Union of India dated April, 1997

BOX 1

RECOMMENDATIONS OF THE INDIAN BOARD OF WILDLIFE (NOW NATIONAL BOARD OF WILDLIFE)

Increase in financial outlay: The Central Plan outlay for the IX Plan under Wildlife should be Rupees twenty four hundred crore, as recommended by the working group of Planning Commission. Further in the State Plan Budgets, fifteen percent of the total forestry outlay be devoted towards wildlife conservation.

Continuation of CSS and revival of certain schemes: It also recommended continuation of all eleven Central Sectors and Centrally Sponsored Schemes of Wildlife on the VIII Plan; revival of three Centrally Sponsored schemes, which had been transferred to the State sector in the beginning of the VIII Plan and launching of seven new schemes in the IX Plan¹⁰.

Appointment of tribals as Forest Guards: Tribals should be appointed as Forest Guards. This issue needs to be taken up at the meeting of Chief Ministers.

Acquisition of private forests: Priorities for land acquisition to include Private land inside Protected Areas, Corridors, Private Forests abutting Corridors and all crucial wildlife habitats. A small committee would be set up for the same.

Financial fund flow: Major problem that has affected the park management is the release of funds to park authorities. Beside, diversions have also been made to ward of such problem. MoEF has suggested that Planning Commission should earmark the funds meant for wildlife under the State Plan

Settlement of rights: The Board recommended that Minister of Environment and Forests should write to all Chief Minister urging them to immediately take up land acquisition and settlement proceedings and appoint separate officers for this purpose.

Denotification of Protected Areas: Endorsed the recommendation of the Wildlife Act Review Committee that denotification of Protected Areas should not be left to State Government alone and that an alternative procedure would be suggested by the committee.

Relocation of the developmental projects from Protected Areas: Impact of pesticides and fertilizers used in World Bank aided Forestry Projects on the Protected Areas should be evaluated and in the mean time, no new projects should be undertaken inside the PA's.

Control of poaching: The Board recommended that issue of strike force under Project Tiger should once again be taken up with the Planning Commission.

Legal cells: Minister for Environment and Forests should write to all Chief Ministers to establish legal cells in their Wildlife Organisations and hire competent lawyers to pursue wildlife cases.

Secret fund: A secret fund should also be provided to the Chief Wildlife Wardens in all States.

Central Wildlife Organization: Minister of Environment and Forests was requested to write to the Finance Minister seeking early approval of the proposal for strengthening the Central Wildlife Organization as recommended by the Subramanian Committee.

Civilian gallantry awards: For good work on wildlife conservation, cases should be recommended for civilian gallantry awards.

Protected Areas-tribal interface: Postpone this discussion to the meeting of Chief Ministers.

Ecotourism policy: Referred by the Board to its Standing Committee.

¹⁰ See <http://www.envfor.nic.in/>

Certain other decisions were also taken:

Sustainable utilization of species: The Board rejected proposals under this item and further suggested that persons who continue to breed species in captivity despite instructions to restrain from doing so, should be penalized.

Demand for allowing customary collection of minor forest produce: Rejected.

Revision of Wildlife Act: decided to await recommendations of Ranjit Singh Committee.

Demand for elephant Capture: Rejected the demand for the purpose of sale but allowed the capture of identified problem population and its use for management purposes, on a case to case basis, strictly as per the provisions of the Act.

Major steps taken by the Ministry of Environment and Forests for the implementation of the provisions of the Wildlife (Protection) Act by various State Governments

Settlement proceedings: had not been completed in some States and brought to the notice by Minister of Environment and Forests of the Chief Ministers of all the States vide letter dated 26.09.1996. This matter was discussed in the meeting of IBWI (sic) IBWL on 13.03.1997 and the Board's concern was conveyed to the Chief Ministers of all States and UTs by the Minister of Environment and Forests vide letter dated 11.06.1997

Status of WLPA Implementation: The P.M., Chairman of IBWI (sic) IBWL have written to the Chief Ministers of all the States and UTs asking to review the status of Wildlife Protection in their States and to take specific measures to strengthen conservation machinery in the field.

Prosecution of government officials: Recommended amendment of Forest Conservation Act, 1980 to enhance penalties under it.

The Court also noted that no status of compliance of these recommendations mentioned in Box 1 were filed¹¹. The above therefore was an important starting point to assess the measures by both the Central and the State Governments.

2.2. State Wildlife Advisory Boards (now State Board): Laxity at the State level?

The MoEF informed the Court that the Ministry has been pursuing with all the States and UTs to ensure that the Wardens are appointed as required by the Act¹². *The said affidavit of course did not attach any formal communication to this effect and the face of it seemed like a mere verbal assurance to the Court rather than any concrete action in that regard.* What is clear from the subsequent order from the Court that the States have been quite lax in filing their replies and the Court observed *"some of the States Wildlife Advisory Boards have either not been constituted or were constituted earlier and after the expiry of the term of the Board, that was constituted, there has been no reconstitution of the Board. In the States in which Wildlife Advisory Board had earlier been constituted but the term has expired and the Board has not been reconstituted"*. Clearly this was a lapse but the Court was kind enough to grant another two months for the constitution of the Wildlife Advisory Boards as per the Act¹³. It was finally in January, 1998¹⁴ that the Court confirmed that all States and Union Territories have constituted their Wildlife Advisory Boards. *What is ironical is that it takes the apex Court almost three years to pursue the State Governments to constitute a Board under their law which ought to have been done in any case. This also clearly reflects the priority of the States on wildlife conservation.*

¹¹ See order dated 07.07.1997

¹² Affidavit dated April, 1997

¹³ See order dated 22.08.1997

¹⁴ See order dated 16.01.1998

2.3. Setting time lines and using contempt as a strategy for eliciting responses

The Court from the very beginning of this case has used various strategies to elicit responses. For example setting specific time lines for responses and in some cases threat to use contempt proceedings in case requisite information is not supplied regarding implementation of the provisions of the Wildlife Protection Act¹⁵. Infact nine States and Union Territories were issued contempt notice on the subsequent date for non compliance¹⁶.

2.4. Compliance with Wildlife Protection Act provisions: States' responses reflect an interesting pattern

The concerned State Governments were required to indicate steps that they have taken in pursuance of the provisions contained in the Wildlife Protection Act with regard to notification that has been issued in respect of their respective Sanctuaries and or National Parks¹⁷. Interesting responses were given by different States. Some described the postings of officials in their respective States¹⁸. Most States talked about the appointments of Honorary Wildlife Wardens¹⁹. It is another matter that this information helped us to understand the position of Honorary Wildlife Wardens in the respective States which was also asked by the Supreme Court in another order²⁰.

2.5. Clarificatory order on necessary steps in order to appoint Wildlife Wardens were required to be taken by the States/Union Territory issued: Still misunderstood!

The Court first asked through an order the status of the Wildlife Warden in the respective States²¹. It was subsequently observed by the Court that in some States Wildlife Wardens were not appointed at all while in some States Wildlife Wardens were appointed for some areas but have not been appointed for other areas. Hence, it was directed to the concerned State/Union Territory to take necessary steps to appoint Wildlife Wardens for all the areas within a period of two months²² (i.e. by 21.10.1997). However, most States²³ provided information about appointment of Honorary Wildlife Wardens. (There were some exceptions such as Goa, Gujarat and Orissa who provided the requisite information.)

There seems to be confusion between Wildlife Wardens and Honorary Wildlife Wardens. Legally speaking they are two different entities. The former is from the formal arrangements of the State executive and the latter is from the non government, public life sector who may be appointed under the Act for a particular district. Clearly in this case the mandate of the Court and the response of the States are at variance and this becomes important as the correct legal position and consequent steps that the States take become significant after swearing affidavits before the Court. The respective positions of the States are separately mentioned in the relevant State sections. *Note that it is only in January, 1998 that the Court finally confirmed that the States and Union Territories (with the exception of Delhi) had constituted the required Wildlife Warden and Honorary Wildlife Wardens*²⁴.

¹⁵ See order dated 07.07.1997

¹⁶ See order dated 22.08.1997 where the states of Andhra Pradesh, Bihar, Goa, Jammu and Kashmir, Kerala, Manipur and Nagaland and the Union Territory of Andaman and Nicobar Islands were issued contempt notices.

¹⁷ See order dated 07.07.1997

¹⁸ The State Government of Assam vide affidavit dated August, 1997 has posted a Chief Wildlife Warden in the rank of Chief Conservator of Forests and other Wildlife Wardens in the rank of Deputy Conservator of Forests. Honorary Wildlife Warden for the State was also appointed by the State Government

¹⁹ These include UT of Chandigarh, Jammu and Kashmir, Kerala, Pondicherry, Sikkim, West Bengal and Uttar Pradesh.

²⁰ See order dated 22.8.1997

²¹ See order dated 25.03.1997

²² See order dated 22.08.1997

²³ Andhra Pradesh, Arunachal; Pradesh, Assam, Daman and Diu, Delhi,

²⁴ See order dated 16.01.1998

2.6. Tiger conservation

One of the key issues raised in the petition related to the diminishing rate of tiger population in the reserve areas. Both the Central and the State Governments were asked to bring to the notice of the Court the present scenario of tiger population in the country so as to seek further directions for implementing effective steps for their protection and conservation²⁵. By the affidavit filed by MoEF²⁶ it was stated that tiger population in the reserve areas have not registered decline since 1973. However a decline in all India tiger population from four thousand three hundred thirty four to three thousand seven hundred fifty was due to the fact of degradation and fragmentation of tiger habitat mainly outside the tiger reserves and inadequate protection measures thereon. The renewed threat is due to sudden demand of tiger products especially tiger bones in foreign countries. In order to overcome this threat, the Government of India has taken several measures by setting up Subramanian and J.J. Dutta Committee, National Coordination Committee for the control of poaching and illegal trade with various enforcement agencies, implementing Centrally Sponsored and World Bank aided ecodevelopment program around Protected Areas and by taking initiatives in setting up of Global Tiger Forum and signing a protocol with Government of China and a MOU with Government of Nepal.

Further, the MoEF also accepted that a number of deficiencies as indicated by the 'Sample Survey Report' do exist in many of the tiger areas and the Government of India is persistently pursuing the respective State Governments to complete the enquiry under the Act and issue final notifications (under the WLPA). They are being requested to fill up vacant posts, to initiate welfare schemes for the staff, to transfer the entire tiger reserve area under the field director, to take intensive protection measures to control poaching and timely reporting of such cases to the Government of India and most importantly to release the Central funds in time. Meanwhile, the Central Government had proposed fund enhancement in the ninth Plan so that the Government of India can meet genuine demands of the State Government. Further, special strike force for each of the tiger reserves was recommended which was under consideration in the IX plan as per the directive of the Planning Commission. However, the proposal of Extending 'Project Allowance' of the reserve staff was disapproved by the Expenditure and Finance (EF) committee. Further, the Centrally Sponsored "Project Tiger Scheme" extends financial assistance to the States for intelligence gathering, tiger population estimation and monitoring, inoculation of cattle and fire control measures within the available budget under the scheme.

What is important in this affidavit to note that absence of a clear planning and coordination of these various efforts. There seems to be a knee jerk reaction to various exigencies rather than a carefully thought out plan to conserve Protected Areas (PAs) and the species therein. It is also important to note that even the Court failed to notice this lack of coherence at least in its formal order.

In another affidavit filed by the Union of India²⁷ it informed the Court about the decisions taken on the agenda of the XIX meeting of the Indian Board of Wildlife with regard to tiger crisis where it generally stated that follow up action will be taken on the various suggestions made in this regard. Further two specific cases of Bihar and Assam was to be dealt by Minister of Environment and Forests by writing to the Chief Ministers concerned and following it up with a visit of a central team.

2.7. Settlement of rights: Within one year from 22.08.1997?

In perhaps the most significant order²⁸ the States were directed to submit status report with regard to the process of determination of rights and acquisition of land and further to issue proclamation notification under Section

²⁵ WWF-India petition, 1996

²⁶ Affidavit dated April, 1997

²⁷ Affidavit dated August, 1997

²⁸ See order dated 22.08.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

21 of the Wildlife Protection Act, in respect of Sanctuaries and National Parks. The Court observed **“Even though notifications in respect of Sanctuaries/National Parks have been issued under Section 18/35 in all States /Union Territories, further proceedings as required under the Act i.e. issue of proclamation under Section 21 and other steps is contemplated by the Act have not been taken.”** The concerned State Governments/ Union Territories were consequently directed to issue the proclamation under Section 21 in respect of the Sanctuaries/ National Parks within two months and complete the process of determination of rights and acquisition of land or rights as contemplated by the Act within a period of one year.

Note that it was also recommended by the National Wildlife Board that the Minister of Environment and Forests should write to all Chief Minister urging them to immediately take up land acquisition and settlement proceedings and appoint separate officers for this purpose²⁹.

The Supreme Court again raised this issue of settlement of rights in an order dated 29.08.2006. It said that the matter of completing the process of determination of rights and acquisition of land or right as contemplated by the Act in respect of some of the National Parks and Wildlife Sanctuaries has still not been completed despite lapse of so many years. The petitioner pointed out that it has not been completed in 14 out of 85 National Parks and 170 out of 494 Wildlife Sanctuaries, as per the affidavits placed by the State Government on record. By order dated 23.11.2005, the Court had directed that the State Governments/Union Territories to file affidavits placing on record the status as existing on 01.11.2005.

The Court noted in another significant order dated 17.10.2006 in relation to completing the process of determination of rights and acquisition of land or rights as contemplated by the Act in respect of some of the National Parks and Wildlife Sanctuaries, as noted in detail in the order dated 29.08.2006 that in case, responses to this and other applications are not filed within three weeks from today, this Court will proceed to hear the matters assuming that no response is required to be filed. *Note that one of the main prayers of the petition i.e. settlement of rights has not been addressed adequately and it has taken more than nine years for the the Court to reiterate the issue relating to settlement of rights. The situation on the ground is still not very different and this requires fresh look and understanding from the Court as well as the petitioners.*

2.7.1. Settlement of rights: Constraint of funds for compensation!

The MoEF once again gave a standard response that constraint of funds was the reason for non completion of process of settlement of rights. The States Government’s are required to pay substantial amounts as compensation for acquiring the rights. It further informed that as per Chief Wildlife Wardens’ (CWLW) reports that although settlement process has been initiated and final notifications have been issued only in forty percent of PAs³⁰.

2.7.2. Rationalising of boundaries: Task Force created

MoEF has set up a Task Force for rationalization of boundaries of National Parks and Wildlife Sanctuaries, which has proposed to look into all such cases wherein large extent of wildlife habitats are proposed to be excluded from NPs/WSs. The Central Government requested the Court to direct all States not to exclude any area from NPs/WSs till the Task Force submits a final report³¹. The Union Government also informed the Court that the Committees have to ensure that the realignment of boundaries of Protected Areas as result of settlement proceedings needs to be done in a judicious manner³².

²⁹ Affidavit dated August, 1997

³⁰ Affidavit dated 16.03.1999

³¹ Affidavit dated 16.03.1999

³² Affidavit dated July, 1999

2.8. Guarding denotification or dereservation of Protected Areas: Changing statutory procedures through judicial intervention

In another major concern on denotification and dereservation of PAs, the Supreme Court in order to guard the Protected Areas from denotification and dereservation directed the State Governments³³ to refer the proposal on denotification or dereservation to the National Board for Wildlife for its opinion and place the proposal and the opinion of the NBWL before the Legislative Assembly. This also seems to be a fall out of the view of the Union Government where it submitted that as per the recommendation of the Wildlife Act Review Committee denotification of Protected Areas should not be left to State Government alone but an alternative procedure would be suggested by the committee³⁴. *Note that this was a departure from the legal process envisaged then and in fact this prompted the later amendments in the WLPA to incorporate this process and thereby completely changing the statutory process of going through the Legislature. This is clearly a case of Court induced statutory change in the WLPA. [This direction of the SC, however is no longer applicable in its entirety as the 2002 amendment of the Wildlife (Protection) Act, 1972, has transferred the power to alter (read denotify) PAs from the Legislative Assembly to the National Board for Wildlife]*

2.9. Control over poaching: More arms, more communication more equipments!

The Court was also seized of the matter with regard to poaching and it stated in the afore said order³⁵ that in order to effectively control the growing increase of poaching in the Sanctuaries/National Parks, the Central Government as well as the Governments of the States/Union Territories must ensure that the Forest Guards in the Sanctuaries/National Parks are provided modern arms, communication facilities, viz. wireless sets and other necessary equipments in that regard. Necessary steps for that purpose shall be taken within six months. This order apparently facilitated a number of pending procurements in a number of States and updated the facilities and equipments for wildlife conservation.

2.10. Increase of financial outlay for arms and ammunitions: Planning Commission influenced by Court orders!

The above is evident by an affidavit filed by the Union Government where it informed the Court that hundred percent financial assistances is being provided to States under Centrally Sponsored Schemes such as "Development of National Parks and Sanctuaries", "Project Tiger", "Project Elephant". In fact it also stated that "taking the directions in account the Planning Commission has increased the outlay of wildlife sector, from Rupees one hundred eighty six crore and eighty three lakhs in VIII to Rupees five hundred twenty five crore under IX plan. The allocation in all the projects have been increased to meet the requirements of arms and ammunition and to provide the facilities of communications etc³⁶. Further, the Planning Commission has been requested to revive the Centrally Sponsored Scheme on Control of Poaching and Illegal Trade which existed in the VII plan but was subsequently transferred to the States in the beginning of the VIII Plan. The Planning Commission was also furnished with the Courts order dated 22.08.1997 with the request to provide resources to Center and States³⁷.

³³ See order dated 22.08.1997

³⁴ Affidavit dated August, 1997

³⁵ See order dated 22.08.1997

³⁶ It was informed through another affidavit dated 16.3.1999 that during the last two years an amount of Rs. 1030.58 lacs has been provided under Centrally Sponsored Schemes for providing arms and ammunition and communication facilities

³⁷ Affidavit dated 03.11.1998

2.11. Simplifying process

In one order the Court ordered that the information is too much to handle and therefore it ordered to produce summary sheets for understanding the steps taken for compliance of its orders. The Court directed the counsels to file **“short statement about the steps that have been taken by the concerned State/Union Territory in pursuance of the directions and also give reference to the relevant paragraph in the affidavit and the page on the record”**³⁸

2.12. Immunization of livestock: Non compliance results in directions for establishing Veterinary Centre of the Animal Husbandry Department

Another significant order³⁹ highlighted the *critical ecological concern of immunization of livestock in the vicinity of National Parks and Sanctuaries*. The Court observed that most States had not complied with its order on what steps are being taken regarding immunization of livestock. As a result it suggested that in the immediate vicinity of each National Park/Sanctuary there should be veterinary centre of the Animal Husbandry Department which should undertake the immunization of livestock that are being taken into the National Park/Sanctuary for the purpose of grazing. The States/Union Territories were accordingly directed to take concrete steps for the establishment of such centers in the immediate vicinity of the National Park/Sanctuary within their territory within a period of two months so that the requirement of immunization in accordance with the requirements of Section 33-A can be fulfilled. A period of ten weeks was given⁴⁰. *Note that the law on wildlife does not allow grazing in National Parks although it is legally possible in case of Sanctuaries. The Court however, did not make this legal distinction on grazing in National Parks and Sanctuary.*

2.13. Money for Veterinary facilities provided through Centrally Sponsored Schemes

The Union Government also informed the Court that provisions of veterinary facilities are been included as one of the components in Centrally Sponsored Scheme. This would enable the State Government to post veterinary officer for the Protected Areas and provide them with necessary infrastructure to undertake immunization and other work relating to wildlife conservation⁴¹.

It has not been ascertained whether such veterinary centres have been constructed or not as per the order.

2.14. Registration of arms: Rules to be framed?

As regards registration of persons in possession of arms as required under Section 34 of the Act, the Court observed in a significant order⁴² that no concrete steps have been taken regarding registration of persons possessing arms. Except the State of Madhya Pradesh, the rules are still to have been framed. The Court further noted that in order to complete the process of registration as required under Section 34, it is necessary that the rules are framed

³⁸ See order dated 17.10.1997

³⁹ See order dated 17.07.1998

⁴⁰ *ibid*

⁴¹ Affidavit dated July, 1999

⁴² See order dated 17.07.1998

by the respective State Governments/Union Territories Administration. It therefore, directed that all the States Governments/Union Territories Administration to frame the necessary rules for the purpose of registration of person in possession of arms within a period of two months and the process of registration should be completed within four months thereafter. A total of ten months were given to comply.

Note that the Act talks about prescriptions and not rules. However, the Court thought it fit to direct the framing of rules instead of administrative prescriptions which is perhaps easier and quicker. In any case it must be ascertained whether such rules have been notified or not?

2.15. Compliance of Court orders: Merely Court orders communicated

The Union Government informed the Court on compliance by merely stating that all States/UTs have been given Courts orders on 03.09.1997 and to take appropriate action to comply with the directions of the Court within the specified time period⁴³. This was further communicated through another affidavit that orders dated 22.08.1997 and 13.07.1998 (sic) (it is 17.07.1998) in C.W.P. No. 337 of 1995 have been sent to all the States and UTs and they have been asked to take all the necessary steps to comply with the directions within a specific time frame⁴⁴.

2.16. General implementation concerns: Passing the buck or a genuine implementation limitation of Government of India?

As regards the implementation of the provision of WLPA (including settlement of rights, providing arms and ammunition and communication facilities), the Union of India informed the Court that it is the responsibility of the State Government. The GOI has been providing substantial financial assistance to the State Governments. The Indian Board of Wildlife has been repeatedly requesting the States to provide at least fifteen percent of their forestry budgets to wildlife sector. However, due to their resource constraints the States have not achieved this objective. The GOI is trying to mobilize and sanction further funds for this purpose⁴⁵.

2.17. Funds: Availability versus under utilisation

In an affidavit the Court was informed that the Central Government has been providing financial assistance for the enforcement, infrastructure in the NPs/WSs. The annual plan proposals are asked from the State Government and funds are released according to the budget available under the Centrally Sponsored Scheme like Development of National Parks, Project Tiger and Project Elephant for which the budget has increased during the three schemes. The Ministry is trying to mobilize more funds for these schemes. Funds released by the Centre are not timely utilized by the States. It is seen that most of the time the funds do not reach the field agencies expeditiously. Some solution would be available from the next financial year. Adequate funds are made available for the CSS and if the money is effectively utilized by the State Government the enforcement of WLPA can be substantially upgraded. For this purpose it is necessary to keep wildlife schemes out of the purview of the routine cuts in plan expenditure because of the unavailability of resources in the wildlife sector can endanger the ecological security as well as the life supporting process of the nature⁴⁶.

⁴³ Affidavit dated 03.11.1998

⁴⁴ Affidavit dated 16.03.1999

⁴⁵ Affidavit dated 16.03.1999

⁴⁶ Affidavit dated 16.03.1999

2.18. Control over poaching activities within Protected Areas⁴⁷: Combating wildlife crime: Some issues-creating Armed Forces similar to Provincial Armed Constabularies?

The Central Government informed about some practical difficulties in wildlife conservation with an example from Assam, to seek some important directions from the Court. These range from conditions of guards to inadequacy of arms when combating with an organized crime gang, to migratory nature of wild animals to fund availability. Further there is also a problem of insurgency and naxalite activities. The IG, Forest has requested the States to create an armed force on pattern of Provincial Armed Constabularies. More than fifty percent of the wild animals are still outside PAs and thus there is need of separate scheme for controls of poaching and illegal trade in wildlife. Such a scheme was existing till the VIIth plan period but subsequently on recommendation of National Development Council the same has been transferred to State sector. The Indian Rhino which is endemic to Assam faces significant threat from poaching. There was a specific scheme for its conservation during the 7th plan and considerable progress was made. The scheme was then transferred to State. No funds have been available under this scheme since then. The Planning Commission is being requested to transfer the said scheme to central sector again⁴⁸.

2.19. Mobility- a concern: Inadequate vehicles at the range level

The Union of India also informed the Court that the State Governments have been requested to provide vehicles at the level of Range Officers so that they can tour their areas along with armed Wildlife Guards.

2.20. Strengthening of regional offices

The Union of India also informed the Court that the Central level proposals are being made to strengthen the regional offices from four to ten and managing these regional offices with one Assistant Director and three to four Inspectors at each regional office⁴⁹.

2.21. Central Legislation Implementation: Union cannot pass the buck as States' responsibility

Often in Central legislations which are implemented by the States, the Central Government poses helplessness of lack of means to ensure implementation. A similar view was taken by the Union Government on the WLPA implementation as well. However the Court came down heavily on the Union of India raising a very pertinent point that has wide ramifications. It said⁵⁰. *"on an earlier occasion too we have pointed out that the Wildlife Protection Act, 1972, was (sic) Union Legislation. It was therefore imperative for the Central Government to establish a mechanism by which the Act could be effectively enforced. The affidavit of the Union of India⁵¹, among other things, states that the funds which are released by the Central Government are not utilized in time by the State Governments and that the funds do not reach the field agencies expeditiously. If there is a Central legislation, we think that it for the Centre to implement it. It cannot be that such legislations have to be implemented only by recourse to Article 32 before this Court. We now expect on the next occasion to hear that some scheme has to be evolved by the Central Government in this behalf"*.

⁴⁷ See order dated 17.07.1998

⁴⁸ Affidavit dated 16.03.1999

⁴⁹ *ibid*

⁵⁰ Order dated 31.03.1999

⁵¹ Affidavit dated 16.03.1999

To this the Union informed the Court that the Wildlife Act has had an interesting history and it has been enacted when the subject was a State subject. It is by the 42nd amendment to the Constitution in 1976 that forestry and wildlife were transferred to concurrent list. Further the Union Government is fully alive of its responsibility as laid out in the Directive Principles of State Policy, and makes intervention when necessary⁵². *Notwithstanding the above hard hitting response on words alone...there was no mechanism put forward by the Union Government.*

2.22. Release and diversion of funds: Two major reasons that impact Park management- Planning Commission needs to Act

According to the Union of India the major problem that has affected the park management is the release of funds to park authorities. Besides, diversions have also been made. To ward off such a problem MoEF has suggested that Planning Commission should earmark the funds meant for wildlife under the State Plan.

2.23. Diversion of Protected Areas: Court's response and Central Government's response

The Court of late has become a clearing house for several projects which require land from within Sanctuary or National Park. The reliance on the statutory agency such as the National Board of Wildlife as well as the Standing Committee; expert agencies such as Wildlife Institute of India and more importantly on the Central Empowered Committee especially when the National Board and the Standing Committee was not constituted. The routine procedure that is being followed is the clearance from the National Board of Wildlife through the Standing Committee, the net present value where forest land is required and compensatory afforestation. The manner in which the Court has dealt with specific State issues has been described in the State sections. *It is imperative to state that the Court is increasingly dealing with this petition as a legacy of the past which was restrictive due to earlier orders and has moved away from the main thrust of the petition.*

2.23.1. Transfer of forest land for non forest purpose: No work in expectation of transfer of forest land

The Union of India also informed that as per the guidelines issued by MoEF on 31.07.1986, regarding cases of transfer of forest land and for non forest purposes, it has been stipulated that if the forest land and non forest land are being affected in any project then the work will not be started on non forest land in expectation of transfer of forest land till the prior permission/ approval of the Government of India is obtained on the proposal of transfer of forest land under the FCA, 1980⁵³.

2.23.2. Fixing accountability at a higher level

In one of the orders⁵⁴ the Court observed that an affidavit has been filed by Mr. Surendra Kumar, Regional Deputy Director in the Ministry of Environment and Forests, Government of India on 09.07.1999. That affidavit is completely unsatisfactory and the learned additional solicitor General is right in stating the same. He is also right in stating that the matter requires to be looked at a much higher level. On the next occasion, given the importance of the matter and the attitude thus far displayed by the Union of India, we would request the Attorney General to appear.

⁵² Affidavit dated July, 1999

⁵³ Affidavit dated 18.01.2002

⁵⁴ See order dated 20.07.1999

2.23.3. Expenditure for wildlife conservation sought and analysed: Focus also on tiger conservation

An Affidavit dated 31.08.2000 states that Court's order dated 03.02.2000 calls for expenditure particulars with regard to allocation given by Center from year 1995 to till date. (Although this does not seem to be flowing directly from the order, it can be assumed that this must have been one of the steps discussed and which is referred to in the order,) The information provided by States was collated and analysed. Further, in compliance to Court's direction dated 20.04.2000 in SL(P) No. 1474/1998 wherein a detailed affidavit dated 26.08.2000 regarding strategy of conservation of tiger in the country in consultation with the Chief Secretaries of various States and based on the collated data referred in the foregoing paragraph. This case has been dealt with in detail elsewhere in another monograph.

2.24. Diversion of Sanctuary and National Parks land: A process being formulated: Role of Standing Committee emphasised: No approval for destruction in a Protected Areas without the approval of Standing Committee

Several I.As were filed as noted by an order dated 09.05.2002. It said that I.A. Nos. 15, 17, 20, 22, 23, 24 and 25 be first placed before the Standing Committee of the IBWL for its consideration. In the meantime, no permission under Section 29 of the Wildlife Protection Act should be granted without getting the approval of the Standing Committee.

2.25. No dereservation of Forests, Sanctuaries and National Parks

"Pending further orders, no dereservation of forests/Sanctuaries/National Parks shall be effected". This one line issued on 13.11.2000 was perhaps the most powerful words written for conservation as it is brought out later in numerous I.As, orders and applications.

STATE RESPONSES - DIVERGENCE OF PERCEPTIONS, PRIORITIES AND WAY FORWARD

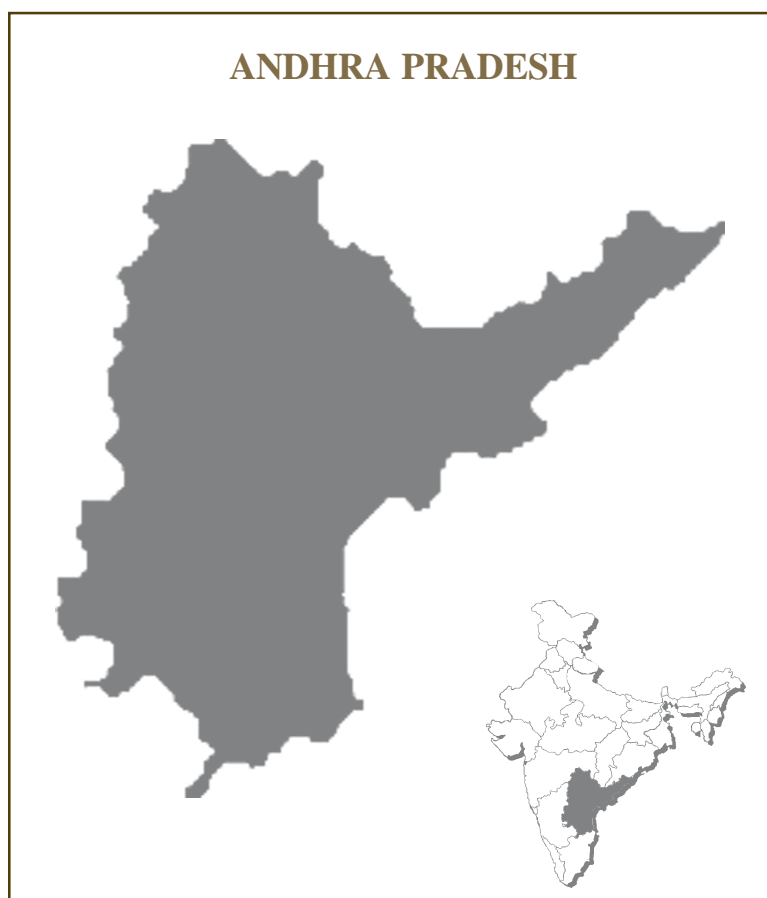
3.1. The State of Andhra Pradesh

3.1.1. Introduction

This section brings out the position of the State of Andhra Pradesh in compliance of the various orders of the Supreme Court in this case which range from the status of State Wildlife Board, appointment of Wildlife Wardens, Honorary Wildlife Wardens, settlement of rights including the status of PAs, registration of arms, immunization of livestock, diversion of land from Protected Areas and control of poaching among other things. Further unique measures were undertaken to protect wildlife and its ecosystem. The State has also filed interlocutory applications for diversion of Protected Areas for various developmental projects.

3.1.2. Constitution of Wildlife Advisory Board

The Court had issued all States including A.P. to constitute the State Wildlife Advisory Board⁵⁵. Contempt notices were issued by the Court against States who did not abide by the orders passed by the Court⁵⁶. In response to this, the State of Andhra Pradesh informed that the Board has been constituted vide GO dated 16.04.1988. The fresh Board has been reconstituted vide GO dated 08.08.1997 under Section 6 of the WLPA⁵⁷. It further informed that the first meeting of the Board was convened on 08.12.1997⁵⁸. Subsequently, on expiry of the term the Board was reconstituted vide GO dated 15.12.2000 and thereafter the Board has been meeting regularly⁵⁹.



⁵⁵ See order dated 25.03.1997

⁵⁶ See order dated 22.08.1997

⁵⁷ Affidavit dated 04.09.1997

⁵⁸ Affidavit dated 12.03.1998

⁵⁹ Affidavit dated 28.03.2001

3.1.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

The Court also ordered all States to appoint Wildlife Wardens⁶⁰. Note that the Court did not distinguish between Wildlife Wardens and Honorary Wildlife Wardens which are two different legal categories under the Wildlife Protection Act⁶¹. The A.P. Government informed that all the DFOs in the State have been appointed as Wildlife Wardens in their respective jurisdictions⁶². All Conservators of Forests have been appointed as Deputy Chief Wildlife Wardens in their respective jurisdictions⁶³. Honorary Wildlife Wardens in each district were appointed vide GO dated 24.09.1997⁶⁴. The present batch of HWWs has been appointed in 2000⁶⁵ in compliance to the order dated 28.08.1997⁶⁶.

3.1.4. Settlement of rights

The Court had also indicated in its order dated 07.07.1997 that the States will also indicate the particulars of the Sanctuary/National Park as well as the notification that has been issued in respect of that Sanctuary/National Park. Further the Court observed in another order dated 22.08.1997 that even though notifications in respect of Sanctuaries/National Parks have been issued under Section 18/35 in all States/Union Territories, further proceedings as required under the Act i.e. issue of proclamation under Section 21 and other steps as contemplated by the Act have not been taken. The concerned State Governments/Union Territories were thus directed to issue the proclamation under Section 21 in respect of the Sanctuaries/National Parks within two months and complete the process of determination of rights and acquisition of land or rights as contemplated by the Act within a period of one year.

The Government of A.P. informed⁶⁷ that there are four NPs and twenty WSs. Final Notification has been issued with respect to one Sanctuary. Preliminary notifications were issued with regard to four NP and nineteen WSs. The remaining would be completed within time specified by SC.

Regarding issuance of proclamations under Section 21 of the Act, the Court further observed⁶⁸ that the requisite steps for issuance of such proclamations have not been taken in large number of States. In Andhra Pradesh there are four National Parks but no proclamation has been issued in respect of any of them. There are twenty Sanctuaries. In the affidavit filed on behalf of the State it is admitted that proclamation has not been issued in respect of seven Sanctuaries. As regards five Sanctuaries no information has been given as to whether proclamation has been issued or not.

Subsequently, the A.P. Government informed⁶⁹ that proclamations have been issued with regard to all four NPs. Out of the twenty WSs, the clear situation is that under Section 26A final notification has been issued in context of Pulicat and Nelapattu WS of Nellore district have been completed. Pocharam WS in Medak district has finally been notified. Proposal has been submitted by District Collector, East Godavari for final notification of Corringa WS dated 22.12.1997. Proclamations with regard to the remaining sixteen WSs in various districts under Section 21 has been issued. The Status report is placed on records. The Court reiterated the status of settlement of rights in its order dated 17.07.1998.

⁶⁰ See order dated 25.03.1997

⁶¹ See Section 4(1)(b) and (bb) of the WLPA, 1972

⁶² With regard to 01.08.1973 vide GO dated 10.09.1973

⁶³ With regard to 01.08.1973 vide GO dated 18.03.1974

⁶⁴ Affidavit dated 12.03.1998

⁶⁵ Vide GO dated 20.09.2000

⁶⁶ Affidavit dated 28.03.2001

⁶⁷ Affidavit dated 04.09.1997

⁶⁸ See order dated 16.01.1998

⁶⁹ Affidavit dated 12.03.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

The Supreme Court again raised this issue of settlement of rights in an order dated 29.08.2006. It said that the matter of completing the process of determination of rights and acquisition of land or right as contemplated by the Act in respect of some of the National Parks and Wildlife Sanctuaries has still not been completed despite lapse of so many years. By order dated 23.11.2005, the Court had directed that the State Governments/Union Territories to file affidavits placing on record the status as existing on 01.11.2005. In relation to the compliance of the aforesaid directions, the Registry has reported that no response has been filed on behalf of the States of Andhra Pradesh among other States.

3.1.5. Status of Protected Areas

The final position of status of settlement of rights in A.P. is as follows: The Government of A.P. informed⁷⁰ that there are four National Parks and twenty Wildlife Sanctuaries.

Sanctuaries

1. **Kawal:** Preliminary notification was issued on 18.11.1965 obviously under an existing Act. It is pending with the Conservator of Forests. Proclamation was issued on 31.12.1997.
2. **Siwaram:** Preliminary notification was issued on 20.05.1978. It is pending with the Conservation of Forests. Proclamation was issued by the Collector.
3. **Pranahita:** Preliminary notification was issued on 18.03.1980. Proclamation was issued on 05.07.1980. It is pending with the Conservator of Forests.
4. **Eturunagaram:** Preliminary notification was issued on 31.10.1973. Proclamation was issued on 18.09.1987. It is pending with the Conservator of Forests.
5. **Pakhil:** Preliminary notification was issued on 04.03.1952. Proclamation was issued on 20.09.1989. It is pending with the Conservator of Forests.
6. **Pocharam:** Preliminary notification was issued on 29.02.1952. It was finally notified in Hyderabad State on 20.03.1952. *[It is interesting to note that this Sanctuary came into being when Hyderabad was governed by Nizam.]*
7. **Manjira:** Preliminary notification was issued on 20.05.1978. Proclamation was issued on 15.02.1988. It is pending with the Conservator of Forests.
8. **Papikonda:** Preliminary notification was issued on 05.07.1978. It is pending with the Conservator of Forests.
9. **Kinnarasani:** Preliminary notification was issued on 24.01.1977. It is pending with the Conservator of Forests.
10. **Coringa:** Preliminary notification was issued on 05.07.1978. It is pending with the Conservator of Forests. Final notification was issued on 22.12.1997.
11. **Kolleru:** Preliminary notification was issued on 25.09.1995. Proclamation was issued on 17.03.1997.
12. **Pulicat:** Preliminary notification was issued on 20.09.1976. Final notification was issued on 28.08.1997.
13. **Nelapattu:** Preliminary notification was issued on 20.09.1976. Final notification was issued on 15.09.1997.
14. **Sri Venkateswara:** Preliminary notification was issued on 02.09.1985. Proclamation was issued under Section 21 on 10.08.1994.
15. **Krishna:** Proclamation was issued under Section 21 on 03.09.1997 and 22.12.1997.
16. **Sri Lankamalleswara:** Proclamation was issued under Section 21 on 10.08.1994.
17. **Gundla Brahmeswaran:** Proclamation was issued under Section 21 on 06.03.1998.
18. **Rollapadu:** Proclamation was issued under Section 21 on 31.01.1998.

⁷⁰ Affidavit dated 04.09.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

19. **Koundinya:** Proclamation was issued under Section 21 on 31.12.1997.
20. **Rajiv Gandhi:** Rights have been determined by the Forest Department within this Sanctuary and issued orders on 23.10.1997.

National Parks

1. **Sri Venkateswara:** Preliminary notification was issued on 16.10.1989. It is pending with the Conservator of Forests.
2. **Mahaveer Harina Vanasthali:** Preliminary notification was issued on 05.10.1994. It is pending with the Conservator of Forests.
3. **Mrugavani:** Preliminary notification was issued on 05.10.1994. It is pending with the Conservator of Forests.
4. **Kasu Brahmanandam National Park:** Preliminary notification was issued on 19.03.1994. It is pending with the Conservator of Forests.

3.1.6. Denotification of area under Sanctuary or National Park

As regards denotification of any area which is included in a Sanctuary/National Park, it was directed vide order dated 22.08.1997 that before placing the proposal before the Legislative Assembly the concerned State Governments shall refer the proposal to the Indian Board for Wildlife for its opinion and the proposal shall be placed for consideration before the Legislative Assembly along with the opinion of the Indian Board for Wildlife. The State of A.P. informed that no proposal is there for the denotification of any Sanctuary/National Parks etc.⁷¹

3.1.7. Control over poaching: Providing wireless sets, equipment and arms and ammunition

To control poaching, the Court ordered⁷² that in order to effectively control the growing incidences of poaching in the Sanctuaries/National Parks, the Central Government as well as the Governments of the States/Union Territories are directed to ensure that the Forest Guards in the Sanctuaries/National Parks are provided modern arms, communication facilities, viz. wireless sets and other necessary equipments in that regard. Necessary steps for that purpose shall be taken within six months.

The A.P. Government informed the Court⁷³ that the Forest Guards in the Wildlife Sanctuaries and National Parks are provided with wireless sets, and also with firearms. In view of extremist problems the individual officers are advised not to carry firearms in affected districts. They are supplemented with flying squad parties with patrolling jeeps. Armed Police Parties are also requisitioned, and their assistance is taken.

3.1.8. Immunization of livestock in and around Protected Areas

In a significant order dated 20.03.1998 the Court observed that under Section 33(A) of the Wildlife Protection Act there is a mandatory requirement that all livestock in and around the National Park/Sanctuary should be immunized. The State Government informed that it has taken up immunization program as follows:

1995-96: five hundred fifteen lakhs; 1996-97: four hundred ninety one lakhs. In 1997-98 under Janma-bhoomi program taken up by the State Government, number of camps were organized by the Animal Husbandry Department to vaccinate livestock in villages⁷⁴.

⁷¹ Affidavit dated 28.03.2001

⁷² See order dated 22.08.1997

⁷³ Affidavit dated 04.09.1997

⁷⁴ Affidavit dated 13.05.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Owing to unsatisfactory response from the various States the Court observed⁷⁵ that as regards compliance with the requirement of Section 33-A regarding the immunization of livestock, we find that no concrete steps have been taken in most of the States/Union Territories. What is required is that the immediate vicinity of each National Park/Sanctuary there should be veterinary centre of the Animal Husbandry Department which should undertake the immunization of livestock that are being taken into the National Park/Sanctuary for the purpose of grazing etc. The States/Union Territories are, therefore, were directed to take concrete steps for the establishment of such centres in the immediate vicinity of the National Park/Sanctuary within their territory within a period of two months so that the requirement of immunization in accordance with the requirements of Section 33-A can be fulfilled⁷⁶. The State of A.P. informed the Court⁷⁷ that all the Joint Directors of Animal Husbandry Department, in all districts have been directed to take up immunization of cattle within a radius of ten km of NP/WS and complete the same before 31.10.1998. Further, in compliance to the order dated 17.07.1998 concrete steps to be taken for establishment of Immunisation Centers in the vicinity of PAs⁷⁸.

3.1.9. Registration of arms within ten km of the boundary of a Sanctuary: Judge induced legislation!

In the same order⁷⁹ the Court also observed that Section 34 of the WLPA makes it mandatory that all firearms within the National Park/Sanctuary and within ten km from the boundary of the Sanctuary should be registered. The said provision also prohibits issue of any fresh arms licences within a radius of ten km of a Sanctuary without the prior concurrence of the Chief Wildlife Warden. In response to the above observations the State Government replied that gun licenses for crop protection were issued up to 1987 only. As regards license for personal protection to individuals, directions have been issued by the State Government to District Collectors and Superintendent of Police not to renew firearms within ten km radius of PAs without written concurrence of CWLW as per provisions of WLPA 1972. The Court also opined that the rules are still to have been framed under Section 34 of the WLPA. As noted earlier, the said section infact talks about prescriptions but no rules. The Court thus ordered that in order to complete the process of registration as required under Section 34, it is necessary that the rules are framed by the respective State Governments/Union Territories Administration. It therefore, directed that all the States Governments/Union Territories Administration to frame the necessary rules for the purpose of registration of person in possession of arms within a period of two months and the process of registration should be completed within four months thereafter⁸⁰. The Government of A.P. was prompt in responding to this order and it stated in its affidavit⁸¹ that the State Government has directed all the District Collectors and all Deputy I.G. of Police⁸² to obtain the concurrences of CWLW before issuing any fresh licence and renewal of old license. The A.P. Protected Areas (Possession of Arms) Rules, 1998 dated 17.09.1998 are framed and published in gazette dated 18.09.1998. The rules have come in force from 18.09.1998 and all persons possessing arms or firearms under a license and residing within radius of ten km from boundary of Protected Area shall get his name registered with Chief Wildlife Warden. The process of registration of persons possessing arms licence will be completed within the period of four months. *This is a clear case of judiciary induced legislation which is not even mandated by law.*

3.1.10. Activities prohibited under the Wildlife Protection Act: Steps to prohibit such activities?

The Court also inquired⁸³ from the State Government/Union Territory Administration to indicate the steps that have been taken to prohibit the activities in a National Park/Sanctuary which are prohibited under the provisions

⁷⁵ See order dated 17.07.1998

⁷⁶ Ibid.

⁷⁷ Affidavit dated 23.09.1998 in pursuant to order dated 17.07.1998

⁷⁸ Affidavit dated 28.03.2001

⁷⁹ See order dated 20.03.1998

⁸⁰ See order dated 17.07.1998

⁸¹ Affidavit dated 23.09.1998 in pursuant to order dated 17.07.1998

⁸² Vide order dated 02.07.1998

⁸³ See order dated 20.03.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

of the Wildlife (Protection) Act. The State informed that to enforce the prohibitory provision of the WLPA, the State Government has among other things taken up the following steps:

- formation of anti-poaching squad;
- setting up barriers/check posts;
- restriction of right of way during the night hour;
- stoppage of the commercial exploitation of forest produce in Protected Areas;
- formation of the Eco Development Committees to assist the forest staff in protecting the flora and fauna⁸⁴.

3.1.11. Diversion of Protected Areas lands in Andhra Pradesh

3.1.11.1. Uranium prospecting allowed

In one I.A.⁸⁵ filed by the Department of Atomic Energy, the Court was informed about a letter dated 16.01.2004 of Government of India, Ministry of Environment and Forests incorporating recommendation of the Standing Committee of National Board for Wildlife in its meeting held on 24.12.2003 wherein the proposal in regard to carrying out of the uranium exploration in Chitrial and Peddagattu in Rajiv Gandhi Wildlife Sanctuary (Tiger Reserve), Andhra Pradesh was considered⁸⁶. The Standing Committee agreed to the exploratory phase of the project subject to the condition that Rupees five crores shall be paid by the user agency for the better conservation and management of Rajiv Gandhi Wildlife Sanctuary. The amount will be deposited in credit fund. This will be in addition to the safeguard provided in the inspection report. User agency was to submit a detailed report regarding the outcome of the exploratory phase and seek further clearance in case uranium is found in the Project Tiger Area. The permission as sought was granted in compliance of all the conditions stipulated in the minutes of the Standing Committee of the National Board for Wildlife. The amount of Rupees five crores will be deposited within a period of two weeks. Other conditions would be binding on the applicant. Subject to these conditions, the said I.A. was allowed.

3.1.11.2. Diversion of forestland was required for Indira Sagar (Polavaram Project) across Godavari River

The Polavaram project which required diversion of 3267 ha of forest land in Khamam, Rajahmundry and Visakhapatnam Forest circles, Papikonda Wildlife Sanctuary was recommended by the Standing Committee of National Board of Wildlife⁸⁷. However, certain conditions were laid down by the Committee⁸⁸. These were:

1. The project implementing agency/irrigation department should ensure that no labour camps are kept within the Sanctuary, arrangements for fuel, wood and small timber required by the labour has to be organized by the project proponents, no domestic cattle should be permitted with the labourer's in the vicinity of Reserve Forest/Sanctuary area and any such other condition suggested by the Chief Wildlife Warden (CWLW).
2. Proper strengthening of wildlife wing in Khammam and Rajamundry forest circle needs to be done on priority as the Sanctuary would be effectively managed only when necessary infrastructure and manpower is provided to the Wildlife Wing.

⁸⁴ Affidavit dated 13.05.1998 ;See also affidavit dated 28.03.2001

⁸⁵ I.A No. 61

⁸⁶ See order dated 30.08.2004

⁸⁷ I.A. No. 89

⁸⁸ Affidavit filed by MoEF in November, 2007

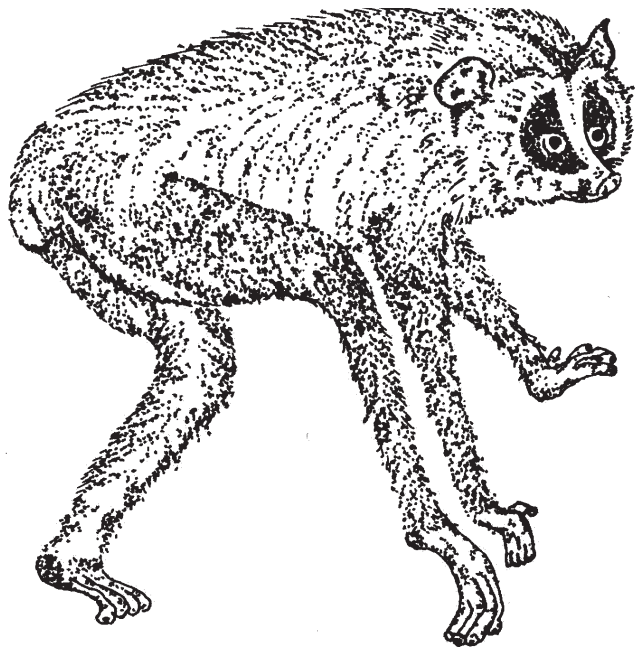
CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

3. State Government would declare Udatpalli Reserve Forest of Eluru on as part of Papikonda Wildlife Sanctuary. The management of the river after completion of the project would continue to rest with the State Forest Department of Andhra Pradesh.

It is stated that the matter was referred to CEC for its report⁸⁹. This step been taken by the Court in accordance with the order passed in Godavarman case on 27.04.2007 whereby it stated that for projects which involve diversion of forestland in National Parks and Sanctuaries, permission of FAC and Central Government is required even if SC and CEC have cleared the project on certain conditions.

3.1.11.3. Consolidation of land of the Nizam in a National Park

The State of Andhra Pradesh sought permission⁹⁰ to exchange 2.23 ha of land belonging to HEH Nizam falling in seventeen different locations in the conservation zone of Kasu Brahmananda Reddy National Park located near Hyderabad with equal consolidation land toward north-west corner of the park. The Standing Committee on 04.10.2005 after due consideration, recommended the proposal.



⁸⁹ See order dated 29.08.2007

⁹⁰ In I.A.. No. 93

3.2. The State of Arunachal Pradesh

3.2.1. Introduction

The State of Arunachal Pradesh has a forest cover of 63,814 sq. kms. There are two National Parks and eleven Wildlife Sanctuaries in the State.

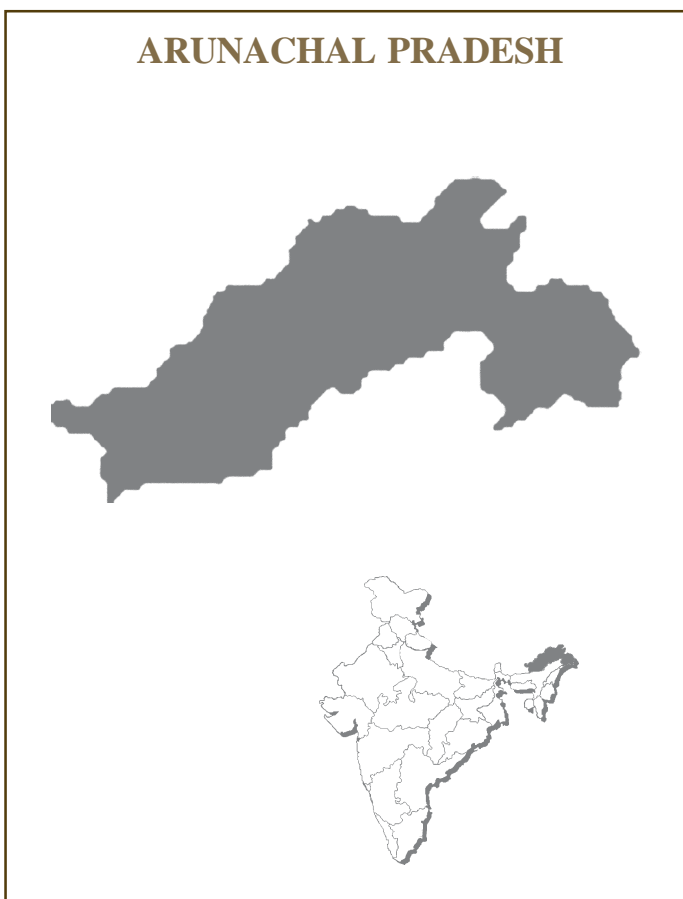
The State of Arunachal too had to respond to the various queries put forward by the petitioner as well as the Supreme Court with regard to Wildlife Advisory Boards, Wildlife Wardens including Honorary Wildlife Wardens, measures for wildlife conservation, legal status of Protected Areas including settlement of rights process, registration of firearms, immunization of livestock, poaching control measures and also the diversions of Protected Areas within the State.

3.2.2. Constitution and reconstitution of Wildlife Advisory Boards

In response to the orders of the Court⁹¹ directing the States/Union Territory to either constitute or reconstitute State Wildlife Advisory Boards, the State of Arunachal Pradesh explained that its Board has been duly constituted and on expiry of the Board's tenure steps were taken from time to time for its reconstitution. The proposal for reconstituting the new Advisory Board is pending for approval of the State Government as the period of the last Board was over in 1996⁹². Subsequently the State informed the Court that vide notification dated 11.08.1997 the Wildlife Advisory Board was reconstituted, by the Governor of the State for a period of three years. The Board shall meet once a year to advise the Government on matters concerning wildlife in the State⁹³

3.2.3. Appointment of Honorary Wildlife Warden

The Court ordered all States to appoint Wildlife Wardens among other things⁹⁴. The State of Arunachal Pradesh assuming the order to be for Honorary Wildlife Wardens informed the Court that it has been appointing Honorary Wildlife Wardens regularly in the past and duly renewing them periodically on the expiry of their respective terms⁹⁵. With regard to the present Honorary Wildlife Wardens, the State has promptly initiated action to appoint new Honorary Wildlife Wardens after getting the recommendations of the State Wildlife Board⁹⁶. Further, while appointing the HWW the State followed the guidelines issued by the Central Government in this regard. While assessing the suitability of a person as HWW the State followed these criteria:



⁹¹ See order dated 25.03.1997 and 07.07.1997

⁹² Affidavit dated 28.04.1997

⁹³ Affidavit dated 14.08.1997

⁹⁴ See order dated 25.03.1997

⁹⁵ Affidavit dated 28.04.1997

⁹⁶ Affidavit filed by State of Arunachal Pradesh dated 28.04.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

- a. Genuine concern for wildlife conservation;
- b. Personal record free of involvement in any activity detrimental to the interests of nature and wildlife conservation;
- c. Any person involved in commercial exploitation of wildlife should not be considered;
- d. Capacity to render help to the official machinery;
- e. Local standing which would make him/her effective specially in conveying the conservation message⁹⁷.

The State further responded⁹⁸ that the Honorary Wildlife Wardens have been appointed for all the areas in the State vide order dated 01.10.1997 (10.10.1997⁹⁹) under Section 4(1) (bb) of the WLPA, 1972¹⁰⁰.

3.2.4. Wildlife Wardens

The State vide notification dated 26.02.1974 provides that all the Territorial Divisional Forest Officers also function as Ex-officio Wildlife Wardens in their respective jurisdictions under Section 4(1) (b)¹⁰¹

3.2.5. On general protection of wildlife in the State: General order evokes general response

The Government of Arunachal informed that adequate measures are protecting all wildlife and its habitat in the entire State through proper implementation of the provisions of WLPA 1972 and Forest (Conservation) Act 1980 and the Assam Forest Regulations of 1891 and the rules made under these Acts. It has created specifically an area of 9582.98 sq. km, under the Protected Area regime which is approximately 18.6 percent of the forest area in the State, spread over in ten Wildlife Sanctuaries and two National Parks in different parts of the State encompassing the bio-diversity of both flora and fauna in the State for the protection and conservation of wildlife and its habitat. It also informed that but for two Sanctuaries all the others are created from earlier notified Reserve Forests. (Under the provisions of Section 26-A where Sanctuaries may be directly declared in case the said area is entirely within Reserve Forests) For the remaining two Sanctuaries i.e. Dibang and Kane Wildlife Sanctuaries the respective Deputy Commissioners, in their capacity as Collectors are already taking actions under Section 19-25 of the Act.

Pursuant to another order dated 07.07.1997, the Government gave further details¹⁰² about their PA network as follows:

List of NP and WS in the State along with relevant details

1. **Namdapha Wildlife Sanctuary:** District: Tirap, Area: 1807.62 sq. km., Notification: 02.01.1972 as a Sanctuary and on 12.05.1983 upgraded as a National Park.
2. **Mouling National Park:** District: Upper Siang, Area: 483 sq. km., Notification: 30.12.1986.
3. **Sessa Orchid Sanctuary:** District: West Kameng, Area: 100 sq. km., Notification: 10.10.1990.
4. **Pakhui Wildlife Sanctuary:** District: East Kameng, Area: 861.95 sq. km. Notification: 28.03.1997.
5. **Eaglenest Sanctuary:** District: East Kameng, Area: 217 sq. km., Notification: 18.10.1989.
6. **Itanagar Wildlife Sanctuary:** District: Papum Pare, Area: 140.8 sq. km., Notification: 14.06.1995.
7. **Tale Wildlife Sanctuary:** District: Lower Subansiri, Area: 337 sq. km., Notification: 14.07.1995.
8. **Lali Wildlife Sanctuary:** District: East Siang, Area: 281.50 sq. km., Notification: 15.12.1980.
9. **Kamlang Wildlife Sanctuary:** District: Lohit, Area: 783 sq. km., Notification: 10.10.1989.

⁹⁷ Affidavit filed by State of Arunachal Pradesh dated 28.04.1997

⁹⁸ Affidavit dated 14.10.1997

⁹⁹ Affidavit dated 03.11.1997 in pursuance of order dated 17.10.1997

¹⁰⁰ See order dated 07.11.1997 still suggests that the Court is unhappy with the information

¹⁰¹ Affidavit dated 14.10.1997

¹⁰² Affidavit dated 14.08.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

The State Government is setting up two more WS i.e. Kane WS and Dibang WS for which the final notification is to be issued shortly.

3.2.6. Settlement of rights including issue of proclamations under Section 21

The Government of Arunachal Pradesh reiterated¹⁰³ that as per an earlier filed additional affidavit dated 14.08.1997, the State has completed all the necessary requirements regarding proclamation under Section 21 for all the WSs and NPs except two Wildlife Sanctuaries: Kane and Dibang WS. The Court again noted in an order dated 16.01.1998 that in the State of Arunachal Pradesh out of ten Sanctuaries final notification has been issued in respect of eight Sanctuaries. But no information has been given as to whether proclamation has been issued in respect of the remaining two Sanctuaries or not. To this the Government responded¹⁰⁴ that the State has issued proclamation under Section 21 of WP Act with respect to 8 Sanctuaries out of ten WSs. With regards to the remaining two namely Dibang WS and Kane WS, proclamation under Section 19 read with Section 21 has been issued by the respective Collectors on 31.03.1997 and 21.02.1998 respectively. Other proceedings are under progress and final notification is expected within one year directed by the Courts.

It further informed¹⁰⁵ that settlement of rights in respect of the Yordi Rube Supse Wildlife Sanctuary and Kane Wildlife Sanctuary in the State has almost been completed and the final notification shall be issued shortly. There is no case pending before the State Government for the relocation of people outside the Wildlife Sanctuary.

3.2.7. Status of the determination of rights and acquisition of land or rights

Finally, in response to an order dated 29.08.2006 the Government of Arunachal Pradesh gave the final position on the status of the determination of rights in their PAs¹⁰⁶. It stated as follows:

There are two NPs and eleven (sic twelve) WSs in the State. These have been carved out of the then existing Reserve Forests and other forest areas of the State and have been declared as NPs and WSs under various relevant provisions of the WLPA, 1972 as amended from time to time.

- **Namdapha NP**- declared a National Park under Section 35 of the WLPA after settling the rights, determination of claims and extinguishment of rights in relation to any land under the provision of Section 19-26(A) of the WLPA.
- **Mouling NP** - declared a National Park under Section 35 of the WLPA after settling the rights, determination of claims and extinguishment of rights in relation to any land under the provision of Section 19-26(A) of the WLPA.
- **Dibang WS** - declared under Section 26(1) (a) of the WLPA, 1972.
- **Tale WS** - declared under Section 26(1) (a) of the WLPA, 1972.
- **Pakke WS** - declared under Section 26(1) (a) of the WLPA, 1972.

This reveals that with regard to the above mentioned PAs all the rights and claims on the land have been settled.

- **D'Ering WS** - declared under Section 18 and have been carved out of reserve forests of similar name which were constituted under Section 17 of the Assam Forest Regulation 1891.
- **Mehao WS** - declared under Section 18 and have been carved out of reserve forests of similar name which were constituted under Section 17 of the Assam Forest Regulation 1891.

¹⁰³ Affidavit dated 14.10.1997

¹⁰⁴ Affidavit dated 17.03.1998

¹⁰⁵ Affidavit filed in 2001 (date missing)

¹⁰⁶ Affidavit filed in October, 2006

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

- **Kamlang WS** - declared under Section 18 and have been carved out of reserve forests of similar name which were constituted under Section 17 of the Assam Forest Regulation 1891.
- **Eaglenest WS** - declared under Section 18 and have been carved out of reserve forests of similar name which were constituted under Section 17 of the Assam Forest Regulation 1891.
- **Itanagar WS** - declared under Section 18 and have been carved out of reserve forests of similar name which were constituted under Section 17 of the Assam Forest Regulation 1891.

Thus, all rights and claims on the land acquired for the above PAs have been settled.

- **Sessa Orchid Sanctuary** (100 sq. km.) has been created by carving out reserve forest areas from Doimara Reserve Forest (73 sq. km.), Tenga Reserve Forest (4 sq. km.) and Unclassed State Forest (23 sq. km.). All rights and claims w.r.t. the earlier two reserve forests have been already settled and they were.. finally notified under Section 17 of the Assam Forest Regulation Act, 1891. However, the determination and settlement of rights and claims over the remaining 23 sq. km. area of the Unclassed State Forest has not been initiated till date, it is now being expedited as per law.
- **Kane WS** - created under Section 18 of the WLPA, 1972 from either the then existing Reserve Forests/ Unclassed State Forest.
- **Yordi Rabe Supse WS** - created under Section 18 of the WLPA, 1972 from either the then existing Reserve Forests/Unclassed State Forest.

The determination of rights and the claims on land proposed to be included in these two Sanctuaries has already been contemplated. The Final notification under Section 26 (1) (a) of the WLPA, 1972 in respect of these two Sanctuaries is under consideration of the State Government. The determination of rights and acquisition of land/ rights in respect of the Sanctuaries/NPs as on 01.11.2005 have been settled except the 23 sq. km. of unclassified State Forest of Sessa Orchid Sanctuary

3.2.8. Denotification

As regards denotification, the directions which stated that before placing the proposal before the Legislative Assembly the concerned State Governments shall refer the proposal to the Indian Board for Wildlife for its opinion and the proposal shall be placed for consideration before the Legislative Assembly along with the opinion of the Indian Board for Wildlife, they have been carefully noted and shall be complied with¹⁰⁷.

3.2.9. Control over Poaching along with equipment, arms and ammunition, wireless sets: Some provided some proposed

Provided

The State has provided¹⁰⁸ wireless sets in Wildlife Sanctuaries and National Parks. (WSs/NPs). Out of twelve (sic fourteen) WSs/NPs areas, six are covered with such wireless sets. Other areas shall be covered in next two-three years in a phased manner under Centrally Sponsored Schemes like Project Elephant and Project Tiger.

The State has a total of one hundred forty seven field executives. Due to financial constraints the State has so far provided only thirty six numbers of 12 Bore guns and rifles and two trucks and seven light motor vehicles in WSs/ NPs.

Proposed

At least one mobile pick up van is required in each WS/NP apart from reinforcing the strength of LMVs and providing at least two motor cycles in each of them. Each Forest Ranger/Deputy Forest Ranger and Foresters need

¹⁰⁷ Affidavit dated 14.10.1997

¹⁰⁸ Affidavit dated 14.10.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

to be provided with Revolvers/Pistols and Forest Guards/Forest watchers/Game Watchers with SLRS/rifles. In view of the severe financial crisis in the State this remains unfulfilled, and consequently a detailed scheme titled "Additional proposal for assistance to procure arms and other equipments for protection of wildlife in various Ws and NPs of Arunachal Pradesh" has been submitted by the State to the MoEF for sanction. The State has requested to sanction the scheme as a Centrally Sponsored Scheme with a hundred percent grant of approximately Rupees one hundred eight lakhs fourty thousand to enable the State to meet the requirement of providing arms and other equipments to Forest Guards in WS/NPs as directed by the Honorable Court¹⁰⁹.

3.2.10. Immunization of livestock

In response to the order dated 20.03.1998 regarding immunization of livestock the Government of Arunachal Pradesh responded¹¹⁰ that as far as immunization of livestock within five kms is concerned, the State has taken adequate steps in this direction under veterinary care of the Eco Development Scheme and that this exercise is a continuous process in the State. Immunization of livestock against a communicable disease is a continuous programme in the State which automatically includes the livestock in the neighborhood of the Ws and NPs. The required vaccines had been procured and provided to the local specialists of the veterinary department for immunization. Immunization work is being done by the Forest Department. The office of Chief Wildlife Warden has issued instruction to the Deputy Commissioners and DFOs to carry out the order of the Court. The State has directed to coordinate this programme with publicity and providing vehicles for transportation of vaccine and veterinary staff. In another response to an order dated 17.07.1998 the Government responded¹¹¹ that the immunization has been completed in and around the areas within the radius of five km of Ws/NPs. Further, the Office of CWLW has issued instructions to Animal Husbandry and Veterinary Department for setting up centers in the immediate vicinity of NP and WS with respect to the Courts orders¹¹².

3.2.11. Registration of arms and the issuances of new licenses

In response to the order dated 20.03.1998 regarding registration of arms and the issuances of new licenses the Government informed¹¹³ that Deputy Commissioners and Sub Divisional Officers of all districts and subdistricts were directed to supply the list of persons who are in possession of arms on basis of the licenses granted to them under the Arms Act 1959. Such persons have been asked to register the arms under WLPA provisions. If the person concerned does not comply with the directions then steps will be taken for cancellation of their licence. Provisions of Section 34 regarding prohibition to issue fresh arm licence within a radius of ten km of a Sanctuary without prior concurrence of the CWLW has been brought in the notice of all Deputy Commissioners that they have to strictly comply with the requirement of the WLPA Act provisions in this regard.

3.2.12. Action report with regard to the activities prohibited in Wildlife Sanctuaries/National Parks

In response to the order dated 20.03.1998 regarding action taken to prohibit illegal activities in Wildlife Sanctuaries and National Parks, the Government of Arunachal Pradesh informed¹¹⁴ that National Parks in the State are continuously managed as per the provisions of WLPA. The safeguards provided are continuously being monitored by the wildlife staff in the State. With regard to Court's order of strict enforcement of provisions of WLPA, the same has been conveyed to all the field staff in the State.

¹⁰⁹ Affidavit dated 14.10.1997

¹¹⁰ Affidavit dated May, 1998

¹¹¹ Affidavit dated September, 1998

¹¹² Affidavit dated September, 1998

¹¹³ Affidavit dated May, 1998

¹¹⁴ Affidavit dated May, 1998

3.2.13. Additional measures on wildlife conservation: Some suggestions from Arunachal Pradesh

In response to the order dated 13.11.2000 the Government of Arunachal Pradesh suggested several measures for wildlife conservation¹¹⁵.

Release of funds

It informed that the State Government is working out the modalities to consider the Government of India's decision on direct release of Central fund for wildlife conservation to the entities that would be created for the purpose.

Vacant posts

State Government has already started filling of the vacant posts as well as transfer of staff to make up the shortage in the wildlife sector.

Compensation

The Government is making further efforts to effect payment of compensation expeditiously to those who suffer loss of life and property caused by wild animals.

Training

It was submitted that the arms training to forest staff is being imparted through the State police force as and when required.

Intelligence and networking

The State Government will actively examine and consider the Government of India's decision to involve the State intelligence in controlling the wildlife crime in the State.

Infrastructure development

The State further talked about strengthening of forest protection and anti poaching measures in the State. As far as revival of institutions of Mahut and support of the Central Government in acquisition of elephants for use of patrolling of forest areas is concerned, the State Government will submit necessary proposals to the Government of India for funding of the same.

3.2.14. Diversion of Protected Areas land in Arunachal Pradesh: Lower Subansiri Dam for generation of hydro electricity

Permission was sought by the State of Arunachal Pradesh for dereservation of 42 ha of land in an area falling within the Tale Wildlife Sanctuary situated in the Lower Subansiri district of the State¹¹⁶. The said area would be submerged due to the construction of the Lower Subansiri dam for generation of hydro electricity. On 09.12.2001, the Forest Department conducted an aerial survey of the said area which revealed that the area which is likely to get submerged does not contain any forest and there is only medium tree density.

The Governor of Arunachal Pradesh vide notification dated 14.07.1995 had declared an area of about 337 sq. km in the Tale Reserve Forest as the Tale Wildlife Sanctuary. Though the project was accorded clearance from MoEF but it was stayed due to the dereservation order of the Court. The matter was placed before the Standing Committee vide Court's order dated 09.05.2002. The Standing Committee considering the proposal appointed an

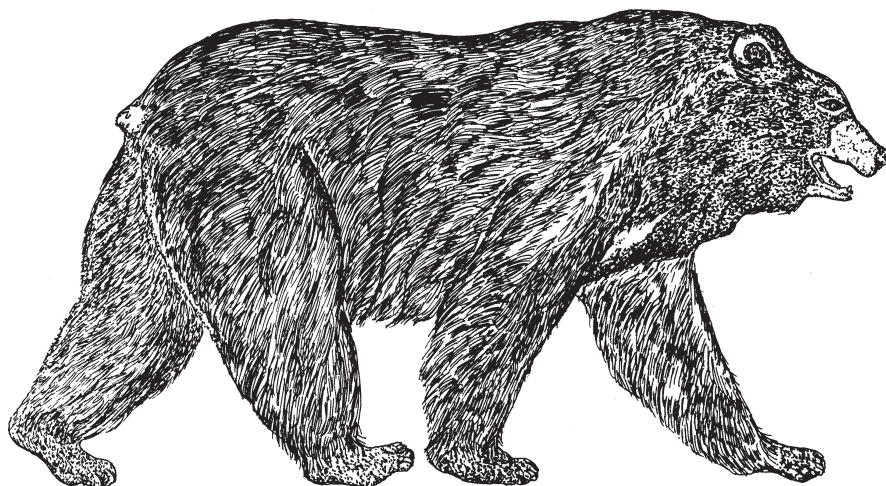
¹¹⁵ Affidavit filed in 2001 (date missing)

¹¹⁶ I.A. No. 17

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Expert Committee for site inspection. Based on the recommendations of the Expert Committee, it was decided that a detailed bio-diversity assessment study would be conducted by the agency to be identified by MoEF. Accordingly, the Ministry directed the Zoological Survey of India and the Director of Botanical Survey of India to conduct biodiversity study. The report was submitted to the Committee who came up with the following conditions for approving the project¹¹⁷:

- a. The legal status of the Sanctuary land i.e. 42 ha would not change upon diversion.
- b. NHPC to provide funds for survey and demarcation of the same
- c. NHPC to further provide funds for relocation and resettlement of people if any residing within the proposed National Park.
- d. There would be no construction of dam upstream of the Subhansri River in future.
- e. NHPC to ensure that there is no siltation down the Subhansri river during the construction phase
- f. The excavated material in no circumstances would be dumped into the river or any other part of the Protected Area
- g. NHPC to provide complete funds for reforestation of degraded sites with indigenous species within the proposed National Park (sic Sanctuary).



¹¹⁷ As stated in the affidavit filed by MoEF on 27.09.2003

3.3. The State of Assam

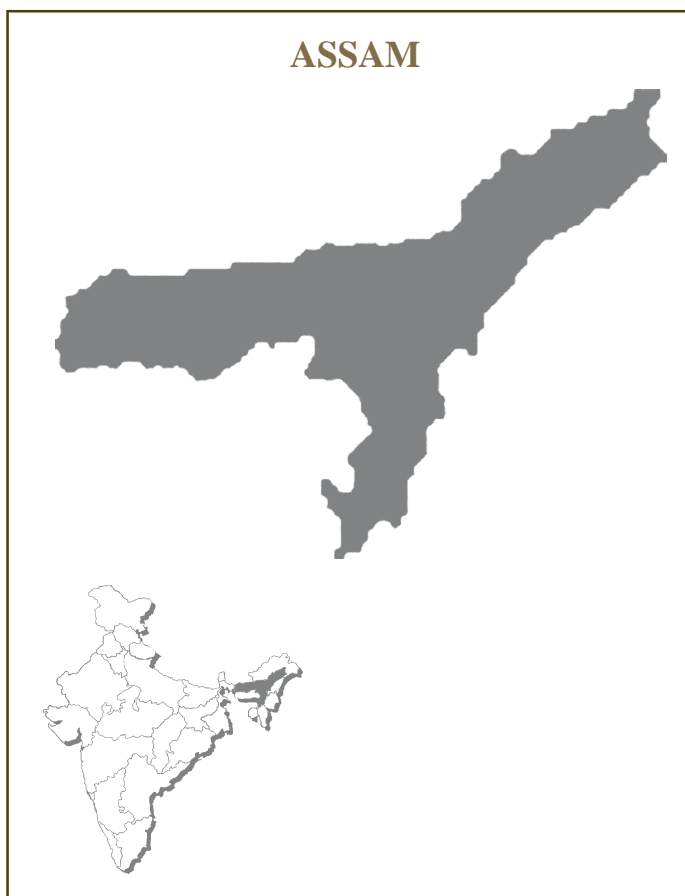
3.3.1. Introduction

The State of Assam has provided information on matters relating to constitution of Wildlife Advisory Boards, settlement process, control over poaching activities, registration of arms, immunization of livestock and other additional measures for wildlife protection. The State has also framed Wildlife Protection Rules in 1997.

The response of State of Assam to all queries by the petitioners and the Supreme Court as described above is as follows:

3.3.2. Constitution of Wildlife Advisory Board

In response to the order¹¹⁸ regarding constitution of the State Wildlife Advisory Board the State informed¹¹⁹ that it was first constituted in 1978 and the last reconstitution took place in 1996 vide notification dated 08.08.1996. A subsequent affidavit¹²⁰ states that Wildlife Advisory Board was constituted on 08.08.1997.



3.3.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

As regards appointment of Wardens and Honorary Wildlife Wardens the State responded that the State Government has posted a Chief Wildlife Warden in the rank of Chief Conservator of Forests and other Wildlife Wardens in the rank of Deputy Conservator of Forests. Honorary Wildlife Warden for the State was also appointed by the State Government¹²¹. As regards the Honorary Wildlife Wardens, it was stated¹²² that recommendation has already been sent by the deponent to the Commissioner and Secretary, Forest Department¹²³ for appointment of Wardens (read Honorary Wildlife Wardens) for each of the twenty districts in Assam. Final notifications were issued for appointment eventually on 05.11.1997¹²⁴.

3.3.4. Steps taken for wildlife conservation

The States were directed to provide requisite information with regard to National Parks/Wildlife Sanctuaries which indicates that the provisions of WLPA are being followed¹²⁵ and the Government of Assam responded¹²⁶ that the State among others:

¹¹⁸ See order dated March 15, 1997 and 07.07.1997

¹¹⁹ Affidavit dated August, 1997

¹²⁰ Affidavit dated November, 1997

¹²¹ Affidavit dated August, 1997

¹²² Affidavit dated 14.10.1997

¹²³ Vide memo dated 03.10.1997

¹²⁴ Affidavit dated November, 1997

¹²⁵ See order dated 07.07.1997

¹²⁶ Affidavit dated August, 1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

- Had set up a zoo-cum-botanical park in 1958 at Guwahati for wildlife education, interpretation and captive breeding of endangered species of the region.
- Declared Manas as 'Project Tiger' during 1974 and posted a Field Director of the rank of Conservator of Forests for the administration of Project Tiger.
- Kaziranga WS was declared in 1961 solely for preservation and protection of one horned Rhinoceros and was elevated to the status of a NP.

It also stated that prior to adoption of the WLPA by the Government of Assam in the year 1977, various Acts and rules were framed specially to preserve and protect the wildlife of the State. These include:

1. Elephant Preservation Act 1879.
2. The Assam Forest Regulation 1891.
3. The Wild Bird and Animal Protection Act 1912.
4. The Assam Rhinoceros Preservation Act 1954.
5. The Assam National Park Act 1968.

3.3.5. Status of National Parks and Sanctuaries in Assam

As per an affidavit filed by the Government of Assam¹²⁷, the following are the list of NP and WS created within the State:

National Parks

1. **Kaziranga WS** declared as NP vide notification dated 11.12.1974 covering an area of 430 sq. km. Six more adjacent areas, comprising 454.49 sq. km. and identified as suitable habitat, have been added to this NP by six different notifications. Kaziranga NP: Finally notified on 01.01.1974¹²⁸. However, as per Directorate of Information and Public Relations, Government of Assam the National Park was notified on 11.02.1974

The status of Kaziranga was further clarified through another affidavit¹²⁹. Six areas adjoining Kaziranga NP were notified under Section 18 of WLPA, 1972 with the intention of declaring these areas as a part of the NP. These areas were named as 1st, 2nd, 3rd, 4th, 5th and 6th. Final notification has been issued w.r.t. 1st, 4th, and 6th additions to Kaziranga NP. That pursuant to the above notifications under Section 18, final notifications under Section 26 A have already been issued for 1st, 4th and 6th additions to the NP. With regard to the area under 2nd 3rd and 5th additions, the Government of Assam has not yet been able to issue the final notification under Section 26 A due to certain unavoidable reasons.

2nd addition to Kaziranga NP

Preliminary notification under Section 18 for the proposed 2nd Addition to Kaziranga NP comprising an area of 646.98 hectares was published in 1985¹³⁰. The Commissioner Upper Assam Division was appointed as the Collector to determine the existence, nature and extent of any right of any person over the land as per provisions of WLPA. Thus, proclamation under Section 21 was published by Collector on 06.09.1985. The Collector completed the enquiry on determination of rights etc and submitted the report to the Government of Assam. The Government accepted the report and initiated the process of surveying and demarcating the modified boundary by the Revenue and Forest officials and also started the process of vacating the areas

¹²⁷ Affidavit dated August, 1997

¹²⁸ Affidavit dated November, 1997

¹²⁹ Affidavit dated 23.01.2006

¹³⁰ Vide Government Notification dated 07.07.1985

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

from the occupants. The Forest Department paid a total sum of Rupees twelve lakhs thirteen thousand six hundred and thirty eight to the Revenue Department being the acquisition cost of the private lands for payment to the Patta Holders. However, the process got delayed as Writ Petition was filed in Honorable Gauhati High Court by Sanmilita Gana Adhikar Surkhya Samity in which the Court passed an interim order dated 30.08.1999 with a direction to maintain the status quo. Thereafter the Court passed an order on 29.06.1999 rejecting the petition and vacated the stay order. The process of demarcation of the boundaries and acquisition of the land started again. An appeal was filed again on 11.11.2002 before the Division Bench which directed the State Government not to disturb the possession of the landowners and to initiate de-novo determination of rights and claims according to WLPA provisions. An application was filed before CEC on 20.06.2003 praying for necessary orders for expediting the issuance of notification for 2nd, 3rd and 5th additions to Kaziranaga NP. CEC advised the Secretary of MoEF to consider filing of an SLP in SC against the Gauhati HC order dated 11.11.2002. The de-novo determination of the rights and claims of the prospective claimants as directed by Honorable Gauhati High Court vide its order dated 11.11.2002 has not been initiated as its process will further delay payment of compensation to the claimants already determined under Section 21 read along with Section 19 of the Act and the proclamation of the 2nd Addition to the Kaziranga NP under Section 26A. Government of Assam infact decided to support MoEF in filing appeal against the aforesaid directions of High Court in the Supreme Court as advised by CEC. The matter is still not resolved and it needs to be expedited.

3rd addition to Kaziranaga NP

Preliminary notification under Section 18 has been issued for an area of 69.76 ha vide notification dated 31.05.1985. The Commissioner Upper Assam Division Jorhat was appointed as the Collector who issued proclamation under Section 21 on 02.08.1985 and after completion of the hearing report was submitted to the Government. Acquisition cost of Rupees thirteen lakh twenty seven thousand seven hundred fourty six was made available to the Sub Divisional Officer. The Deputy Commissioner, Golaghat has determined the rights and is in the process of getting the final notification issued under Section 26A of the Act by the Government of Assam.

5th addition to Kaziranga NP

Preliminary notification for an area of 115.36 ha was issued in 1985¹³¹. The Commissioner Upper Assam Division, Jorhat was appointed as the Collector who issued proclamation under Section 21 on 02.08.1985 and after completion of the hearing, report was submitted to the Government. The Deputy Commissioner, Golaghat has determined the rights and in the process of getting the final notification issued under Section 26A of the Act by the Government of Assam.

- 2. *Manas WS*** declared as NP vide notification dated 07.09.1990 covering an area of 500 sq. km. *Note that there is no mention regarding the process of settlement of rights in the National Parks. It is also important to understand that the legal position of a Sanctuary prior to 1990 and the legal requirements under it was substantially different from the legal requirements of a National Park. While the Sanctuary could be directly declared prior to 1991 and rights could be settled subsequently, in case of National Parks, there is a requirement of intention notification as well as final notification.* These details were not elaborated in the said affidavit.

¹³¹ Vide notification dated 13.06.1985

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

- Nameri WS** declared as NP vide notification dated 27.02.1997. The initial area under the Sanctuary was 130 sq. km. which had later been expanded to 212.39 sq. km. As per another affidavit¹³² the preliminary notification was issued under Section 35 of the WLPA and proclamation issued by the Collector on 03.04.1997 under Section 21. Hearing is under progress. Final notification expected to be issued in two months¹³³. Subsequently the final notification was issued on 13.08.1998¹³⁴.

Sanctuaries

- Laokhowa WS** was declared vide notification dated 06.09.1979 covering an area of 79 sq. km. It was finally notified on 24.12.1996¹³⁵.
- Bornadi WS** was declared vide notification dated 22.08.1980 covering an area of 26 sq. km.
- Rajiv Gandhi WS** (Orang formerly) was created covering an area of 72 sq. km. vide notification dated 20.09.1985. Proclamation notice under Section 21 has been issued and the Collector has completed the enquiry proceedings and submitted report on 18.06.1991. the final notification was issued on 17.03.1998¹³⁶.
- Pabitora WS** was declared covering an area of 38.83 sq. km. vide notification dated 16.07.1987. Proclamation notice under Section 21 was issued and the Collector has completed the enquiry proceedings and submitted report on 26.10.1988. The final notification was issued on 17.03.1998¹³⁷.
- Deepor Beel Sanctuary** covering an area of 4.14 sq. km. was declared vide notification dated 12.01.1989. Proclamation notice under Section 21 was issued on 23.06.1993 and the Collector has completed the enquiry proceedings and submitted report on 07.01.1994¹³⁸. The State Government did not agree with the Collector's report and the matter was sent back for his reconsideration and the same is pending before him¹³⁹. In another affidavit¹⁴⁰ it was stated that as per the Collector's report livelihood of four hundred families belonging to Scheduled Caste community would be affected. The Principal Secretary passed an order on 29.05.2002 rescinding the draft notification for constituting the Sanctuary. After heavy pressure by the Environmentalist groups, the Government of Assam withdrew the rescinding order and restored the preliminary notification. The Government on 05.01.2006 appointed Additional Deputy Commissioner of Kamrup district as the Collector to enquire into and determine the rights.
- Chakrashila Sanctuary** covering an area of 45.04 sq. km. was declared vide notification dated 14.07.1994.
- Dibru-Saikhowa WS** covering an area of 340 sq. km. was declared vide notification dated 02.03.1995.
- Burachapori Sanctuary** covering an area of 44.06 sq. km. declared vide notification dated 11.07.1995.
- Panidihing Bird Sanctuary** covering an area of 33.93 sq. km. was declared vide notification dated 18.12.1995. The Proclamation under Section 21 was issued on 03.11.1997¹⁴¹. Hearing on claims and objections are under process¹⁴².
- Bardoibam-Beelmukh Bird Sanctuary** covering an area of 11.25 sq. km. was declared vide notification dated 03.07.1996. The Government informed through another affidavit¹⁴³ that it lies within the jurisdiction of two civil districts. In respect of Dhemaji district the proclamation has been issued. The part under Lakhimpur

¹³² Affidavit dated November, 1997

¹³³ Affidavit dated January, 1998

¹³⁴ Affidavit dated 28.08.1998

¹³⁵ Affidavit dated January, 1998

¹³⁶ Affidavit dated 28.08.1998

¹³⁷ Affidavit dated 28.08.1998

¹³⁸ Affidavit dated January, 1998

¹³⁹ Affidavit dated 28.08.1998

¹⁴⁰ Affidavit dated 23.01.2006

¹⁴¹ Affidavit dated November, 1997

¹⁴² Affidavit dated 28.08.1998

¹⁴³ Affidavit dated November, 1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

district it is yet to be issued by the appointed Collector. The proclamation notice under Section 21 was issued vide notification dated 28.05.1997 and notification dated 06.11.1997¹⁴⁴. The finalisation of rights and claims of the land falling within the notified area is not possible at present as the area where Sanctuary is situated is worst flood affected as intimated to Divisional Forest Officer, Western Assam Wildlife Division, Tezpur by the Deputy Commissioner, Dhemaji district¹⁴⁵. However it was further informed through another affidavit¹⁴⁶ that after completion of hearing report was submitted by the Collector to the State Government on 06.09.2000 recommending an area of 14.13 ha under Lakhimpur district for WS. Similarly Deputy Commissioner of Dhemaji also submitted its report on 28.02.2002 recommending an area of 1106.21 ha. The above areas which were demarcated have been finalized.

11. **Gibbon WS:** Finally notified on 30.07.1997¹⁴⁷.
12. **Garampani WS:** Finally notified on 10.07.1952¹⁴⁸.
13. **Sonai-Rupai WS:** Notified on 29.12.1934¹⁴⁹.
14. **North Karbi Anglong WS:** A preliminary notification has been issued for an area of 96 km wide notification dated 21.07.2000 to constitute the North Karbi Anglong Wildlife Sanctuary. The Collector is unable to determine the rights due to prevailing law and order situation in the district¹⁵⁰.

3.3.6. Settlement of rights – proclamation

The State Government informed¹⁵¹ that it along with the concerned Collectors are taking necessary steps regarding issue of proclamation under Section 21. The State Government vide its letter dated 26.09.1997 has directed the concerned Deputy Commissioners/Collectors to issue the requisite proclamations. It is further stated¹⁵² that settlement of rights which is pending only in three Sanctuaries is presently under process. These Sanctuaries have been notified recently. Relocation of a few villages is required for three other Sanctuaries for which alternative land is being located.

3.3.7. No denotification in Assam

The State Government also informed¹⁵³ that there is no proposal for denotification of any area which is included in a National Park or a Wildlife Sanctuary.

3.3.8. Control over poaching: Equipment, wireless sets and arms and ammunition

As regards control over poaching the State Government informed¹⁵⁴ that the Forest Guards in the WS/NP are presently armed with three hundred fifteen rifles, 12 bore guns, wireless sets and jeeps. The department however needs more sophisticated weapons and more number of wireless sets and jeeps. The matter was also taken up with Secretary to Government of India, Ministry of Home Affairs and the Director General of Police, Assam vide Chief Conservator of Forests, Wildlife letter dated 16.03.1998 and 07.10.1997.

¹⁴⁴ Affidavit dated November, 1997

¹⁴⁵ Affidavit dated 28.08.1998

¹⁴⁶ Affidavit dated 23.01.2006

¹⁴⁷ Affidavit dated January, 1998

¹⁴⁸ Affidavit dated January, 1998

¹⁴⁹ Affidavit dated January, 1998

¹⁵⁰ Affidavit dated 23.01.2006

¹⁵¹ Affidavit dated 14.10.1997

¹⁵² Affidavit filed dated 01.03.2001

¹⁵³ Affidavit dated 14.10.1997

¹⁵⁴ Affidavit dated 14.10.1997

3.3.9. Assam Wildlife Protection Rules framed

The State Government of Assam, pursuant to Section 64 of the aforesaid Act has also taken steps to frame the Assam Wildlife (Protection) Rules 1997 which are in the final stage for notification. All the salient features and important matters in regard to conservation, protection of wildlife of the State have been incorporated in the said Rules¹⁵⁵. It finally notified the said rules on 05.03.1998¹⁵⁶

3.3.10. Immunization of livestock

In response to order dated 20.03.1998 and 17.07.1998 relating to immunization of livestock around PAs, it was informed¹⁵⁷ that immunization has been done with respect to three NPs and WSs. In all twenty eight thousand two hundred thirty one cattle have been immunized. In case of Manas NP and Pabitora WS immunization has been carried out till 1997. For the remaining NPs/WSs work is going on. In respect of remaining NPs and WSs immunization could not be completed due to various factors viz. financial constraint, inundation of areas by recurrences of flood. Further, in case of proposed Bordoibum Beelmukh Bird Sanctuary immunization is under progress. Veterinary centers are in existence in the vicinity of the PAs which are organizing immunization camps¹⁵⁸.

3.3.11. Registration of arms and issuances of fresh licence

In response to order dated 20.03.1998 and 17.07.1998 relating to registration of arms in and around PAs, it was informed¹⁵⁹ that the State Government is taking steps to implement Section 34 of the WLPA. Public notice has been issued in all local newspapers for the registration of firearms by licence holders. CCF has written to Directors of NPs and Divisional Forest Officers to take steps for registration. The Directors and Divisional Forest Officers have written to concerned Deputy Commissioners for supplying list of licensees holding licences of firearms. The Deputy Commissioners submitted a list of licence holders after obtaining information from respective Superintendent of Police. The Directors and Divisional Forest Officer on receipt of such list from the concerned Deputy Commissioners are issuing notice to the license holders for registration of Arms. Many licence holders are reluctant to register their firearms under the Act as the licence free of Rupees one thousand is prescribed. According to licence holder it is on the higher side. The CCF has taken the matter for reduction of licence fee with the State Government to Rupees fifty. The decision in the matter is likely to be taken very soon. The work of registration of firearms is likely to be completed in the time granted.

It was further informed that Rule 51 of the Assam Wildlife (Protection) Rules 1997 lays down the procedure for registration of persons holding arms. The State Government has now reduced the licence fee from Rupees one thousand to Rupees one hundred. The process of registration is under progress. So far one hundred twenty seven numbers have already been registered under the DFO¹⁶⁰.

3.3.12. Some other concerns on wildlife conservation in Assam

In response to another order dated 31.08.2000 the Government of Assam brought out several concerns that need urgent attention for wildlife conservation in Assam¹⁶¹.

¹⁵⁵ Affidavit dated August, 1997

¹⁵⁶ Affidavit dated 28.08.1998

¹⁵⁷ Affidavit dated 28.08.1998

¹⁵⁸ Affidavit dated 23.11.1998

¹⁵⁹ Affidavit dated 28.08.1998

¹⁶⁰ Affidavit dated 23.11.1998

¹⁶¹ Affidavit dated 01.03.2001

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Allocation of funds by State and Central Government

The State Government has been facing severe resource constraints for several years. The very limited funds have to be spread over very vast area. It has therefore not been possible to provide the full requirement for recurring cost for vehicles, travel, office expenses etc of the wildlife wing of the forest department. There has been some procedural problem in the past in the release of the funds received from the Central Government for the wildlife sector. Utilization certificates will also be submitted to the Central Government promptly.

Release of funds

Release of funds received from Central Government to field agencies has improved considerably. If necessary the State Government would establish a procedure whereby these funds can be directly received by the CWLW. All efforts will be made to ensure funds received by State Government reach implementing agencies within six weeks.

Vacancies of the staff

No fresh recruitment has been made in the forest department due to the financial crises. Nonetheless, the vacancies are being filled by transferring the staff from the other sectors in the forest department. The remaining posts are expected to be filled up shortly.

Reorganization of the field formations: Assam Forest Protection Force and Strike Forces

Field staff in Assam has been provided with rifles and guns. While more sophisticated weapons are needed but they are not being provided for the fear of them being looted by the insurgents in the State. Efforts are being made to improve the functioning of the Assam Forest Protection Force and for the establishment of strike forces of the manner of armed police formations both within Tiger Reserves as well as non Protected Areas. The Central Government has been requested for financial support for the strengthening and upgradation of the 1st Battalion of Assam Forest Protection Force and for raising of a 11nd Battalion of AFPF for establishment on Strike Forces at Manas and Nameri Tiger Reserves, a strike force for Orang NP and for other general areas. A reasonable wireless network prevails in all the NPs and WSs in the State of the Assam. Some vehicles have also been purchased to improve mobility in the wildlife sector.

Training of the field staff

Training of the Assam Forest Protection Force along with other staff of the wildlife wing by the police will be taken up together with the upgradation of the force as and when the State Government's proposal for the funding of its upgradation is accepted by the Central Government. Proposals of the State Government for establishment of a strike force are under consideration of the Central Government.

Conservation outside Protected Areas

Adequate coordination is maintained by the Chief Wildlife Warden with the counterpart in the territorial divisions to ensure enforcement of the provisions of the Wildlife Protection Act, 1972.

Compensation for livestock killed by predators

Efforts are being made to enhance eco development measures in the vicinity of Parks and Sanctuaries in order to improve the relationship between the forest department and the local communities.

Power of confiscation of the vehicles

Prosecuting agencies are asked not to release seized vehicles.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Intelligence network: A State Level Coordination Committee formed

Managers of the Protected Areas ensure liaison with the district administration in respect of the intelligence and preventive measures on illicit trafficking in wildlife and anti poaching measures. A State Level Coordination Committee has already been constituted for coordination of efforts of agencies on same.



3.4. The State of Bihar

3.4.1. Introduction

There were twenty two Wildlife Sanctuaries in the State of Bihar. However, after the reorganization in the year 2000, only eleven Wildlife Sanctuaries remains with the State. Settlement process has not been completed in these Protected Areas. The State has provided responses on Wildlife Advisory Board, Wildlife Wardens, Honorary Wildlife Wardens, registration of arms, immunization of livestock, measures undertaken to control poaching activities etc. The Government of Bihar has evolved unique steps for wildlife conservation like introduction of reward schemes, setting up of forest stations, deployment of para military forces in and around Protected Areas.

The responses are enumerated as follows:

3.4.2. Setting up of Wildlife Advisory Board: Contempt notices issued

Directions were issued to the States to either constitute or reconstitute Wildlife Advisory Boards¹⁶².

However, no response was filed by the State of Bihar. Contempt notice was issued to the State of Bihar by the Court for not abiding by the orders¹⁶³. In response to this the State informed that the Board was reconstituted vide notification dated 12.09.1996. Two meetings of the Board were held on 20.09.1996 and 05.02.1997¹⁶⁴.

3.4.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

orders were issued by the Court directing among others, the State of Bihar to appoint Wildlife Wardens including Honorary Wildlife Wardens¹⁶⁵. In response to these orders the State Government informed the Court that fifteen Wildlife Wardens and seven Deputy Chief Wildlife Wardens have been appointed for sixteen Sanctuaries. The State has also appointed Honorary Wildlife Warden and few more Wildlife Wardens for the remaining Sanctuaries. On 07.11.1997, the Court again issued directions to the State to appoint Honorary Wildlife Warden. *It appears that the Court was not been informed that the State of Bihar had already appointed the Honorary Wildlife Warden and had stated it in its reply.* It could however be that while details were provided for Wildlife Wardens, similar details were not provided for Honorary Wildlife Warden in each district which is the requirement of the law.

3.4.4. Settlement of rights including issuance of proclamation

The Court issued orders directing the States to indicate steps taken with regard to the settlement procedure¹⁶⁶. The State of Bihar¹⁶⁷ provided information that there are twenty one Wildlife Sanctuaries where the settlement



¹⁶² Vide Court order dated 25.03.1997

¹⁶³ Through order dated 22.08.1997

¹⁶⁴ Affidavit dated 04.09.1997

¹⁶⁵ See order dated 25.03.1997 and 07.07.1997

¹⁶⁶ Vide order dated 07.07.1997 and 22.08.1997

¹⁶⁷ Affidavit dated 04.09.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

process has not been complied with and final notification has not been issued. Letters were issued to District Collectors of respective Protected Areas directing them to expeditiously complete the statutory requirements of the WLPA for which the State also placed seventeen Assistant Conservator of Forests at the disposal of the concerned District Collectors for speedy disposal of settlement procedure so as to issue final notification and to submit a status report. Proclamations were issued for twenty Wildlife Sanctuaries. The State assured the Court that within a period of four months rights would be determined in these Sanctuaries and final notifications would be issued within a period of six months and that appropriate steps would be taken to comply with the order within the stipulated period of one year¹⁶⁸. The State submitted that the Central Government provided Rupees thirty five crores to the State Government for settlement of rights and relocation of people outside the Protected Areas.¹⁶⁹

After a lapse of nine years it was observed¹⁷⁰ by the Court that the settlement procedure was not yet completed in the State of Bihar. Also, no response was filed by the State in pursuance to the order dated 23.11.2005 demanding status of settlement procedure as on 01.11.2005. Responding to this order the State Government submitted¹⁷¹ that the Department of Environment and Forest, Government of Bihar had authorized¹⁷² the Assistant Conservator of Forests, working in the concerned forest division to assist the Collector of the districts for settlement of rights in Sanctuaries and Parks. Progress report and compliance report had been filed by the said Department. However, the State observed that there were certain ambiguities in the reports of some District Magistrates while interpretation of the provisions of the old WLPA, 1972 and the amended WLPA, 1991. Detailed clarification and instructions to all District Magistrates and Divisional Commissioners were issued by the Forest Department¹⁷³ after obtaining opinion of the Law Department. The State expressed that while assessing the status of settlement proceedings it was realized that the progress was slow at the District Magistrate level. In order to expedite the work it was decided that the power of the Collector under Section 26 of the WLPA would be delegated to the Conservators of Forests¹⁷⁴. Further, reminders were sent from time to time to the PCCF regarding settlement of rights in Sanctuaries and NPs of the State. *Note that there was no view on this new approach. Forest Department is technically a stakeholder in the process of settlement of rights and appointment of Conservator of Forest amounts to being judge in his own cause.*

3.4.5. Status of Protected Areas in Bihar

1. **Valmiki National Park:** Notifications were issued in 1976 and 1978 for an area measuring about 544.67 which was later extended to 880.28 sq. kms¹⁷⁵. Final notification was issued on 22.01.1996¹⁷⁶.
2. **Betla National Park:** Final notification was issued on 02.08.1989¹⁷⁷.
3. **Udhwa Lake Bird Sanctuary:** Notification under Section 18 has been issued. Final notification is due¹⁷⁸.
4. **Salim Ali Baraila Jheel (Bird) Sanctuary:** Notification under Section 18 has been issued. Final notification is due¹⁷⁹.
5. **Palamau Sanctuary:** Notification was issued in 1976 for an area measuring 794.33 km. Final Notification has been issued¹⁸⁰.

¹⁶⁸ Affidavit dated 06.01.1998

¹⁶⁹ Affidavit filed in February, 2001

¹⁷⁰ In the order dated 29.08.2006

¹⁷¹ In its affidavit dated 18.11.2006 in response to the order dated 22.08.1997

¹⁷² Vide notification dated 03.02.1997

¹⁷³ Vide letter dated 26.09.2002

¹⁷⁴ Vide notification dated 13.11.2003

¹⁷⁵ Affidavit dated 04.09.1997

¹⁷⁶ Affidavit dated 06.01.1998

¹⁷⁷ Affidavit dated 06.01.1998

¹⁷⁸ Affidavit dated 04.09.1997

¹⁷⁹ Affidavit dated 04.09.1997

¹⁸⁰ Affidavit dated 04.09.1997 and 06.01.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

6. **Mahuadanr (Wolf) Sanctuary:** Notification was issued in 1976 for an area measuring about 63.25 sq.kms¹⁸¹.
7. **Hazaribagh Sanctuary:** Notification was issued in 1976 for an area measuring 186.25 km¹⁸².
8. **Bhimbandh Sanctuary:** Notification was issued in 1976 for an area measuring 681.99 km¹⁸³. It is at the final stage of notification. Proclamation was issued by the Collector after rights were settled of the claimant. The Collector, Monghyr, later requested Department of Environment and Forests¹⁸⁴ to make a final notification for Bhimbandh Wildlife Sanctuary under Section 26A. However, the Railways claimed before the Department that due to some misunderstanding and lacunae in the proclamation of the Collector under Section 21, the Railways could not file their claim for their mines. The matter was examined and the Collector was intimated to reissue the proclamation¹⁸⁵. The same could not be done. In the meantime the Conservators of Forests were declared 'Collector' ¹⁸⁶ to expedite the process. In addition the proclamation and related process was challenged in the Patna High Court by way of writ CWP No. 10944/2000 which was dismissed by order dated 04.03.2004 to finally notify the Bhimbandh Wildlife Sanctuary¹⁸⁷.
9. **Dalma Sanctuary:** Notification was issued in 1976 for an area measuring 193.22 sq. km¹⁸⁸.
10. **Rajgir Sanctuary:** Notification was issued in 1978 for an area measuring 36.84 sq. km¹⁸⁹.
11. **Topchanchi Sanctuary:** Notification was issued in 1978 for an area measuring 8.75 sq. km¹⁹⁰.
12. **Lawalong Sanctuary:** Notification was issued in 1978 for an area measuring 207 sq. km¹⁹¹.
13. **Udaipur Sanctuary:** Notification was issued in 1978 for an area measuring 8.87 sq. km¹⁹².
14. **Kaimur Sanctuary:** Notification was issued in 1979 for an area measuring 1342 sq. km¹⁹³.
15. **Gautam Buddha Sanctuary:** Notification was issued in 1979 for an area measuring 259.5 sq. km¹⁹⁴.
16. **Koderma Sanctuary:** Notification was issued in 1981 for an area measuring 177.35 sq. km. It is constituted in a reserve forest as notified under the Indian Forest Act 1927 and therefore no rights exist. The boundaries of the Sanctuary are also well defined and thus desired steps are undertaken for issuing final notification¹⁹⁵.
17. **Parasnath Sanctuary:** Notification was issued in 1981 for an area measuring 49.33 sq. km¹⁹⁶.
18. **Nagi (Bird) Sanctuary:** Notification was issued in 1987 for an area measuring 1.91 sq. km¹⁹⁷. It is at the final stage of notification. This Sanctuary (sic dam) was constructed by the Water Resource Department for irrigation of vast stretch of land falling in the dry part of the State. Two big water reservoirs were created and after a few years migratory birds started coming to these dams for nesting during winter season, so the department declared these dams as Bird Sanctuaries in 1983. Later on District Magistrate, Jamui made proclamation under Section 21 and completed the process as laid down under Sections 19-25 of the WLPA, 1972. Department of Water Resources asserted its rights on the dam, reservoir and its irrigation facility. As the dam was built mainly for the providing irrigation facilities to a vast tract of agricultural land falling in a drought prone area, so the Collector allowed continuance of right of irrigation facility to the Water Department with a condition that the department would always maintain a certain water level¹⁹⁸.

¹⁸¹ Affidavit dated 04.09.1997

¹⁸² Affidavit dated 04.09.1997

¹⁸³ Affidavit dated 04.09.1997

¹⁸⁴ Vide letter dated 17.09.1998

¹⁸⁵ Vide letter-dated 26.09.2002

¹⁸⁶ Vide letter dated 13.11.2003

¹⁸⁷ Affidavit dated 18.11.2006

¹⁸⁸ Affidavit dated 04.09.1997

¹⁸⁹ Affidavit dated 04.09.1997

¹⁹⁰ Affidavit dated 04.09.1997

¹⁹¹ Affidavit dated 04.09.1997

¹⁹² Affidavit dated 04.09.1997

¹⁹³ Affidavit dated 04.09.1997

¹⁹⁴ Affidavit dated 04.09.1997

¹⁹⁵ Affidavit dated 04.09.1997 and 06.01.1998

¹⁹⁶ Affidavit dated 04.09.1997

¹⁹⁷ Affidavit dated 04.09.1997

¹⁹⁸ Affidavit dated 18.11.2006

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

19. **Natki (Bird) Sanctuary:** Notification was issued in 1987 for an area measuring 3.32 sq. km¹⁹⁹. It is at the final stage of notification. This Sanctuary was constructed along with Nagi Sanctuary by the Water Resource Department for irrigation of vast stretch of land falling in the dry part of the State. Two big water reservoirs were created and after a few years migratory birds started coming to these dams for nesting during winter season, so the department declared these dams as Bird Sanctuaries in 1983. Later on District Magistrate, Jamui made proclamation under Section 21 and completed the process as laid down under Sections 19-25 of the WLPA, 1972. Department of Water Resources asserted its rights on the dam, reservoir and its irrigation facility. As the dam was built mainly for providing irrigation facilities to a vast tract of agricultural land falling in a drought prone area, so the Collector allowed continuance of right of irrigation facility to the Water Department with a condition that the department would always maintain a certain water level²⁰⁰.
20. **Kawar Jheel (Bird) Sanctuary:** Notification was issued in 1990 for an area measuring 63.11 sq. km²⁰¹
21. **Palkot Sanctuary:** Notification was issued in 1990 for an area measuring 183.18 km length²⁰²
22. **Vikramashila Gangetic Dolphin Sanctuary:** Notification was issued in 1989 for an area measuring 50 sq. km²⁰³. Final notification was issued on 28.05.2005²⁰⁴.

3.4.6. Status of Protected Areas: Post creation of Jharkhand

The State also submitted to the Court²⁰⁵ that after bifurcation of the State on 15.11.2000, the total geographical area of the State remains 94,163 sq. km. and out of this notified forest area is 6473 sq. km. it is about 6.87 percent of the geographical area. There are eleven Wildlife Sanctuaries and a National Park along with a major zoological park at Patna. The total Protected Area constitutes around 50.77 percent of the forest area. The geographical area of the State is about 2.9 percent of the country, while population of the State is 8.1 percent of the total population of the country. The population density is 880-people/sq. km. In this way people and forest ratio is very adverse in the State. Further PCCF, Chief Conservators, Chief Wildlife Wardens were instructed to expedite the process of settlement of rights²⁰⁶. The State Government further informed that it is trying to get the process completed at the earliest and the entire process of settlement of right of the remaining PAs and that final notification shall be issued at the earliest.

3.4.7. Ban on removal of forest produce

While orders for regulating activities in the Protected Areas were passed, there were some parallel orders issued by the Court in another case called T.N. Godavarman Case²⁰⁷. This case necessarily dealt with regulating non forestry activities in the forests which included Protected Areas. The State of Bihar submitted²⁰⁸ that the Department of Environment and Forest has completely banned the removal of forest produce from the Protected Areas. The Wildlife Protection Act also provides for prior permission of the Chief Wildlife Warden for removal of forest produce from the Protected Areas²⁰⁹.

¹⁹⁹ Affidavit dated 04.09.1997

²⁰⁰ Affidavit dated 18.11.2006

²⁰¹ Affidavit dated 04.09.1997

²⁰² Affidavit dated 04.09.1997

²⁰³ Affidavit dated 04.09.1997

²⁰⁴ Affidavit dated 18.11.2006

²⁰⁵ Vide order dated 29.08.2006 in its affidavit dated 18.11.2006

²⁰⁶ Vide letter dated 09.11.2006

²⁰⁷ Civil Writ Petition No 202 of 1995

²⁰⁸ Through affidavit dated 18.11.2006 in response to the order dated 14.02.2000

²⁰⁹ Under Section 29 and Section 35(6) of the Act

3.4.8. Control over poaching: A detailed scheme formulated

In order to effectively control poaching activities in Protected Areas the Court issued orders stating that the Forest Guards should be provided with modern arms, communication facilities, viz. wireless sets and other necessary equipments in that regard²¹⁰. The State in compliance to this order²¹¹, formulated a scheme for providing arms and ammunitions along with other essential communication facilities to the Forest Guards in the Protected Areas. The Government purchased five hundred seven self loading rifles, fifty wireless handsets, equal number of binoculars, three mobile wireless sets and three jeeps for about five hundred Forest Guards of twenty one Sanctuaries and two National Parks. The scheme also included construction of strong rooms, wireless towers and ancillary facilities for this purpose. The total financial requirement was estimated about Rupees three crore fourty lakhs. However due to lack of budgetary allocation the State Government sought to meet the requirement by withdrawal of advance from State Contingency Fund. It is interesting to observe that despite the lack of assistance from the Central Government, the State of Bihar has strived to implement the scheme within the financial year. Also, arms training program for one thousand forest personnel at training centers of State's police organization has been started by the State Government.

Later, the State provided updates²¹² to the Court within a period of ten months that Rupees two hundred and two lakhs has been sanctioned to fund the scheme for purchase of five hundred seven self-loading rifles. orders were placed with the Ordinances Factory in Tamil Nadu and Verangaon, Maharashtra for supply of the ammunitions to all Forest Guards of Wildlife Sanctuaries and National Parks. The State submitted that the Minister of Home Affairs, Government of India has been requested to issue necessary statutory clearances for supply of arms²¹³. Rupees one hundred fourty one lakh and seventy eight thousand has been sanctioned by the State Government²¹⁴, for providing communication equipments and other facilities including construction of rooms and training of Forest Guards in the use of arms and communication equipment. Rupees one hundred four lakhs and seventy four thousand have been allocated to place order for five hundred seven Wireless handsets, three Mobile Wireless Station Equipments from Motorola India Ltd. and three vehicles for Dalma, Bhimbandh and Kaimur Wildlife Sanctuary. Facilities for providing training of Forest Guards have been planned in consultation with the Department of Home, Government of Bihar. Further, construction of ancillary facilities like fourty two Wireless towers and wireless rooms, fourty two strong rooms and drinking water facility at wireless stations are still under progress.

3.4.9. Registration of arms and issuance of fresh license in and around Protected Areas

The State Government directed²¹⁵ all District Magistrates and Divisional Commissioners to comply with the registration procedures as enunciated under the Act²¹⁶ with specific instructions to issue notices to licence holders of firearms residing within radius of ten km to get their registration done by the concerned Wildlife Wardens and prohibit issuance of licence for any new arms without prior permission of the Chief Wildlife Warden²¹⁷. The State Government in pursuance of the order dated 17.10.1997²¹⁸ instructed all District Magistrates, Deputy Commissioners, Divisional Commissioners and Wildlife Wardens to furnish a report on the status of registration of arms within one month²¹⁹. The State assured that upon receiving reports from the concerned State officials, compliance report would be filed

²¹⁰ Vide order dated 22.08.1997

²¹¹ As stated in the affidavit dated 06.01.1998 and 15.09.1998

²¹² Affidavit dated 05.07.1999

²¹³ Vide letter-dated 03.06.1999

²¹⁴ Vide letter-dated 26.02.1999

²¹⁵ In response to the order dated 22.08.1997

²¹⁶ Vide letter dated 10.08.1998

²¹⁷ Affidavit dated 06.01.1998 and 15.09.1998

²¹⁸ Whereby the Court demanded a short statement to be filed by States explaining various steps taken to comply with the provisions of Section 34 of the Act

²¹⁹ Vide letter dated 26.08.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

in the Court²²⁰. Later, the State submitted²²¹ that detailed progress reports have been received with regard to only two Wildlife Sanctuaries namely Valmiki and Parasnath and one National Park (Valmiki NP). In West Champaran two thousand three hundred seventy three firearm licensees have been directed to get themselves registered. In Giridih district notice has been served to one hundred twenty two firearm licensees and forty five licensees have got registered.

3.4.10. Immunization of livestock

In response to the Court's order²²² directing States to comply with the requirements of Section 33 A relating to immunization of livestock, the State of Bihar²²³ directed the Animal Husbandry Department, Wildlife Warden and other Forest Department to take appropriate steps for immunization of livestock. The State submitted that modalities and other administrative arrangements have been worked out which are necessary for the immunization process. An action plan has been prepared by Animal Husbandry Department, Forest Department for establishment of veterinary centers in the vicinity of WS/NPs. With this regard, the department has convened a meeting²²⁴ with the veterinary experts where issues relating to purchase of vaccines, fixation of number of veterinary centers on the basis livestock, requirement of survey for assessing the population of livestock within a distance of five km from the WS/NP, deputation of veterinary staff and veterinary officer etc. were put forth. The State assured to provide details of the final action plan and relevant progress made in this direction to the Court within a period of ten weeks from the order dated 17.07.1997.

3.4.11. Other unique issues on wildlife conservation measures

The State responding to the various orders issued by the Court²²⁵ provided relevant information on compliance of other provisions of the Act²²⁶.

Release of funds

The State has evolved some mechanism to release the fund like prioritizing Wildlife sector under their State plans. While making the allocation, the Central Government funding for Wildlife Conservation in the State plans to be earmarked so as to prevent its diversion for other purpose. The State Government assured the Court to make endeavors for timely release of the Central assistance to the user agency.

Filling of vacancy

With regard to filling of vacancies, clear position would be ascertained only after the bifurcation between the State of Bihar and Jharkhand would take place as most of the forest areas were shifted to Jharkhand.

Timely compensation

The State had issued instructions for timely payment of compensation to the victims within a period of three months. The State enhanced the amount of compensation for the death of the human being to Rupees one lakh.

²²⁰ Affidavit dated 15.09.1998

²²¹ Affidavit dated 05.07.1999

²²² See order dated 17.10.1997

²²³ Affidavit filed on 15.09.1998

²²⁴ Meeting convened on 10.09.1998

²²⁵ See orders dated 07.07.1997, 22.08.1997, 07.11.1997,

²²⁶ Affidavit filed in February, 2001

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Forest stations

Forest stations were introduced by the State in the Protected Area on the basis of security assessment and the interest of wildlife as part of field formation along with revival of the institutions of Mahouts for forest patrolling during the rainy season.

Sniffer dogs, strike forces and paramilitary

Sniffer dogs were deployed at the check posts for helping in detecting of the wild animals. Strike forces comprising of the armed constabulary/Central Paramilitary Force were deployed in the Protected Areas. Training of the field staff was conducted for investigation, preparation of charge sheet and follow up action for prosecution.

Training

Facilities were provided for forensic examination of the wild animals and their products within the Department or in collaboration with existing institutions. State Government has deposited Rupees two lakh fifty thousand for training of five hundred number of forest personnel with the DIG training, Hazaribagh, Bihar.

Intelligence network

An intelligence network was built up with all the District Collectors, Superintendent of Police and Home Department. Regular regional meetings of the Chief Wildlife Warden with the officials of other enforcement agencies would be conducted in order to strengthen the network.

Reward scheme

The State proposed to introduce a reward scheme based on the recovery of animal parts and products along with decorations to be awarded to the field staff showing extraordinary courage and devotion to duty. The details of the proposed scheme would be finalized and submitted by the State in next three months.



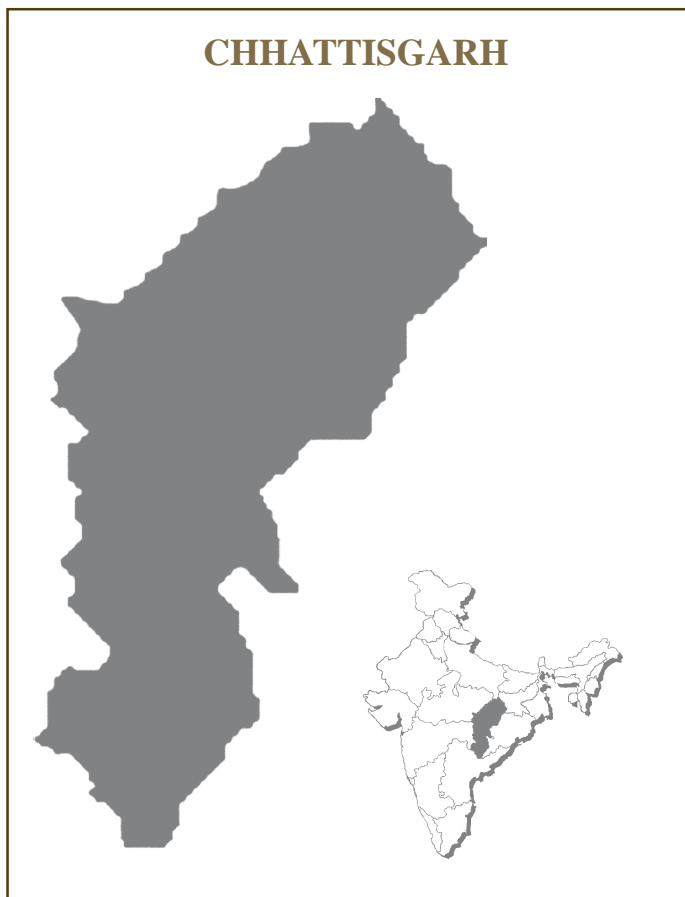
3.5. The State of Chhattisgarh

3.5.1. Introduction

It is important to note that the State of Chhattisgarh was created in the year 2000 and therefore the orders analysed are post 2000 and the erstwhile orders applicable to the whole of undivided Madhya Pradesh would be applicable to Chhattisgarh which were part of Madhya Pradesh. The State of Chhattisgarh has been formed after carving out sixteen districts from the erstwhile State of M.P. It came into existence with effect from 01.11.2000 by Madhya Pradesh Reorganization Act, 2000²²⁷

3.5.2. Status of National Parks and Sanctuaries in Chhattisgarh including settlement of rights

The State filed an affidavit²²⁸ clarifying the status of PAs in Chhattisgarh. The following NPs and Ws fall within the limits of the State. The State further submitted the status of determination of rights and settlement proceedings as on 01.11.2005²²⁹ as follows:



National Parks

1. **Indravati NP:** Dantewada district, area 1258 sq. km. Determination of rights is in progress, which was delayed due to left wing extremist's activities²³⁰.
2. **Kanger Ghati NP:** Bastar district, area 200 sq. km. Determination of rights complete and order passed by the Collector, Bastar²³¹.
3. **Guru Ghasidas NP:** Surguja and Korja district, area 1440.705 sq. km. Determination of rights completed and order passed by Collector, Surguja vide order dated 29.03.2005 and Collector, Korja Baikunthpur²³².

Sanctuaries

1. **Achankamar WS:** Bilaspur district, area 551.55 sq. km. The Collector, Bilaspur completed determination of rights and passed order dated 09.01.1997²³³
2. **Badalkhol WS:** Jashpur district, area 104.55 sq. km. Collector, Raigarh has completed determination of rights and issued order dated 31.08.1996²³⁴.

²²⁷ Affidavit dated 29.07.2002

²²⁸ Affidavit dated 29.07.2002

²²⁹ Affidavit dated 09.11.2006

²³⁰ Affidavit dated 09.11.2006

²³¹ Affidavit dated 09.11.2006

²³² Affidavit dated 09.11.2006

²³³ Affidavit dated 09.11.2006

²³⁴ Affidavit dated 09.11.2006

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

3. **Bhairamgarh WS:** Dantewada district, area 139 sq. km. Determination of rights is in progress which was delayed due to extreme naxal activities²³⁵.
4. **Barnawapara WS:** Raipur district, area 244.66 sq. km. Deemed Sanctuary under Section 66(4) of the WLPA, 1972²³⁶.
5. **Gomarda WS:** Raigarh district, area 133.38 sq. km. Determination of rights completed and order passed by the Collector, Raigarh²³⁷.
6. **Pamed WS:** Dantewada district, area 262 sq. km. Determination of rights is in progress which was delayed due to extreme naxal activities²³⁸.
7. **Semarsot WS:** Surguja district, area 430.36 sq. km. Determination of rights completed and order dated 24.03.2005 passed by Collector, Surguja²³⁹.
8. **Sitanadi WS:** Dhamtari district, area 553.36 sq. km. Determination of rights completed and order dated 16.08.2000 passed by Collector, Dhamtari²⁴⁰.
9. **Tamor Pingla WS:** Surguja district, area 608.52 sq. km. Determination of rights completed and order dated 24.03.2005 passed by Collector, Surguja²⁴¹.
10. **Udanti WS:** Raipur district, area 247.59 sq. km. Determination of rights completed and order dated 24.09.2000 passed by Collector, Raipur²⁴².
11. **Bhoramdev WS:** area 163.80 sq. km. (Formed after the State was formed)

The aforesaid NPs and WSs were earlier part of erstwhile State of Madhya Pradesh. The reply affidavit submitted by the erstwhile State of M.P. contains the details of compliance of directions issued by this Court. Affidavits dated 14.10.1997, 09.05.1998, 24.08.1998, 18.09.1998, 24.02.1999, 29.09.2000 were submitted in this context. Further the new State is also aware of its responsibility under the WLPA and the all the efforts are being made to discharge the obligations under Sections 19-25 of the WLPA. *Note that the above information has also been updated as per the affidavit filed on 09.11.2006.*

3.5.3. Diversion of National Parks and Sanctuaries in Chhattisgarh

Construction of an earthen dam for Upper Jonk Irrigation Project: Twin State concerns. *This has been dealt with in the Section on Orissa as it is a two State project.*

3.5.4. Conversion of forest villages to revenue villages

An order of the Supreme Court²⁴³ noted that the State of Chhattisgarh requires permission of the Court for conversion of forest villages into revenue villages by dereserving forests in National Park and Sanctuary²⁴⁴. Proposal for conversion of forest villages was submitted to MoEF in 2002²⁴⁵. A Committee on rationalization of boundaries of National Parks and Sanctuaries has been constituted by MoEF and guidelines for diversion proposal are under

²³⁵ Affidavit dated 09.11.2006

²³⁶ Affidavit dated 09.11.2006

²³⁷ Affidavit dated 09.11.2006

²³⁸ Affidavit dated 09.11.2006

²³⁹ Affidavit dated 09.11.2006

²⁴⁰ Affidavit dated 09.11.2006

²⁴¹ Affidavit dated 09.11.2006

²⁴² Affidavit dated 09.11.2006

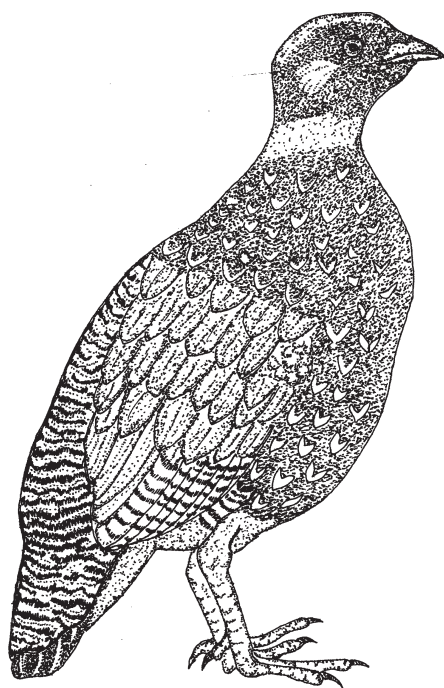
²⁴³ See order dated 16.04.2004

²⁴⁴ In I.A. No. 75

²⁴⁵ Vide letter dated 10.04.2002 and 14.04.2002

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

consideration by the said Committee. The Standing Committee would consider the proposal only after guidelines are formulated by the Committee on rationalization of boundaries of National Parks and Sanctuaries²⁴⁶. It shall also be considered by the Central Empowered Committee. The Central Empowered Committee and the Board shall independently examine and file their Reports within eight weeks²⁴⁷.



²⁴⁶ Affidavit on behalf of MoEF filed on 17.03.2006

²⁴⁷ See order dated 26.07.2005

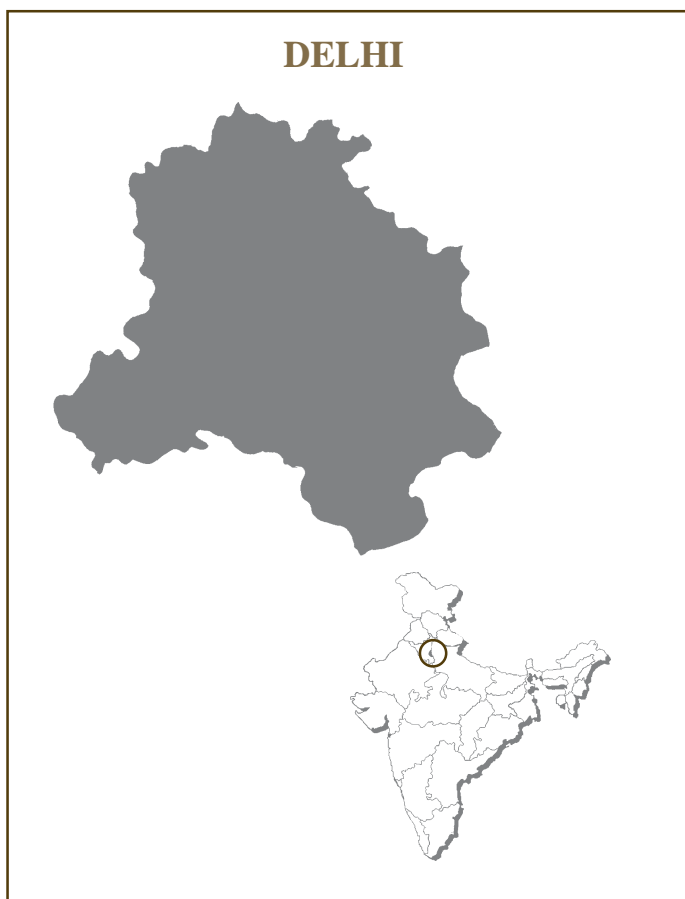
3.6. The State of Delhi

3.6.1. Introduction

There is only one Wildlife Sanctuary in the State of Delhi. Responses have been provided to matters relating to constitution of Wildlife Advisory Board, settlement of rights in the Sanctuary, registration of arms and issuance of fresh licenses. The Government of Delhi has also taken unique measures for wildlife conservation. The State of Delhi too responded to all the queries put forward by the Supreme Court as follows:

3.6.2. Constitution of the Wildlife Advisory Board

Like other States, orders were issued by the Court²⁴⁸ for constituting Wildlife Advisory Board for the State of Delhi. However, no response was filed by the State as a result of which contempt notice was issued by the Court against the State. In response to this the State submitted²⁴⁹ that the Board was duly constituted vide notification dated 17.06.1996.



3.6.3. Appointment of the Wildlife Wardens and Honorary Wildlife Wardens

No information was provided by the Delhi Government even after recurring orders were passed by the Court for appointing Wildlife Wardens including Honorary Wildlife Wardens²⁵⁰. Four weeks were granted to the State to take appropriate action in this regard²⁵¹. The State responded²⁵² that the Department of Forests and Wildlife had already initiated necessary steps for the appointment of Honorary Wildlife Warden. Directions were again issued by the Court to appoint Wildlife Wardens and Honorary Wildlife Wardens²⁵³. In response to this, the State informed that it had appointed six Honorary Wildlife Wardens vide notification dated 11.03.1998²⁵⁴. *It appears that the State Government could not differentiate between Wildlife Wardens and Honorary Wildlife Wardens and hence did not provide any information on Wildlife Wardens for the State.*

3.6.4. Settlement of rights including issuance of proclamation

Regarding settlement of rights, the State of Delhi submitted²⁵⁵ that there exists only one Wildlife Sanctuary near Tughlaqabad Shooting Range comprising of Gaon Sabha land of villages Asola, Sahoorpur, Maidangarhi and

²⁴⁸ Vide order dated 25.03.1997 and 07.07.1997

²⁴⁹ In pursuance to the order dated 07.07.1997

²⁵⁰ Orders were passed on 07.07.1997, 22.08.1997 and 17.10.1997

²⁵¹ Vide order dated 07.11.1997

²⁵² Affidavit dated 3.12.1997

²⁵³ Vide order dated 22.08.1997, 07.11.1997 and 06.01.1998

²⁵⁴ As stated in the affidavit dated 16.03.1998

²⁵⁵ In response to the order dated 07.07.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Bhatti with a total area of 6873.28 acres²⁵⁶. Notifications to include the above land into the area of Sanctuary had been issued from time to time²⁵⁷. Recurring orders were passed by the Court to the Delhi Government for issuing proclamation in the notified Protected Area²⁵⁸. The State Government in response to this order stated that the Forest Department has already initiated steps to issue proclamation of setting up of wildlife Sanctuary under Section 21 of the Act²⁵⁹. The Deputy Commissioner, who was also the Collector and Settlement Officer in respect of the notified land, was requested to expedite the matter regarding settlement of claims if any²⁶⁰. Further, the State informed that the Sanctuary land of village Shoorpur was already acquired by the Government. Proclamation under Section 21 was made for village Maidangarhi and Asola on 20.05.1988 and 12.03.1998 respectively. Some more Gaon Sabha land of village Bhatti was also declared as Sanctuary vide notification dated 15.04.1991²⁶¹. Proclamation for Bhatti village was made on 12.03.1998²⁶². The State also informed that 27.50 sq. kms area declared as Wildlife Sanctuary was a reserved forest in 1994 under the provisions of Indian Forest Act, 1927. The Forest Settlement Officer was authorized to settle rights and claims in accordance with provisions of Indian Forest Act²⁶³.

3.6.5. Registration of arms and issuance of fresh licenses

The State of Delhi failed to comply with the Court's orders for providing requisite information about registration of arms²⁶⁴. It was only when the Court threatened to initiate contempt proceedings against the State that it responded to the order. The State submitted²⁶⁵ that a letter was written to the Deputy Commissioner of Police informing him about the said provision, so that details of arms licences sanctioned in the area could be provided by him and accordingly registration of arms could be done with the Chief Wildlife Warden. The Deputy Commissioner was also instructed not to sanction any fresh licence without Chief Wildlife Warden's consent. By the order dated 17.07.1998 directions were issued by the Court for framing rules for the registration process. In response to this order the State submitted that the Deputy Commissioner of Police was authorized to ensure registration of all firearms licences granted to persons residing within the radius of ten km from Wildlife Sanctuaries and National Parks and to prevent issuance of new licence within that area without prior concurrence of Chief Wildlife Warden. *It appears from the response that no rules were formulated by the State for the registration process.*

3.6.6. Immunization of livestock

Under Section 33(A) of the Wildlife Protection Act there is a mandatory requirement that all livestock in and around the National Park and Sanctuary should be immunized. Accordingly, the State submitted²⁶⁶ that Chief Wildlife Warden had taken necessary steps for immunization against communicable diseases of livestock kept in and within five km. radius of the Sanctuary. A letter was written to the Director, Animal Husbandry to intimate the frequency of time the various livestock were required to be immunized against various diseases so that necessary rules could be framed by the Delhi Government. Further, the State informed²⁶⁷ that the Department of Animal Husbandry had established three veterinary centers in the vicinity of Sanctuaries for effective immunization of livestock against the communicable diseases within the radius of five km.

²⁵⁶ Vide notification dated 09.10.1986

²⁵⁷ As stated in its affidavit filed in August 1997

²⁵⁸ See order dated 22.08.1997 and 17.10.1997

²⁵⁹ In accordance to the order dated 07.11.1997

²⁶⁰ Affidavit dated 03.12.1997

²⁶¹ It is important to note that there is no provision under the WLPA for addition of area. Thus the new notification technically has set up another Sanctuary in Delhi in the same area.

²⁶² Affidavit dated 16.03.1998

²⁶³ Affidavit dated 20.03.2001

²⁶⁴ Vide order dated 22.08.1997, 07.11.1997 and 16.01.1998

²⁶⁵ Affidavit filed in 1998 [date not specified] in response to the order dated 20.03.1998

²⁶⁶ As per affidavit filed in 1998 [date not specified] in response to order dated 20.03.1998

²⁶⁷ In response to the order dated 17.07.1998

3.6.7. Other unique issues on wildlife conservation measures

The State of Delhi has also undertaken certain measures for wildlife protection under the directions of the Court²⁶⁸. These are as follows:

Appointment of additional police force

Additional police force was appointed by the State for handling cases under Wildlife Protection Act²⁶⁹.

Secret Funds to reward informers

As per the recommendations of the National Wildlife Board the State allocated secret funds to reward informers. Setting up of legal cells to pursue wildlife offences and State Level Coordination Committee are under consideration²⁷⁰.

Tiger population

The State informed the Court that except Neelgai found in remnants of original ridge flora in Delhi there were no tigers in the National Capital Territory. The State also informed that the total geographical area of Delhi is 1483 sq. km. out of which approximately 77.84 sq. km. was declared as Reserved Forests vide notification dated 02.05.1994 and 19.03.1996. The Wildlife Sanctuary was declared out of this reserve forest of an area measuring about 27.50 sq. km. vide notification dated 09.10.1986 and 15.04.1991²⁷¹.

Release of funds

The State Government allocated funds for approved plan and non plan schemes for Forests and Wildlife. No funds were sought by the State under Centrally Sponsored Schemes of Government of India²⁷².

Vacant post, compensation, training, legal powers of forest staff

For the management of Wildlife Sanctuary the State has three Deputy Rangers, ten Forest Guards, one hundred ten labourers and one Deputy Conservator of Forests. These were filled accordingly. Further, it informed that the wildlife section was being managed by one Senior Wildlife Inspector, five Wildlife Inspectors, one Game Inspector and about ten Wildlife Guards and Game Watchers²⁷³.

Payment of compensation

There were no cases reported for payment of compensation²⁷⁴.

Field organization

A proposal was being considered by the Government of National Capital Territory regarding organization of field formation in the forest department²⁷⁵.

Awareness about wildlife and forensic examination

The State submitted that suggestion for distribution of material in vernacular language would be complied with and forensic examination services would be availed from neighbouring States as and when the need arises²⁷⁶.

²⁶⁸ Vide order dated 07.07.1997 and 20.04.2000

²⁶⁹ Affidavit filed in August, 1997

²⁷⁰ Affidavit filed in August, 1997

²⁷¹ Affidavit dated 20.03.2001

²⁷² Affidavit dated 20.03.2001

²⁷³ Affidavit dated 20.03.2001

²⁷⁴ Affidavit dated 20.03.2001

²⁷⁵ Affidavit dated 20.03.2001

²⁷⁶ Affidavit dated 20.03.2001

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Amendment to the Wildlife Protection Act

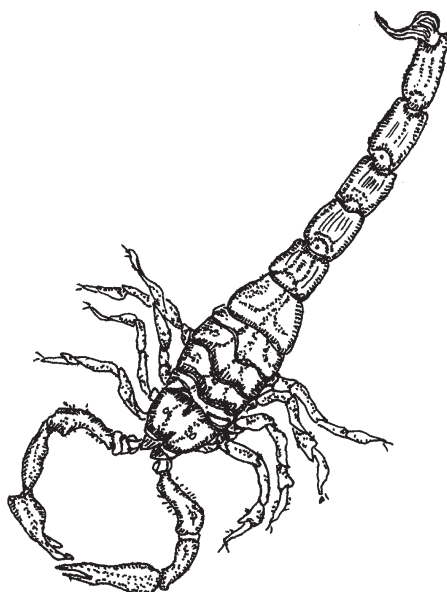
The Delhi Government stated that it would consider the proposed amendments to the Act as and when these are sent²⁷⁷.

Intelligence networking

Information about the illicit wildlife activities would be brought into existing local intelligences unit by the State²⁷⁸.

Incentives

Incentives availed by police personnel working in the Central police organizations like BSF, CISF, ITBF, etc. in remote, inaccessible, hostile terrain would be made available for the forest executive staff²⁷⁹.



²⁷⁷ Affidavit dated 20.03.2001

²⁷⁸ Affidavit dated 20.03.2001

²⁷⁹ Affidavit dated 20.03.2001

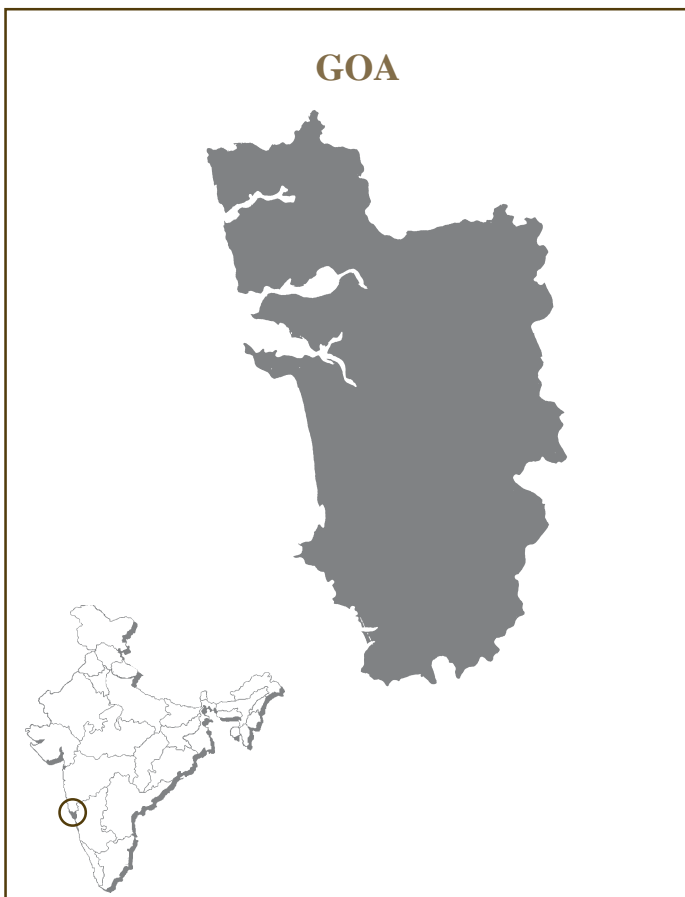
3.7. The State of Goa

3.7.1. Introduction

The State of Goa seems to have been silent for a long time in this case. It is only in September of 1997 that it first stated its position on this case.

3.7.2. Constitution of Wildlife Advisory Board: Till contempt is issued

The State informed²⁸⁰ the Court that consequent upon the enforcement of the WLPA, 1972 and that the administrator of the UT of Goa, Daman and Diu constituted the Board. It has been meeting regularly and vacancies have been filled up from time to time. However, the tenure of the present Board expired in April, 1997 and a new Board is being constituted by the Government. Further the Court noted that the Wildlife Advisory Board has not yet been constituted²⁸¹ and two weeks were sought by their counsel for its constitution. In response to the contempt notice, the State informed that instantaneous steps have been taken to have a new Wildlife Advisory Board and a notification was also published in this regard²⁸². Another affidavit informed that the Board has been reconstituted vide notification dated 07.11.1997²⁸³.



3.7.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens: No confusion here!

The State informed²⁸⁴ that the Government appointed the Conservator of Forests of the Government of Goa as the Chief Wildlife Warden²⁸⁵ in 1978 and all the Deputy Conservators of Forests and DFOs have been declared as Wildlife Wardens way back in 1974²⁸⁶. Two Wildlife Wardens (this should read as Honorary) had been appointed for North Goa district in 1987²⁸⁷, one has since resigned and in 1997 one Honorary Wildlife Warden has been appointed for South Goa Division²⁸⁸. This position was reiterated in September 1997²⁸⁹. *It is heartening to note that the State of Goa correctly understood the order of the Supreme Court and gave correct information as per the Act.* It was further informed that the Government of Goa has appointed ten HWWs in 2000²⁹⁰.

²⁸⁰ Affidavit dated 24.09.1997

²⁸¹ See order dated 07.11.1997

²⁸² Affidavit dated 30.09.1997

²⁸³ Affidavit filed in January, 1998

²⁸⁴ *ibid*

²⁸⁵ Vide notification dated 20.01.1978

²⁸⁶ Vide notification dated 30.09.1974

²⁸⁷ Vide notification dated 04.12.1987

²⁸⁸ Vide notification dated 29.08.1997

²⁸⁹ Affidavit dated 30.09.1997

²⁹⁰ Vide notification dated 03.01.2000 published in Gazette dated 29.10.2000 and see Status Report dated 24.03.2001

3.7.4. Settlement of rights: Detailed status given for each Protected Area category including proclamation notification

- a. Mollem Wildlife Sanctuary:** (Area 133 sq. km²⁹¹) had been notified in 1967²⁹² prior to the enforcement of the Wildlife Protection Act by the then UT of Goa, Daman and Diu. It was renotified in 1982²⁹³ under the Act. It was renamed as Bhagwan Mahavir Wildlife Sanctuary in 1984²⁹⁴. Proclamation dated 16.03.1984 under Section 21 of the Act was issued. Thereafter Government excluded certain areas from the limits of the Sanctuary²⁹⁵. 7974.25 ha. of private property, situated within the limits of the aforesaid Sanctuary has been acquired. Another area to the extent of 537.50 ha of private area situated within the limits of the Sanctuary is proposed to be acquired in a phased manner. Proposal to exclude private lands situated in the periphery of the Sanctuary to the extent of 1659.17.25 ha has already been approved by the Government and will be processed in accordance with order dated 22.08.1997. The State Wildlife Advisory Board has approved the proposal on 26.02.1997, to rehabilitate one village, of about ten houses, to the extent of 69.00 ha outside the Sanctuary. However, it was informed²⁹⁶ that Supreme Court interim orders directed that any exclusion of private area from the limits of Sanctuary should be approved by Member Secretary, Indian Board for Wildlife. Consequently for Bhagwan Mahavir WS, the exclusion of 16.59 sq km, the proposal was sent to the Member Secretary, Indian Board for Wildlife in 1997²⁹⁷. The FSO has been appointed to settle the rights and claims in WS. *Note that for Protected Areas, the law provides for settlement officers and not FSO which is actually a requirement under the Indian Forest Act.* The statement form shows the claims received and position etc. Another affidavit²⁹⁸ stated that the forest area involved for proposed exclusion is 297 ha. The proposal has been sent to Indian Board for Wildlife for approval and only if not approved then the area has to be acquired for an approximate cost of Rupees four hundred ten lakhs. The same is not readily available in financial department therefore Central assistance is required for acquisition, for proper management of wildlife and its habitat. It was further informed²⁹⁹ that the proposal for exclusion submitted to Indian Board for Wildlife has not yet been cleared.
- b. Mollem National Park:** The administrator of the UT of Goa, Daman and Diu notified a part of the aforesaid Sanctuary viz. an area comprising of 107 sq. km as a National Park in 1978³⁰⁰. Another affidavit³⁰¹ however states that the intention to constitute Mollem NP covering an area of 107 sq. km. in Sanguem Taluka was notified dated 13.12.1978 and published in official Gazette dated 20.04.1978. The said park forms the part of the Bhagwan Mahavir WS for which proclamation has already been issued on 16.03.1984. Proclamation dated 23.02.1998 under Section 21 of WLPA has been issued for Mollem NP³⁰². The Forest Settlement Officer has started settling the claims for the entire area of Bhagwan Mahavir WS. Some of the private areas in the NP have already been acquired by the FSO and the process for acquiring other areas and settling of claims is on. Action, on priority, has also been initiated under Section 26 for issue of notification by the State Government for the NP separately³⁰³. It was further informed³⁰⁴ that FSO has been appointed for settlement of rights and claims. The total private area acquired for various Sanctuaries and financial liability for acquisition of land and rights has been furnished.

²⁹¹ Affidavit dated 17.02.1998

²⁹² Vide notification dated 28.12.1967

²⁹³ Vide notification dated 27.09.1982

²⁹⁴ Vide notification dated 14.03.1984

²⁹⁵ Vide notification dated 06.09.1985

²⁹⁶ Affidavit filed dated 04.09.1998

²⁹⁷ Vide letter dated 09.10.1997.

²⁹⁸ Affidavit filed dated 04.09.1998

²⁹⁹ Affidavit dated 01.06.1999

³⁰⁰ Vide notification dated 13.04.1978,

³⁰¹ Affidavit filed dated 10.03.1998

³⁰² Affidavit filed dated 10.03.1998

³⁰³ Affidavit dated 17.02.1998

³⁰⁴ Affidavit filed dated 04.09.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

- c. **Cotigao Wildlife Sanctuary:** (Area 85 sq. km³⁰⁵). Notified in 1968³⁰⁶. After the enforcement of the Wildlife (Protection) Act, 1972 proclamation has been issued in 1979³⁰⁷ by the Collector. An area of 12.4 sq. km. was excluded in 1993³⁰⁸ from the limits of Cotigao Wildlife Sanctuary. A rehabilitation scheme for the 34 families residing within the limits of Cotigao Wildlife Sanctuary has been worked out and is being implemented. It was further informed³⁰⁹ that the process of rehabilitation is not yet complete.
- d. **Bondla Wildlife Sanctuary:** An area of 7.95 sq. km. was declared in 1969³¹⁰. There are no rights to be settled with regard to this Sanctuary. However, it was also informed³¹¹ that proclamation was issued on 03.03.1979. Settlement of rights and claims was being settled by the Forest Settlement Officer and final demarcation work was in progress. On completion, the FSO will inspect demarcation and issue final notification³¹². The State further informed³¹³ that final demarcation is not yet done and the same will be done and final notification will be issued within the time sought.
- e. **Dr. Salim Ali Bird Sanctuary:** An area of 1.78 sq. km. at Chorao Island was notified as a Sanctuary in 1988³¹⁴. There are no rights of any person over this land. Prior to declaration, the Government had acquired this land, pursuant to which it was notified as a Reserved Forest as per the Indian Forest Act, 1927. However, it was also informed³¹⁵ that proclamation was issued on 10.11.1989. The final notification under Section 26A was issued on 02.03.1998³¹⁶.

The cost for acquiring the total acquisition of land with regard to all Sanctuaries in State of Goa has been placed before the Court vide affidavit dated 21.03.2001. Another affidavit³¹⁷ was filed giving details of the status of determination of rights and acquisition of land as follows:

Bhagwan Mahavir Wildlife Sanctuary:

Total claims received = 1766

Claims settled = 32

Area acquired = 75.09 ha in Dongurlim Village

Compensation paid = Rs 54, 83,235/-.

Government of Goa has provided Rupees fifty lakh for acquisition of land in Nandran Village of Mollem NP / Bhagwan Mahavir WS

Further the work of acquisition in progress.

Cotigao Wildlife Sanctuary:

Till date claims received = 273.

Determination of rights in progress

It was further provided in an affidavit³¹⁸ that there are six Sanctuaries and one NP of which two Sanctuaries namely Madai and Netravali are notified in the year 1999. Notification status has been provided.

³⁰⁵ Affidavit dated 17.02.1998

³⁰⁶ Vide notification dated 18.01.1968

³⁰⁷ Dated 03.03.1979

³⁰⁸ Notification dated 30.06.1993

³⁰⁹ Affidavit dated 01.06.1999

³¹⁰ Vide notification dated 22.03.1969

³¹¹ Affidavit dated 17.02.1998

³¹² Affidavit filed dated 04.09.1998

³¹³ Affidavit dated 01.06.1999

³¹⁴ Vide notification dated 16.12.1988

³¹⁵ Affidavit dated 17.02.1998

³¹⁶ Affidavit filed dated 04.09.1998

³¹⁷ Status Report dated 24.03.2001

³¹⁸ Affidavit dated 02.01.2006

3.7.5. Rationalisation of two new Wildlife Sanctuaries: Mining an excuse?

The State of Goa sought permission³¹⁹ to rationalize two new Wildlife Sanctuaries namely Madei and Netravali Sanctuaries. Declaration was issued by the Government of Goa in 1999. However, sociological implications in relation to these Sanctuaries were not considered by the concerned authorities as large numbers of people were affected. Thus an Expert Committee headed by Dr. H.Y. Karapurkar was appointed by the Government which recommended exclusion of areas covered under Section 18 of WLPA which deals with only intention of the Government to declare any area as Wildlife Sanctuary and not those finally declared under Section 26A of the said Act.

The State of Goa further submitted³²⁰ that when in 1999 notifications were issued for the two new Sanctuaries namely Madei and Netravali, the notifications were issued under two sections of the WLPA i.e.

- a) Section 26-A to cover Reserved Forest Areas which is the final notification
- b) Section 18 i.e. the Government's intention to cover areas not declared as Reserved Forest.

In order to revise the notifications under Section 18 of the Act for the areas to be included in the two Sanctuaries prior permission of the Court is required. This application was opposed by the petitioner³²¹ on the basis that the State was favouring mining companies. Further that the notifications under Section 18 were issued properly after complete and thorough study. This was confirmed when the State submitted³²² that mining operations were stopped in the Sanctuary and that out of ten only three mines were approved for working for ten years by the MoEF in 1995 under the Forest Conservation Act 1980.

3.7.6. Implementation of Wildlife Protection Act

The WLPA, 1972 was enforced in UT of Goa, Daman and Diu with effect from 16.07.1973³²³.

3.7.7. Immunization of livestock

In response to an order dated 20.03.1998 regarding immunization of livestock the Government of Goa informed³²⁴ that action has been taken as per Section 33A of the WLPA to immunize livestock in an around the NPs and WLS. Vaccination under Rinder pest disease has been discontinued since, January 1998 in pursuance of directives of the Ministry of Agriculture, Department of Animal Husbandry and Dairying, New Delhi as informed by Director of Animal Husbandry and Veterinary Services, Goa indicating that the State has been declared free from the said disease. Vaccination of livestock of Goa within five kms from Sanctuaries and National Parks regarding other communicable diseases is being carried out regularly under the scheme

- 1 Veterinary Hospitals Dispensaries and Control of Epizootics
- 2 Animal Health Cover and breeding under Western Ghat Development Program.

The State further informed³²⁵ that it has established various Veterinary Dispensaries/key village sub center in the vicinity of WLS/NPs. There are fourteen sub centers who carry out the vaccination program against the contagious

³¹⁹ Through I.A. No. 24

³²⁰ In I.A. No. 26- Additional grounds were submitted by the State of Goa for seeking permission for diversion as stated in I.A. No. 24

³²¹ Counter affidavit was filed on 31.10.2003

³²² In accordance to the Court's order on 07.11.2003 to file rejoinder affidavit

³²³ Affidavit filed in January, 1998

³²⁴ Affidavit dated 15.05.1998

³²⁵ Affidavit filed dated 04.09.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

diseases under the Scheme "Veterinary Services and Animal Health" in the vicinity of WSs/NPs. Directorate of Animal Husbandry and Veterinary Services has also furnished locations of these sub centers³²⁶.

- Mollem NP does not have sub center as it is situated in the core area of Bhagwan Mahavir WS and a sub center exist for Sanctuary, which meets the requirement of the NP also.
- Salim Ali Bird Sanctuary = No stress for immunization as there is no palatable grass and there is no access to cattle as creek envelops the Sanctuary³²⁷.
- Bhagwan Mahavir WS. Immunization is done³²⁸.
- Bondla WS, Bhagwan Mahavir WS are served by the veterinary officer Mollem³²⁹.
- Cotigao WS cattle's are immunized³³⁰.

The Government of Goa informed the Court³³¹ that in Bondla Wildlife Sanctuary, Bhagwan Mahavir Wildlife Sanctuary, Salim Ali Bird Sanctuary and Cotigao Wildlife Sanctuary hundred percent immunization has been achieved.

3.7.8. Registration of firearms

As regards registration of firearms required by the above order the Government informed³³² that due action has been taken and all one hundred eighty nine individuals have registered their arms with CWLW as per Section 34 of the WLP. There was further information³³³ that registration of arms within ten km by the Police Authorities was been carried out as regards Dr. Salim Ali Bird and Bondla WS. The State Government has also framed rules i.e. Goa, Daman and Diu Wildlife (Protection) Rules, 1977. As contemplated under Section 34 of WLP and rule 52, concerned officials were directed to complete the process of registration of arms within four months.

Further information was sought about firearms licences holders around Bondla WS, Mollem WS, Cotigao WS as sought by the Collectors. The Collector is informed that no new licence can be issued within ten km without the concurrence of CWLW³³⁴.

3.7.9. Control over poaching: Wireless, arms and ammunition etc.

With regard to directions issued on 22.08.1997, the State informed³³⁵ that the forest department is having (sic) firearms which are provided to various officials of NPs/WSs who are entrusted to protect Wildlife from poaching. CWLW of State sent a letter dated 01.07.1998 to Director of General of Ordinance factory which indicates the firearms made available to them. A budget provision of Rupees fifty thousand has been made for acquisition of firearms and necessary orders have been placed³³⁶. Arms will also be acquired from Custom Authority depending on the availability. The Department has set up wireless with eleven Base stations; two Repeater stations; ten fixed Mobile sets and fourteen Mobile hands sets.

3.7.10. Wireless networking

Some of wireless sets have become redundant and to modernize them the State Government has taken up the matter and cost involved is Rupees thirteen lakhs fourty eight thousand. Rupees five lakhs under Centrally Sponsored

³²⁶ Letter dated 29.08.1998

³²⁷ Affidavit dated 01.06.1999

³²⁸ Affidavit dated 01.06.1999

³²⁹ Affidavit dated 01.06.1999

³³⁰ Affidavit dated 01.06.1999

³³¹ Status Report dated 24.03.2001

³³² Affidavit dated 15.05.1998

³³³ Affidavit filed dated 04.09.1998

³³⁴ Affidavit dated 01.06.1999

³³⁵ Affidavit filed dated 04.09.1998

³³⁶ Government Ordinance Factory, Ishapur, Calcutta as per Affidavit dated 01.06.1999

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Scheme "Assistances for Development of Bhagwan Mahavir NP" can be arranged. Further the amount will be revised in 1998-99 depending on the savings of various departments. The existing wireless system is in working condition and the repair has been entrusted to M/s Agencia Electronic. MoEF has sanctioned money for the same on 09.02.1999³³⁷.

The Government further informed³³⁸ that the Ministry of Communication (GOI) Department of Telecommunication (WPC Wing) has issued a provisional licence vide letter dated 31.10.2000. Operational licence will be obtained after the payment of licence fee of Rupees three thousand six hundred and Royalty of Rupees eighty four thousand. Under Centrally Sponsored Schemes, an amount of Rupees seven lakhs fifty five thousand is released to strength and expand the existing wireless network.

3.7.11. Improving mobility

Further, the MoEF vide letter dated 31.08.1998 has asked the requirement of vehicles for Protected Areas in Department. One Vehicle each for three Sanctuaries and one Boat have been requisitioned. Another affidavit³³⁹ highlighted in detail the action taken to improve mobility as follows:

- Bondla Wildlife Sanctuary- one Tatamobile crew cabin van and one motorcycle have been provided.
 - Bhagwan Mahavir WS/Mollem NP- one Jeep and one motorcycle provided
 - Madei Wildlife Sanctuary- two motorcycles provided
- The GOI has provided the funds and the vehicles will be procured within a month. One Jeep will be procured with two months.
- For Netravalli Wildlife Sanctuary, two motorcycles under CSS will be procured within two months.
 - Cotigao Wildlife Sanctuary- one jeep is already provided.

3.7.12. Some other wildlife concerns and measures

An affidavit³⁴⁰ was filed highlighting some of the other wildlife concerns and measures from the perspective of the Government of Goa.

Tiger Reserve and Illicit trade in its part

The State of Goa does not have a high tiger population. There is no illicit trade which is carried out with regard to tiger skin, bones etc, Goa may be the transit point for such trade.

Release of funds

There is some delay in releasing of funds from the State Government's side as it requires sanction from the Central Government

Vacant post/training

Vacant post may be counted in single digits and the Government is taking steps to fill them within six months. Additional post has also been created for the proper management of the Forest and Protected Areas. The forest officers require training to handle the sophisticated weapons.

Intelligence networking

It is agreed that inter State and intra State networking is required. The illicit activities should be brought within the purview of local intelligences units. A proposal to this effect has been moved by the State Government.

³³⁷ Affidavit dated 01.06.1999

³³⁸ Status Report dated 24.03.2001

³³⁹ Status Report dated 24.03.2001

³⁴⁰ Affidavit dated 21.03.2001

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Timely payment of compensation

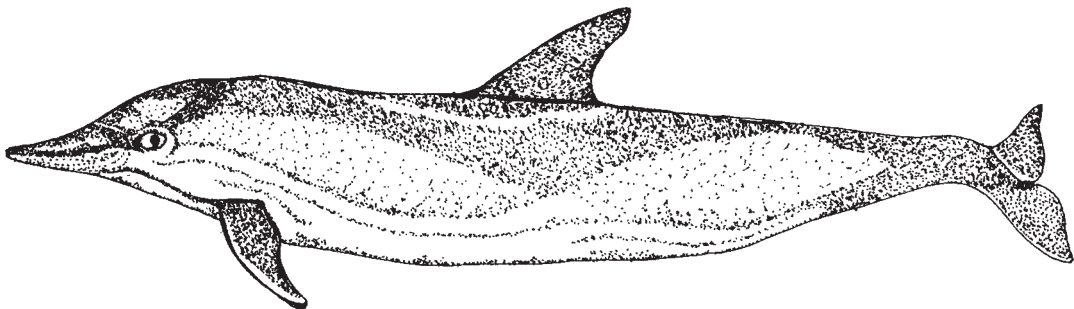
The policy and guidelines for the payment of compensation with respect to human deaths and injuries caused by wild animals in State of Goa is at drafting stage. These guidelines are to ensure that expeditious payment is carried out. Proposal for compensation for death or accidents occurring in the execution of duties are at the drafting stage and will be processed soon. A reward scheme based on recovery of animal parts and products along with decorations that could be awarded to the field staff showing extraordinary courage and devotion to duty is also being drafted by the State Government.

Forest stations

The feasibility of forest stations is been carried on and action will be taken soon. Tiger poaching is not a problem and the formation of the strike force is not immediately required. There is no problem of inaccessible areas in the State of Goa. The proposal is in drafting stage to check the unnecessary harassment of forest staff in their legitimate discharge of duty.

Arms and ammunition

An order dated 05.10.2000 is published in official gazette, to give adequate protection to the staff that have to use firearms. Adequate training is been provided to the staff to handle modern arms, refresher courses are also used to timely update the staff in collaboration with the police. The Forest staff is well acquainted with the English language so there is no need to distribute the material in vernacular language. The Department will take help of the Police and Wildlife Institute of India for forensic examination of wild animals and their products as the State Department is too small for starting its own institute. It was further informed³⁴¹ that pistols have been procured from the Rifles factory at Ishapore and have been allotted to various forest officers along with the ammunition. The Government has empowered the forest personnel to use the firearms in 2000³⁴².



³⁴¹ Status Report dated 24.03.2001

³⁴² Vide notification dated 05.10.2000 published in Gazette dated 19.10.2000

3.8. The State of Gujarat

3.8.1. Introduction

The State of Gujarat has been silent despite several orders in this case³⁴³. Finally an affidavit was filed in August 1997 where it informed regarding several compliance questions such as the Constitution of Wildlife Advisory Board, appointment of Wildlife Warden, and settlement of rights among other things.

3.8.2. Constitution of Wildlife Advisory Board

The State vide an affidavit³⁴⁴ informed the Court that the Board was constituted on 11.09.1974. The Board consisted of both official and non official members. Tenure of official members by designation was co-terminus with the tenure of their office. Tenure of the non official members was for three years. Vacancies were filled as and when arose. The Board has been reconstituted from time to time and it was last reconstituted on 21.02.1994. The question of replacing non official members, whose tenure expired on 20.02.1997, is under consideration. The State further sought time of one month to appoint non official members³⁴⁵. The land was finally reconstituted vide notification dated 11.11.1997 for a tenure of three years³⁴⁶.



3.8.3. Wildlife Wardens and Chief Wildlife Wardens and Honorary Wildlife Wardens

As regards Wildlife Wardens it informed that through a memo³⁴⁷ in 1978, the Government of Gujarat had delegated the powers for performing the duties under the Wildlife Protection Act in their respective jurisdictions to the Chief Wildlife Wardens and Wildlife Wardens³⁴⁸. The Gujarat Government finally appointed the Honorary Wildlife Wardens in nineteen districts out of total of twenty five districts vide notification dated 18.11.1997. Finally vide Notification dated 20.11.1997, the Honorary Wildlife Wardens were appointed in the remaining six districts³⁴⁹.

3.8.4. Implementation of the Wildlife Protection Act

The Wildlife Protection Act, 1972 came into effect in the State with effect from 01.02.1973. After the enactment of the Wildlife Protection Act, there has been a complete ban on hunting in the State. Further under Sections 18-

³⁴³ Thus for example there has been no response on orders till 25.03.1997

³⁴⁴ Affidavit dated 20.08.1997

³⁴⁵ See order dated 07.11.1997

³⁴⁶ Affidavit dated 15.11.1997

³⁴⁷ Memo dated 30.09.1978

³⁴⁸ Affidavit dated 20.08.1997

³⁴⁹ Affidavit dated 24.11.1997

25 read with Section 35 of the Wildlife Protection Act four National Parks and twenty one Sanctuaries have been constituted in the State³⁵⁰.

3.8.5. Settlement of rights including issuance of proclamation

It is worth noting that the State of Gujarat had no response to two significant orders on settlement of rights dated 22.08.1997 as well as summary response to the Court orders thus far (order dated 17.10.1997). Finally, it stated through an affidavit in November 1997³⁵¹ that the State is taking active measures to comply with the directions of the order dated 22.08.1997. The State informed that four National Parks and twenty one Sanctuaries have been constituted. The Court observed that even though initial notifications were issued for these National Parks and Sanctuaries, the nature of the notifications were not disclosed by the State. It was not clear to the Court whether proclamation under Section 21 were issued in respect of the National Parks and the Sanctuaries. Last opportunity was granted by the Court to the State to take requisite steps to issue proclamation³⁵². The State submitted that the procedures laid down under the Act³⁵³ were adopted for setting up four National Parks and twenty one Wildlife Sanctuaries. It also informed that the policy adopted by the State aims at preserving wildlife and that the biodiversity in these Protected Areas were not adverse due to minimum biotic interference. The State in addition provided a detailed list explaining the status of the National Parks and Sanctuaries³⁵⁴. Another order was passed by the Court directing the State Government to provide status report with regard to determination of rights and acquisition of land. In its reply the State submitted³⁵⁵ that the settlement process was under progress. It expressed to the Court that the quasi judicial procedure of hearing claims was time consuming. Hence, the State sought for more time for completing its settlement process. It also assured the Court that the settlement of rights was dealt at a rapid pace³⁵⁶. The exact status of the PAs is as follows:

3.8.6. Status of Protected Areas

There are four National Parks and twenty one Sanctuaries in the State³⁵⁷.

1. **Gir Wildlife Sanctuary:** Preliminary notification was issued on 18.09.1965 in Judagadh district and 16.01.1974 in Amreli district.
2. **Nal Sarovar Bird Sanctuary:** Preliminary notification was issued on 08.04.1969 in Ahmedabad district and 27.12.1982 in Surendranagar district.
3. **Wild Ass Sanctuary:** Preliminary notification was issued on 12.01.1973 and 13.01.1978 in Little Rann of Kutchh.
4. **Khijadia Bird Sanctuary:** Preliminary notification was issued on 27.05.1981 and 06.11.1982.
5. **Jessore Siyth Bear Sanctuary:** Preliminary notification was issued on 06.05.1978.
6. **Barda Wildlife Sanctuary:** Preliminary notification was issued on 12.02.1979.
7. **Hingolghadh Wildlife Sanctuary:** Preliminary notification was issued on 29.08.1980.
8. **Narayan Sarovar Chinkara Sanctuary:** Preliminary notification was issued on 14.04.1981 and part of the area was denotified on 09.08.1995.

³⁵⁰ ibid

³⁵¹ Affidavit dated 15.11.1997

³⁵² Vide order dated 16.01.1998

³⁵³ As per Section 18-25 read with Section 35 of the Wildlife (Protection) Act

³⁵⁴ Affidavit filed dated 11.03.1998

³⁵⁵ In its affidavit dated 13.08.1998

³⁵⁶ Affidavit dated 09.02.2001

³⁵⁷ Affidavit dated August, 1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

9. **Ratanmahal Sloth Bear Sanctuary:** Preliminary notification was issued on 19.03.1982.
10. **Shoolpaneshwar Wildlife Sanctuary:** Preliminary notification was issued on 20.09.1982, 16.02.1987 and 09.08.1989.
11. **Marine Sanctuary:** Preliminary notification was issued on 12.08.1980 and 20.07.1982.
12. **Kachchh Desert Wildlife Sanctuary:** Preliminary notification was issued on 28.02.1986.
13. **Porbandar Bird Sanctuary:** Preliminary notification was issued on 03.11.1968.
14. **Gaga Wildlife Sanctuary:** Preliminary notification was issued on 24.11.1988.
15. **Rampara Wildlife Sanctuary:** Preliminary notification was issued on 18.11.1988.
16. **Thol Lake Wildlife Sanctuary:** Preliminary notification was issued on 18.11.1988.
17. **Paniya Wildlife Sanctuary:** Preliminary notification was issued on 16.06.1989.
18. **Balaram Ambaji Wildlife Sanctuary:** Preliminary notification was issued on 07.08.1989.
19. **Jambugadha Wildlife Sanctuary:** Preliminary notification was issued on 22.05.1990.
20. **Purna Wildlife Sanctuary:** Preliminary notification was issued on 21.07.1990.
21. **Kachchh Bustard Sanctuary:** Preliminary notification was issued on 04.07.1992.

It is pertinent to mention that there were no further replies filed by the State with regard to settlement process. This necessarily implies that final notifications have not been issued by the State in these Protected Areas.

3.8.7. Immunization of livestock

By order dated 20.03.1998 the Court had directed the State to immunize its livestock in and around the Protected Areas. However, no response was filed by the State. The Court reiterated the order and granted two months time for the State to take effective steps for immunizing its livestock. The State informed the Court that immunization of livestock was done as and when required. It also stated that there were no epidemics reported in the wild animals in the past two decades. The State had ensured strict grazing regulations and total ban of livestock in Sanctuaries and National Parks for minimizing possibility of any disease taking the shape of epidemic. It also informed that the State has a well established network of animal health care centers/Veterinary Centers/Dispensaries whose services are used for immunization programs. The State further submitted that immunization of livestock was not required in Porbandar Bird Sanctuary, Gaga Bird Sanctuary and Khijadiya Bird Sanctuary as the possibility of spread of disease through livestock vector to wild birds was very rare³⁵⁸.

3.8.8. Registration of firearms

Section 34 of the Wildlife Protection Act provides for registration of all firearms within the Protected Areas and ten km from the boundary of such areas. The Act also prohibits issuance of any fresh arms licences within a radius of ten km of a Sanctuary without prior approval of the Chief Wildlife Warden. The State Government in response to

³⁵⁸ Affidavit dated 13.08.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

the Court's order³⁵⁹ submitted that field officers were authorized to maintain a register of licensed firearms holders in the vicinity of each Sanctuary/National Park and pro-forma of registration has been prescribed³⁶⁰.

3.8.9. Control of poaching: Modern arms, ammunitions and wireless sets

In another important step the Court directed³⁶¹ the State of Gujarat to provide modern arms and ammunitions to the Forest Guards for controlling poaching activities in the Protected Areas. The State informed³⁶² that the officials were provided two hundred fifteen firearms, one hundred ninety two 12 bore guns, three rifles, twenty revolvers, three hundred thirty three wireless communication sets and eighty one vehicles for guarding the Protected Areas.

3.8.10. Other unique issues for wildlife conservation measures

The State of Gujarat undertook certain effective measures for conserving and protecting its wildlife under the Court's order³⁶³.

Release of funds

It was stated by the Gujarat Government that the State did not face any problem with regard to slow disbursement of funds.

Filling of vacant posts

The issue of exempting the subordinate posts at the level of beat guards and foresters from downsizing was examined by the State.

Timely payment of compensation

The State informed the Court that all efforts were made for the timely payment of compensation.

Organization of field formation

The State of Gujarat submitted that there were no problems with regard to the military, insurgency and organized armed poaching in Sanctuaries and National Parks. Thus, the State didn't feel the need to reorganize the field formations and equip them with sophisticated automatic weaponry.

Training of forest staff

All forest personnel were suitably trained at the time of induction into service or soon after induction. The liaison with the Police Department was done whenever need was felt for the training. The State already has literature in vernacular for use of forest personnel and same was updated from time to time.

Legal powers

The State expressed that powers were provided in the Indian Forests Act, 1927 as amended in 1983, however the issue of amending Wildlife Protection Act 1972, was not within the powers of the State.

³⁵⁹ See order dated 17.07.1998

³⁶⁰ Affidavit dated 13.08.1998

³⁶¹ Vide order dated 20.03.1998 and 17.07.1998

³⁶² Affidavit dated 13.08.1998

³⁶³ Affidavit dated 09.02.2001 in response to the order dated 07.07.1997

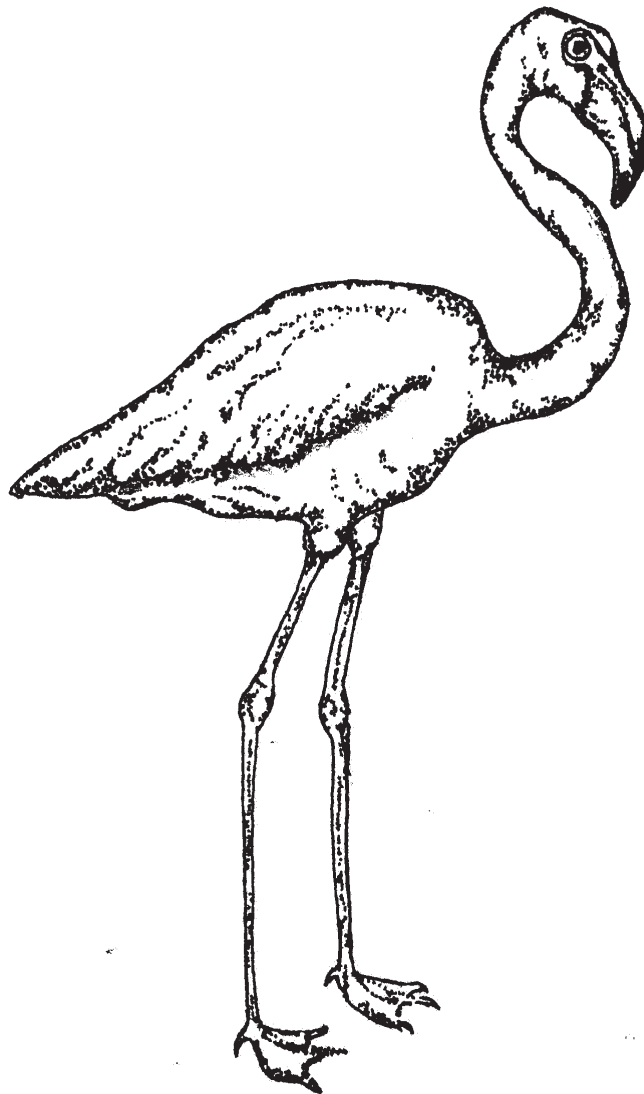
CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Intelligence networking

The State submitted that the issue of poaching and trade was not major in Gujarat and hence it was felt that such networking was not required.

Incentives

The State informed that the Government of India was formulating a scheme for providing incentives and thus no comments were made by the Gujarat Government.



3.9. The State of Haryana

3.9.1. Introduction

Unlike other States, Haryana Government has been prompt on responding to the orders of the Court. Settlement procedure has been undertaken in nearly all Protected Areas except Abubshehar (Chautala) Wildlife Sanctuary and Chhilchhila Wildlife Sanctuary as they lie on community land. A proposal for denotifying the above two Sanctuaries is pending before the Government of Haryana.

The State of Haryana has responded to the queries of the Supreme Court in light of the petition as follows:

3.9.2. Status of National Parks and Sanctuaries in Haryana

The State of Haryana focused more on the status of the National Parks and Sanctuaries which was perhaps the main focus of the case and responded³⁶⁴ that it has only one National Park and nine Wildlife Sanctuaries declared under the provisions of WLPA.

It also gave a detailed status of its PA network as follows:

1. **Sultanpur National Park:** An area of 352.17 acres in Sultanpur is declared as National Park. No further action is necessary under Section 19 to 25 of the Act. Final notification under Section 35 (4) was issued on 05.07.1991³⁶⁵.
2. **Nahar Wildlife Sanctuary:** In reserved forests Section 18 has been issued. No action required as settlement of rights etc. were done before these were declared reserved forests. *It seems that the provision of law is not well understood. It's actually Section 26A which is material here and not Section 18 in case of reserve forests.*
3. **Bir Shikargah Wildlife Sanctuary:** In reserved forests Section 18 has been issued; No action required as settlement of rights etc. were done before these were declared reserved forests. *Here too, it seems that the provision of law is not well understood. It's actually Section 26A which is applicable here and not Section 18 in case of reserve forests.*
4. **Saraswati Plantation Wildlife Sanctuary:** In reserved forests has been Section 18 issued; no action required as settlement of rights etc. were done before these were declared reserved forests. *Here too, it seems that the provision of law is not well understood. It's actually Section 26A which is material here and not Section 18 in case of reserve forests.*



³⁶⁴ Affidavit dated 17.06.1997

³⁶⁵ Affidavit dated 30.09.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

5. **Bir Bara Ban, Jind Wildlife Sanctuaries:** In reserved forests, Section 18 has been issued; no action required as settlement of rights etc. were done before these were declared reserved forests. *Here too, it seems that the provision of law is not well understood. It is actually Section 26A which is material here and not Section 18 in case of reserve forests.*
6. **Kalesar Wildlife Sanctuary:** Notification has been issued under Section 26A: Not considered necessary to appoint any officer to inquire into and acquire rights continuing after the constitution of reserved forests. Final notification was issued on 18.12.1992³⁶⁶.
7. **Bhindawas Wildlife Sanctuary:** Protected Forests- notified under Section 18 of the Act before the amendment. The proceedings for inquiry into the rights and their acquisition were not necessary before the publication of the notification under Section 18 of the Act. However, another affidavit³⁶⁷ stated that the process of determination of rights has been completed. *This seems to be a flawed legal position as protected forests are to be treated as any land under the WLPA. It is only the reserved forests that have been accorded exemption from a resettlement process and not protected forests.*
8. **Khaparwas Wildlife Sanctuary:** Protected Forests- notified under Section 18 of the Act before the amendment- The proceedings for inquiry into the rights and their acquisition was not necessary before the publication of the notification under Section 18 of the Act. However, another affidavit³⁶⁸ stated that the process of determination of rights has been completed. *Here again, this seems to be a flawed legal position as protected forests are to be treated as any land under the WLPA. It is only the reserved forests that have been accorded exemption from a resettlement process and not protected forests.*
9. **Chhilchhila Wildlife Sanctuary:** On community land- notified under Section 18 of the Act before the amendment; the proceedings for inquiry into the rights and their acquisition were not necessary before the publication of the notification under Section 18 of the Act. *This is not clear as community land too needs to be treated as any land for the purposes of the WLPA and hence settlement of rights is a mandatory provision under the Act. The Court seems to be silent on these illegalities.*
10. **Abubshehar (Chautala) Wildlife Sanctuary:** On community land- notified under Section 18 of the Act before the amendment; The proceedings for inquiry into the rights and their acquisition were not necessary before the publication of the notification under Section 18 of the Act. *Here again, this is not clear as community land too needs to be treated as any land for the purposes of the WLPA and hence settlement of rights is a mandatory provision under the Act. The Court seems to be silent on these illegalities.*

3.9.3. Settlement of rights: Proclamation under Section 21 for initiating settlement of rights

The Court observed generally on 07.11.1997 that proclamation has not been issued in respect of the National Parks and Sanctuaries in most States and thus they were directed to take the necessary steps in that regard within two months failing which contempt proceedings will have to be initiated against the concerned State. This was reiterated in another order dated 16.01.1998 where the Court observed that in the State of Haryana there are nine Sanctuaries. Final notification has been issued in respect of one Sanctuary. It is stated that Proclamation is not required to be issued in respect of four Sanctuaries which are situated in reserve forest. No information has been given regarding issuance of proclamation for the remaining Sanctuaries. *It would thus appear that in the States/ Union Territories referred to above proclamations under Section 21 have not been issued in respect of several National Parks and Sanctuaries.*

³⁶⁶ Affidavit dated 30.09.1998

³⁶⁷ Affidavit dated 30.09.1998

³⁶⁸ Affidavit dated 30.09.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

The State further responded³⁶⁹ on the issue of proclamation and stated that the process of the proclamation under Section 21 of WLPA 1972 with regards to four Sanctuaries which do not fall in the category of reserved forest has been completed in Bhindwas WS on 04.11.1997, Chhilchhila WS on 04.11.1997, Abubshehar WS on 07.10.1997 and Khaparwas WS on 04.11.1997.

3.9.4. Proposal for denotification of Sanctuary on community lands: Courts response

Apart from the status of National Parks and Sanctuaries in the State, the State Government also put forward two exceptions with regard to the settlement of rights process³⁷⁰.

- a. Abubshehar (Chautala) Wildlife Sanctuary is inhabited by people of Vishnoi Community which is against the killing of animals and cutting/destroying of green trees. Since most of the land belongs to community and that there are agriculture fields and habitations within the area, it was declared Sanctuary only to recognize the religious sentiments of the local people.
- b. Chhilchhila Wildlife Sanctuary is owned by village panchayat and the area is in the shape of village/pond/tank. This area has been declared as Wildlife Sanctuary for water birds. Since the area is community land, the ownership is with the community. The rights of the people may continue.

In respect of the above two mentioned Wildlife Sanctuaries on community lands the action under Section 19-25 may involve acquisition of the land extinguishing most of the rights of the people, which is difficult. Hence the present position that right may be allowed to continue is an exception. In another affidavit³⁷¹, the Government proposed denotification and stated that Abubshehar WS as the area is commonly inhabited by Bishnoi Community and most of area is privately owned, plus the wildlife contained in the area is very meager, a denotification is proposed by the Government. Further, for Chhilchhila WS Government is taking steps for denotification.

3.9.5. The way out: By the Standing Committee

The interlocutory applications³⁷² for seeking permission to denotify two PAs were referred to the Standing Committee of the National Board for Wildlife. Approval was given by the Standing Committee upon the matter being referred by the State Government to NBWL for denotifying the area. However, the approval was subjected to certain conditions laid down by the Committee. They are:

- a. The State would prepare a management plan for the same
- b. A Field Director and adequate staff would be posted in the area
- c. Bir Bara Ban Jind Wildlife Sanctuary and Saraswati Wildlife Sanctuary would retain legal status of reserve forest and will not move any proposal for dereservation in this area in future.
- d. The State Government would notify Saraswati and Bir Bara Ban reserved forests as Conservation Reserve
- e. The State Government would have to earmark ten percent of the revenue from scientific working of Saraswati and Bir Bara Ban reserve forest for development of Morni hills Sanctuary as a prerequisite.

The State Government agreed to abide by the conditions of the NBWL. The State Government in compliance to the recommendations of NBWL notified the reserve forests in Panchkula district as the Wildlife Sanctuary under Section 26A of WLPA on 10.12.2004.

³⁶⁹ Affidavit dated 07.03.1998

³⁷⁰ Affidavit dated 17.06.1997

³⁷¹ Affidavit dated 30.09.1998

³⁷² I.A. Nos.87-88

3.9.6. Wildlife Advisory Board

In August, 1997, the State informed the Court that the proposal for constituting the Wildlife Advisory Board is under active consideration of the State Government and is likely to be finalized soon³⁷³. The Court observed in November 1997 that the affidavit filed on behalf of the State of Haryana does not indicate whether the Wildlife Advisory Board has been constituted for the State. One month was further requested for the same³⁷⁴. It was finally informed that the State Wildlife Board has been constituted with official and non official members vide notification dated 29.10.1997³⁷⁵.

3.9.7. Appointment of Wildlife Life Warden, Honorary Wildlife Warden

The State of Haryana did not furnish any response on the appointment of Wildlife Warden. The Court too observed that as regards to the appointment of Honorary Wildlife Warden, necessary information has not been given in the affidavits filed on behalf of the State of Haryana among others³⁷⁶. A month was sought to do the needful. These were appointed eventually vide notification dated 04.12.1997³⁷⁷. An affidavit filed in January, 1998 clarified the final position. It stated that the protection of the wildlife has been of due importance in the State of Haryana since the creation of the separate Wildlife Preservation Department since 1986. The head of the department is the Chief Wildlife Warden who is supported by one Deputy Chief Wildlife Warden, one Divisional Wildlife Officer, one Officer on Special Duty, two Divisional Wildlife Inspectors, sixteen Wildlife Inspectors, sixteen Sub Inspectors and sixty three Wildlife Guards at present. In each revenue district, the Divisional Forest Officer (territorial) has been designated as the District Wildlife Warden.

3.9.8. Control over poaching

The State informed³⁷⁸ that there is no major poaching. Firearms have been given to staff posted in some areas which are relatively sensitive. In addition one Inspector and two Wildlife Guards are posted in Morni forest area, which is not WS, but important from wildlife stand point. They have been provided with one revolver and two Double barrel guns. Further wireless set up has been installed in all the NPs and WSs. The State further informed³⁷⁹ that in Kalesar WS, Inspector has been provided with a revolver. One Sub Inspector and two Wildlife Guards have been provided with one 12 bore double barrel gun each. In Bir Shikargah WS, Inspector has been provided with a revolver and one Wildlife Guard with one 12 bore double barrel gun.

3.9.9. Communication equipments: Wireless sets, arms and ammunition

The State Government informed³⁸⁰ that it has strengthened the communication system by providing more wireless handsets to the Wildlife Guards working with Sanctuary falling within the State. The wireless communication systems have been installed. Firearms have been given to the staff posted in some relatively sensitive areas though no major poaching activities are carried out in the WS/forest areas.

³⁷³ Affidavit dated 12.08.1997

³⁷⁴ See order dated 07.11.1997

³⁷⁵ Affidavit dated January, 1998

³⁷⁶ Ibid.

³⁷⁷ Affidavit dated 04.12.1997

³⁷⁸ Affidavit dated 07.03.1998

³⁷⁹ Affidavit dated 16.03.1998

³⁸⁰ Affidavit dated 21.08.1998

3.9.10. Immunization of livestock

In response to the order dated 20.03.1998 regarding immunization of livestock amongst others, the State reported³⁸¹ that the Director Animal Husbandry has issued the direction to all Deputy Directors under whose jurisdiction various NPs/WSs are situated for taking steps to protect the livestock against the communicable diseases. Field paraphernalia has been instructed to take mass vaccination program against such diseases. The State also informed through another affidavit³⁸² that Veterinary Centers/Civil Veterinary Dispensary/Civil Veterinary Hospitals/stockman centers /hospitals cum breeding centers exist within five kms radius of the Sanctuary and take up immunization program regularly in the vicinity of WSs/NPs. The Director, Animal Husbandry has issued directions to Field Officer dated 18.09.1998 for immunization of cattle as per Court's directions.

3.9.11. Registration of arms and new issuances

In response to the order dated 20.03.1998 regarding registration of arms and new issuances amongst others, the State reported³⁸³ that to register the arms according to the provisions of Section 34 of WLPA, the registration work is in the process of completion. Instruction with regards to issuances of new licenses has been issued to the licensing authorities not to issue new license without prior concurrence of Chief Wildlife Warden. The Government further informed³⁸⁴ that rules were framed dated 24.05.1974 by Wildlife Preservation Department and the process of registration of arms licence within radius of ten km around WS/NPs is about to be completed.

3.9.12. Action report with regards to activities prohibited in Wildlife Sanctuaries/National Parks

State has taken the following steps to stop illegal activities in the National Parks and Sanctuaries and promote conservation³⁸⁵.

- Two check posts and barriers in Kalesar WS to prevent free vehicular traffic.
- Trenches have been dug on the roads entering the Sanctuaries wherever it is necessary.
- Sultanpur NP, Bhindwas WS and part of Khaparwas WS are fenced by link chain fence.
- Watch towers have been erected in Kalesar WS , Sultanpur WS and Bhindwas WS
- A scheme called Nature Education Scheme which will be from the 9th five year plan which includes education camps and various competitions for school children.
- Forest Produce from the Wildlife Sanctuaries is removed in accordance with the provisions of Section 29 of WLPA in order to improve the habitat of wild animals.

3.9.13. Larger measures on wildlife conservation as per information sought by the Central Government

Pursuant to order dated 31.01.2001 in response to the issues raised by the Central Government in its affidavit dated 26.08.2000 the State Government responded³⁸⁶ in the following manner:

Allocation of funds provided by State and Central Government

There is some shortage of funds for staff posted in Sanctuaries of the State. To meet the cost of various demands for providing the funds for the requirement of field staff has already been expedited. Further, all efforts are being made to see that the funds released by GOI reach the implementing agencies one month from the time of receipt by the State Government.

³⁸¹ Affidavit dated 13.05.1998

³⁸² Affidavit dated 30.09.1998

³⁸³ Affidavit dated 13.05.1998

³⁸⁴ Affidavit dated 30.09.1998

³⁸⁵ Affidavit dated 13.05.1998

³⁸⁶ Affidavit dated 23.02.2001

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Vacant posts of forest employees

At present twenty one posts of Wildlife Guards and four posts of zoo keepers are lying vacant and efforts are being made to fill upon the same at the earliest. At present there is a ban on filling up of vacant posts.

Reorganizing field formations

The Wildlife Guards along with the Inspectors of Wildlife are posted in the respective districts in the whole of Haryana State for the protection of existing wildlife. The wireless communication system has been installed and all the Wildlife Sanctuaries and National Parks are covered under the wireless network. Firearms are provided in the sensitive areas i.e. in the belt of hilly areas of the State with enough wildlife.

Conservation outside Protected Area network

The Inspectors of Wildlife and Wildlife Guards detect the cases even outside the Wildlife Sanctuary and National Park in the agricultural territory for the protection of wildlife.

Compensation

Compensation with regard to human death and injuries as well as live stock death caused by wild animals is being made expeditiously. Further steps are being made to streamline this process.

Confiscation of the vehicles

Instructions have already been issued to the field level officials to plead before the concerned authorities that seized vehicles should not be released to the offenders.

Settlement rights

No such problem exists in the State as all the rights in the areas declared as NP and WS are already settled.

Training

Training to wildlife staff with regard to investigation of offences, use of firearms etc would be planned in consultation with the State Police. Use of State Forensic Laboratory is being made by the Department for the detection and investigation of wildlife crime. The State Government has already constituted District Level Coordination Committees for prevention of crime against wildlife.

3.9.14. Diversion of Protected Area land

The Irrigation Department of State of Haryana filed an application³⁸⁷ during the pendency of the State Government's earlier application (I.A. No. 87) to dereserve 4.9 acres of land in the Saraswati Sanctuary required for the purposes of completing an irrigation project called the BML-Hansi Branch Butana Branch Multipurpose Link Channel. The said I.A. No. 94 was referred to the Standing Committee vide order dated 17.10.2006. This I.A. was subsequently withdrawn with liberty to file appropriate proceedings³⁸⁸

³⁸⁷ I.A. No. 94

³⁸⁸ See order dated 18.07.2007

3.10. The State of Himachal Pradesh

3.10.1. Introduction

In the State of Himachal Pradesh there are thirty two Wildlife Sanctuaries and two National Parks comprising an area of 7104 sq. km. which forms 12.67 percent of the total geographical area of the State and 18.85 percent of the total forest area of the State. The State has provided information on constitution of Wildlife Advisory Board, appointment of Wildlife Wardens and Honorary Wildlife Wardens, issues relating to settlement of rights, diversion of Protected Areas for setting up hydro power plant, measures taken to prevent poaching of wildlife, immunization of livestock, registration of firearms along with certain unique measures to protect the wildlife. The details are as follows:

3.10.2. Wildlife Advisory Board

The Court directed the respondent States including the State of Himachal Pradesh to constitute Wildlife Advisory Board³⁸⁹. However, no response was filed by the Himachal Government. The Court granted four weeks time for States to respond to its earlier order. Finally, the State responded that the meeting of the Wildlife Advisory Board was held on 13.08.1996 and that the copy of the procedures was with the Department. The State also stated that follow up action on each item discussed in the meeting were in progress³⁹⁰. The State vide affidavit further informed that the Board was constituted³⁹¹. *It is pertinent to mention that the State has not provided complete information regarding when the Board was constituted.*

3.10.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

In response to the Court's order³⁹² to appoint Wildlife Wardens, the State informed that a separate Wildlife Wing in the Department of Forest Farming and Conservation was established which was headed by the Chief Conservator of Forests who was also appointed Chief Wildlife Warden. This authority was assisted by a Conservator of Forests (Wildlife), four District Forest Officials (Wildlife) and two Directors of National Parks. The Himachal Government appointed all the District Forest Officials incharge of Territorial and Wildlife Division as Wildlife Wardens in 1986.³⁹³. The State of Himachal reiterated in its reply to the Court's order dated 22.08.1997 that it had furnished requisite information regarding appointment of Wildlife Wardens³⁹⁴. However, no response was filed by the State regarding appointment of Honorary Wildlife Wardens. Four weeks time was granted by the Court to State to take necessary



³⁸⁹ Vide order dated 25.03.1997

³⁹⁰ Affidavit dated 19.08.1997

³⁹¹ Affidavit dated 15.10.1997 in response to the order dated 22.08.1997

³⁹² See order dated 25.03.1997 and 07.07.1997

³⁹³ Vide notification dated 10.01.1986, see affidavit dated 19.08.1997

³⁹⁴ Affidavit dated 15.10.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

steps for appointing Honorary Wildlife Wardens³⁹⁵. Finally, the State responded that Honorary Wildlife Wardens were appointed vide Government notification dated 29.11.1997³⁹⁶.

3.10.4. Settlement of rights including issuance of proclamation

The Court observed that even though initial notifications were issued under Section 18 and 35 of the Wildlife Protection Act, further proceedings have not been complied with by the State. Thus, the Court directed³⁹⁷ the State Government to take appropriate steps in this regard. The State submitted³⁹⁸ that necessary directions were issued to concerned Deputy Commissioners for issuing proclamation and initiating action for determination of rights. The State sought time from the Court to complete the settlement procedure. The Court granted two months time to the State to issue proclamation in respect of National Parks and Sanctuaries³⁹⁹. The State informed⁴⁰⁰ the Court that proclamations were issued through concerned Collectors in all the Sanctuaries and National Parks.

It stated that no objections were received from Shri Naina Devi Sanctuary, Govind Sagar Sanctuary, Talra Sanctuary, Daranghati Sanctuary, Shimla Water Catchment Area Sanctuary, Simbalbara Sanctuary, Renuka Sanctuary, Pong Dam Lake Bird Sanctuary, Sachu Tuan Nala Sanctuary, Gamgul Siyabehi Sanctuary, Tundah Sanctuary, Kugti Sanctuary, Kalatop Khajjiar Sanctuary, Nargu Sanctuary, Bandli Sanctuary, Sainj Sanctuary, Tirthan Sanctuary, Chail Sanctuary and Shilli Sanctuary. No objections were received by the general public for Sangla Valley Sanctuary and Chur Dhar Sanctuary. It is important to mention here that the State failed to provide further details with regard to settlement process for these Sanctuaries. The State also informed that the concerned Collectors were considering these objections and that majority of the proceedings in these Protected Areas were completed. Appropriate actions were required to be taken with regard to six Sanctuaries and two National Parks as these were situated at difficult locations⁴⁰¹. The State Government in its response⁴⁰² stated that the rights of the local population in the areas declared as the National Park and Wildlife Sanctuaries were being settled. It further submitted that the settlement process has been completed with regard to twenty nine cases and final notifications were issued. The settlement process was complied with regard to four Sanctuaries and one National Park. The State expressed to the Court that due to financial stringency the State was facing difficulties in complying with the said process⁴⁰³.

3.10.5. Status of Protected Areas in Himachal Pradesh

The State Government issued final notification under Section 26A of the Act with regard to twenty three Wildlife Sanctuaries after determining the boundaries and settling claims of local inhabitants. The status of the remaining Protected Areas in the State is as follows.

³⁹⁵ Vide order dated 07.11.1997

³⁹⁶ Affidavit dated 06.12.1997

³⁹⁷ Vide order dated 22.08.1997

³⁹⁸ Affidavit dated 15.10.1997

³⁹⁹ See order dated 22.08.1997

⁴⁰⁰ Vide affidavit dated 06.01.1998

⁴⁰¹ Affidavit dated 25.08.1998

⁴⁰² See order dated 31.01.2001 whereby the Court directed the State to respond to the affidavit filed by the Union of India on 26.08.2000

⁴⁰³ Affidavit filed dated 02.03.2001

Wildlife Sanctuaries declared under Section 26 A

1. Sachu-Tuan Nla	13. Sri Nainadevi
2. Gamgul-Siyabehi	14. Shimla Water Catchment
3. Tundah	15. Talra
4. Kugti	16. Daranghati - I & II
5. Kalatop-Khajjar	17. Majathal*
6. Pongdam Lake	18. Shilli
7. Dhauladhar	19. Chail
8. Tirthan	20. Renuka
9. Sainj	21. Simbalbara
10. Nargu	22. Churdhar
11. Bandli	23. Kibber*
12. Govindsagar	

*Status of the Sanctuary is given below

- 1. Manali Sanctuary:** Notification was issued under Section 8 of Punjab Wild Birds and Wild Animals Protection Act, 1933 on 28.02.1954 and was published in Punjab Gazette on 22.03.1954. No objections were received from the general public⁴⁰⁴. The State informed that after completing the settlement process, final notification would be issued⁴⁰⁵.
- 2. Kias Sanctuary:** Notification was issued under Section 8 of Punjab Wild Birds and Wild Animals Protection Act, 1933 on 28.02.1954 and was published in Punjab Gazette on 22.03.1954. The State informed that after completing the settlement process, final notification would be issued⁴⁰⁶.
- 3. Kibber Sanctuary:** No objections were received for this Sanctuary⁴⁰⁷. The State informed that it had decided to add 20 sq. km to the Kiber Sanctuary in lieu of non feasibility of extending the Majathal Sanctuary⁴⁰⁸.
- 4. Khokhan Sanctuary:** Notification was issued under Section 8 of Punjab Wild Birds and Wild Animals Protection Act, 1933 on 28.02.1954 and was published in Punjab Gazette on 22.03.1954. The State informed that after completing the settlement process, final notification would be issued⁴⁰⁹.
- 5. Kanawar Sanctuary:** Notification was issued under Section 8 of Punjab Wild Birds and Wild Animals Protection Act, 1933 on 28.02.1954 and was published in Punjab Gazette on 22.03.1954. The State informed that after completing the settlement process, final notification would be issued⁴¹⁰.
- 6. Darlaghat Sanctuary:** The State informed that after completing the settlement process, final notification would be issued. One year time was sought by the State for completing the settlement process⁴¹¹.
- 7. Shikari Devi Sanctuary:** No objections were received from the general public. The State informed that after completing the settlement process, final notification would be issued. One year time was sought by the State for completing the settlement process⁴¹².
- 8. Lipa Asrang Sanctuary:** No objections were received from the general public. The State informed that after completing the settlement process, final notification would be issued. One year time was sought by

⁴⁰⁴ Affidavit dated 25.08.1998

⁴⁰⁵ Additional affidavit dated 25.11.1999

⁴⁰⁶ Additional affidavit dated 25.11.1999

⁴⁰⁷ Affidavit dated 25.08.1998

⁴⁰⁸ Affidavit dated 20.12.2005

⁴⁰⁹ Additional affidavit dated 25.11.1999

⁴¹⁰ Additional affidavit dated 25.11.1999

⁴¹¹ Additional affidavit dated 25.11.1999

⁴¹² Additional affidavit dated 25.11.1999

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

the State for completing the settlement process⁴¹³. Proclamation was issued by the Collector under Section 21⁴¹⁴.

9. **Rupi Bhabba Sanctuary:** Initial notification under Section 18 was issued by the State. No objections were received from the general public. The State informed that after completing the settlement process, final notification would be issued. One year time was sought by the State for completing the settlement process⁴¹⁵. The Collector of Shimla had submitted a report to the State Government after completing the proceedings under Section 19-24 of Act whereby it had proposed to exclude certain areas from the proposed extension of Rupri Bhabba Sanctuary on the grounds that this area was burdened with the rights of the people. The report of the Collector was under consideration by the State. One year time was sought by the State for completing the settlement process⁴¹⁶.
10. **Sangla Sanctuary:** One year time was sought by the State for completing the settlement process⁴¹⁷.
11. **Majathal Sanctuary:** The State Government stated that it declared its intention to notify an area of 17.55 sq. km. under Section 18 in 2002⁴¹⁸ as a Wildlife Sanctuary and had asked the Collector of Solan to undertake further action under Section. 19-25. The Collector had fully admitted the claims of right holders in or over the specified area⁴¹⁹.
12. **Great Himalayan National Park:** After receiving no objections from the general public, the Government of Himachal Pradesh issued notification on 22.02.1994. The Collector vide its order dated 21.05.1999 in pursuance to the orders of the Court⁴²⁰ determined the claims of local people and awarded amount of Rupees one crore fifty five lakh eighteen thousand twenty three for acquisition of rights. The State informed that some rights holders were paid and the some were still required to be paid. Due to severe financial crunch the State Government could not pay the lumpsum amount and thus it prays that a period of two years could be allowed to settle the claims of local people. In addition to Collector's award the State Government had made some long term plan for spending the amount for development of pastures, plantation, and medicinal plants etc. to benefit the people living in the vicinity of the Protected Areas and convert the area into eco friendly zone so that acquisition of rights does not adversely affect their livelihoods. The State sought a period of five years for implementing the plan. The Government had passed orders declaring the boundaries of the Park on 28.05.1999⁴²¹.
13. **Pin Valley National Park:** Finalization of claims and boundaries was under process. One year time was sought by the State for implementation of rights of local people⁴²².

3.10.6. Denotification of Protected Areas

The Court directed the State with regard to denotification of any area included in a Sanctuary or National Park that before placing the proposal before the Legislative Assembly, the State Government shall refer to the National Board of Wildlife for its opinion. This proposal shall be placed before the Legislative Assembly along with the opinion of the Indian Board for Wildlife. The State submitted that it complied with its order⁴²³.

⁴¹³ Additional affidavit dated 25.11.1999

⁴¹⁴ Affidavit dated 20.12.2005

⁴¹⁵ Additional affidavit dated 25.11.1999

⁴¹⁶ Additional affidavit dated 25.11.1999

⁴¹⁷ Additional affidavit dated 25.11.1999

⁴¹⁸ Vide notification no. FFE-B-F (6)-23/99 dated 11.03.2002

⁴¹⁹ Affidavit dated 20.12.2005

⁴²⁰ Vide order dated 07.07.1997, 22.08.1997 and 17.07.1998

⁴²¹ Additional affidavit dated 25.11.1999

⁴²² Additional affidavit dated 25.11.1999

⁴²³ Affidavit dated 15.10.1997

3.10.7. Control of poaching

The State of Himachal has taken preventive measures under the directions of the Court to control poaching activities in the Protected Areas. The State submitted that the Wildlife Sanctuaries/National parks are guided by protective staff and were provided necessary mobility/communication networks like wireless sets, guns in apprehending the poachers⁴²⁴. The State reported to the Court that there were very few instances of the poaching at the village level and also stated that there was no organized gang of poachers operating in the State⁴²⁵.

3.10.8. Immunization of livestock

Through the order dated 20.03.1998, the Court directed the State to take appropriate steps to immunize the livestock around the Protected Areas. There was no response by the State. Again the Court reiterated its order⁴²⁶ for implementing Section 33 A which refers to immunization of livestock. The State responded that immunization of livestock in around eight Wildlife Sanctuaries and two National Parks has already been done and further process in respect of twenty four Wildlife Sanctuaries was in progress. The State had established veterinary centers of Animal Husbandry Department near vicinity of Wildlife Sanctuaries/National Parks to immunize the livestock on the request of the staff of the Protected Areas⁴²⁷. It also informed that veterinary centers were available in all Wildlife Sanctuaries/National Parks. In twelve out of thirty two Wildlife Sanctuaries and two National Parks the immunization program was completed. There was no livestock required to be immunized in Govindnagar Lake Bird Sanctuary and Shimla water catchment area. Immunization was in progress in fourteen Sanctuaries and in remaining four Sanctuaries immunization was not undertaken⁴²⁸.

3.10.9. Registration of arms and issuances of fresh license

In two significant orders⁴²⁹ the State Government was directed to take action for registering all the firearms possessed by persons within the Protected Areas and within the radius of ten km of such areas. The State submitted that rules were notified in 1975 for registration process. Further the field staff reported to the Government that the registration work was completed with regard to sixteen Wildlife Sanctuaries and two National Parks and that work was in process for the remaining sixteen Wildlife Sanctuaries⁴³⁰. Also, that registration of arms in twenty five Sanctuaries and Pin Valley National Park was completed. Registration of arms in seven Sanctuaries and Great Himalayan National Park was under progress⁴³¹.

3.10.10. Other unique issues for wildlife conservation measures

The Government of Himachal Pradesh was directed⁴³² to undertake measures to conserve and preserve the wildlife in the Protected Areas. However, no response was filed by the State. Later response was filed by the State which is as follows⁴³³.

⁴²⁴ Affidavit dated 15.10.1997

⁴²⁵ Affidavit filed dated 02.03.2001 in response to the order dated 31.01.2001

⁴²⁶ See order dated 17.07.1998

⁴²⁷ Affidavit dated 25.08.1998

⁴²⁸ Additional affidavit dated 05.12.1998

⁴²⁹ See order dated 20.03.1998 and 17.07.1998

⁴³⁰ Additional affidavit dated 05.12.1998

⁴³¹ Additional affidavit dated 05.12.1998

⁴³² Vide order dated 07.07.1997

⁴³³ In the affidavit filed on 02.03.2001

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Allocation of funds

The State submitted that there was no shortage of the funds for staff posted in Sanctuaries. To meet the cost of various demands the process for providing the funds for the requirements of the field staff was being expedited. It was further submitted that all efforts were being made to ensure that the funds released by Government of India reached the implementing agencies in the shortest possible time after its receipt from the State Government. Efforts were made by the Forest Department to persuade the Planning Department for increasing the plan size for meeting the increased requirement of National Parks and Sanctuaries. The Forest Department has also made efforts to utilize the allocation within the financial year. The State explained that any delay in the release of funds was considered as under utilization of funds. The State Government also expressed that it was facing financial stringency and can only function within the funds allocated by the Central Government.

Vacancy of posts

The State informed that nine posts of Rangers, twenty one posts of Deputy Rangers and thirty three posts of Forest Guards were lying vacant in wildlife wing and efforts were being made to fill up these posts at the earliest.

Reorganization of the field staff

It was submitted that the field staff were posted at strategically located check posts, nakas, and flying squads etc. in National Parks and Sanctuaries. The wireless communication system was established in strategic locations and all the Wildlife Sanctuaries and National Parks were covered under the wireless network.

Payment of compensation

State Government had approached the Central Government for the increase in the compensation for the loss of the human life from Rupees twenty thousand to one lakh.

Tiger population

The State submitted that there were tigers in the State. There were no problems of transboundary trade in tiger body parts. It also informed that no case of illicit transboundary trade in tiger bone, skin and other parts were registered in the State for past five years

Illicit trade

State Government has constituted District Level Coordination Committee for prevention of crime against the wildlife.

3.10.11. Hydro electric project in Dhauladhar Wildlife Sanctuary

An application⁴³⁴ was moved for seeking modification of the Court's order⁴³⁵ which prohibited further dereservation of Protected Areas without prior approval of the Court. The applicant sought for grant of permission for setting up the Lambadug Hydro Electric Project located in the Sub Tehsil Multan of Kangra district of Himachal Pradesh. It was submitted that only after completion of investigation and submission of the facts to the Forest Department for Forest/ Environmental Clearance in the month of January 2002 it had become clear that the project falls within the boundary of Dhauladhar Wildlife Sanctuary. The applicant also stated that only a small part of the forestland was required for providing access road and that this forestland would be compensated by compensatory afforestation. Thus the applicant sought for grant of permission for setting up the Hydro Electric project in the State of Himachal Pradesh. The Court allowed the application and directed⁴³⁶ the matter to be referred to the

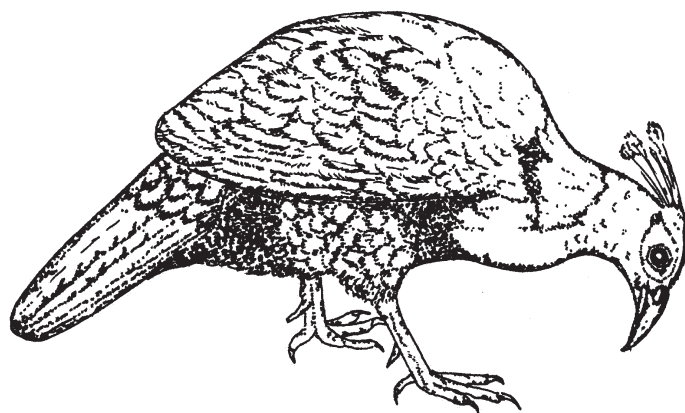
⁴³⁴ I.A. No. 62 & 63

⁴³⁵ Dated 13.11.2000

⁴³⁶ Vide order dated 30.08.2004

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Standing Committee of the National Board for Wildlife. The State Government submitted⁴³⁷ that vide proceedings dated 04.10.2003 a committee comprising of Mr. Ravi Singh and Additional Director General (Wildlife) had inspected the site and submitted its report on 17.01.2006. It also stated that the Standing Committee had found that the area involved in the said project was very small and most of the activities were underground in the form of tunnel and thus would not cause any disturbance to the Sanctuary and unanimously recommended the proposal. The Court granted approval for diverting the forestland for the project and dismissed the application⁴³⁸.



⁴³⁷ Affidavit filed by MoEF on 17.03.2006

⁴³⁸ Vide order dated 29.08.2006

3.11. The State of Jammu and Kashmir

3.11.1. Introduction

The State for the first time responded to this case in October, 1997⁴³⁹. It stated that the State's total forest covered area is 20,182 sq. km. Ladakh region is devoid of forests except for 17 sq. km. forest cover. The total geographical area of J&K is 101,387 sq. km. excluding area under occupation of China and Pakistan. In 1977 there were three Sanctuaries, eleven wildlife reserves and four wetland reserves. State is also in the process of constituting village committees with a view to involve local population in the protection of Wildlife. This is being done under Centrally Sponsored Ecodevelopment Scheme around the NPs and WLs.

3.11.2. Wildlife Advisory Board

The State informed⁴⁴⁰ that the Board was constituted for the first time in 1977⁴⁴¹. The composition of the Board is given under Section 5 of the J&K Wildlife Protection Act. The composition has been updated from time to time and the last through order dated 09.03.1995. The Board last met on 16.12.1996 under the chairmanship of Minister for Forest and Wildlife.

3.11.3. Denotification and role of State Wildlife Advisory Board

In an interesting and unique situation that is typical to J&K it was clarified⁴⁴² that under the provisions of J&K WLPA State Advisory Board has been constituted. If any resolution is required to be adopted by the Legislature of J&K, it is to be placed before the Board. A case for denotification of NP has been placed before the IBWL. This matter has been directed to PM's office as he happens to be Chairman of the IBWL. However, since J&K WLPA is a separate Act from the main Act and Section 5 of the J&K WLPA provides for constitution of State Wildlife Preservation Advisory Board, for denotification of any land, opinion of the Board constituted under the State Act should be obtained and not the Indian Wildlife Protection Board. This confusion was primarily due to the order of the Honorable High Court of J&K: See Box 2.



⁴³⁹ Affidavit dated 03.10.1997

⁴⁴⁰ Affidavit dated 03.10.1997

⁴⁴¹ Vide order dated 29.12.1977

⁴⁴² Affidavit dated 25.11.1999

BOX 2

Denotification and IBWL: There is a writ petition⁴⁴³ filed before High Court of Jammu and Kashmir where the State informed the learned single judge but the proposal was sent to IBWL requesting the Board to opine in the matter pursuant to interim directions of the High Court. The learned single judge has directed the respondents to submit reply affidavit. Since J&K has a separate Act known as J&K State Wildlife Protection Act 1978 hence in this case the opinion required to be obtained before any resolution seeking denotification of any land, provided in this Honorable Court should be from the Board constituted under the State Act and not the Indian Act. The proposal which was sent to IBWL gives details regarding in the difficulties which the State is facing for implementation of final notification issued in this regard.

Pursuant to orders dated 20.03.1998 and 17.07.1998 the Government clarified⁴⁴⁴ that the Central Wildlife Protection Act does not apply to the State of J&K. The J&K Wildlife Protection Act provides for alteration of boundaries of a NP only on basis of a resolution passed by the State Legislature. However, the directions of this Court have been noted. *This is a careful treading between a sensitive issue of Article 370 and the Supreme Court and the High Court of J&K but has still not been resolved. A final view needs to emerge for future clarity.*

Golf course dismissed

In an affidavit⁴⁴⁵ the issue of golf course in the City National Park was highlighted. It stated that as a result of the PIL filed in January 1999 by PIL No. 115/99 in J&K High Court for stopping the construction of Golf Course in the NP, the proposal of the J&K Government was given for consideration of IBWL on 23.06.1999. The Court observed that it is obvious that the State Government wants to regularize irregularities already committed by it by obtaining ex post facto approval of IBWL which cannot be accepted. State of Jammu and Kashmir has been participating in the meetings of Indian Board of Wildlife. Dachigam National Park in J&K was notified in 1987 and after that no change was brought about to denotify any part of the NP. One of the reasons given was for construction of a golf course for a particular section of the society. This Honorable Court by order dated 13.11.2000 stopped any dereservation of forests, NP and Sanctuary. As such application for denotification of Salim Ali City National Park has to be dismissed.

3.11.4. Appointment of Wildlife Wardens and Honorary Wildlife Wardens: Army too!

As per the State Government⁴⁴⁶ the Department of Wildlife Protection has a total man power of thirty officers and four hundred sixty six field staff and seventy two Class IV employees. Details of Wardens and Honorary Wildlife Wardens have been appointed on the basis of interest of the individual in protection of Wildlife, his geographical location, ability to act promptly, experience in forestry and wildlife. In the areas falling outside declared wildlife Protected Areas, local DFOs have been delegated the power to act as Wardens within their territorial jurisdiction. Help of army is taken for the protection of wildlife particularly in border and high altitude areas of Ladakh. Some Army officers have also been appointed as Wardens. The staff, particularly Wardens receives training in order to update them on latest techniques and methods for wildlife management. Recruitment criteria include mandatory academic qualifications with regard to management of Wildlife e.g. Wardens are required to have academic qualification of M.Sc. in Wildlife Sciences or Diploma in Wildlife Management. *Note that the State has ascertained certain criteria for appointing Wildlife Wardens unlike other States where qualifications for a Warden are not ascertained.*

⁴⁴³ PIL No. 115/99. (Wildlife Protection Society of Indian v/s Chief Engineer Projects Organizations and others)

⁴⁴⁴ Affidavit dated 09.11.1998

⁴⁴⁵ Affidavit dated 2001 Date 24.3.2001

⁴⁴⁶ Affidavit dated 03.10.1997

3.11.5. Status of Protected Areas including settlement of rights including issuance of proclamation notification

The State informed⁴⁴⁷ that currently, the State has four NPs, fourteen WSs and thirty five Wildlife Reserves. Thirty sites have been proposed for consideration of the Wildlife Advisory Board for declaration as Wildlife Sanctuaries. After notification under Section 17 of the J&K Wildlife (Protection) Act, further declaration under Section 20 of the Act has been done with regard to Sanctuaries. Necessary declaration under Section 35 of the Act has been done with regard to NPs. The State further elaborated⁴⁴⁸, that proclamation has been issued with regard to three NPs and seven Sanctuaries. Final Notification has been issued with regard to one NP. Final notification with regard to other NPs and Sanctuaries is under process. Because of the current security situation in the State the final notification may take some time. Due to the fire on 06.04.2005 at the Tourist Reception Center, Srinagar, wherein the office of the Chief Wildlife Warden was also housed, the records were destroyed and reconstruction of the same, which is under process, will take time. In view of these factors the entire process could not be completed so far. It is expected that the entire process of proclamation and final notification will be completed within one year.

3.11.6. Immunization of livestock

Pursuant to orders dated 20.03.1998 and 17.07.1998 where in the issue of immunization of livestock has been raised, the State Government has responded⁴⁴⁹ that Section 27(2) of the J&K Wildlife Protection Act provides that every person residing in/within ten km of any areas declared as Sanctuaries shall within three months from such declaration get the cattle in his possession vaccinated. The Department of Sheep Husbandry and Animal Husbandry of J&K are involved in this and have been undertaking the programme of immunization of live stock for more than a decade. As regards opening Veterinary centers in the vicinity of NPs/Sanctuaries within ten km of the boundary of the same the exercise is already being carried on. Further the matter for nominating new immunization centers in J&K has been initiated.

3.11.7. Registration of arms in the vicinity of Protected Areas

Pursuant to orders dated 20.03.1998 and 17.07.1998 where in the issue of registration of firearms within NPs/ Sanctuaries within ten km of the boundary has been raised, the State informed⁴⁵⁰ that Section 34 of the J&K Wildlife Protection Act provides for registration of certain persons in possession of arms. The State Government has already framed rules with regard to registration of persons holding firearms under called J&K Wildlife Protection Rules⁴⁵¹. The necessary steps are being taken for registration of persons with firearms.

3.11.8. Issuance of any fresh arms license within an area of ten km of a Sanctuary

As regards the issuance of any fresh arms license within an area of ten km of a Sanctuary as required by the above said order, the State informed that the J&K Wildlife Protection Act does not have any provisions specifying that no fresh arms license can be issued within a radius of ten km of a Sanctuary without prior concurrence of the Chief Wildlife Warden. However, The Chief Wildlife Warden has informed the Deputy Commissioners of various regions to ensure compliance of this order.

3.11.9. Larger measures on wildlife conservation as per information sought by the Central Government

⁴⁴⁷ Affidavit dated 03.10.1997

⁴⁴⁸ Affidavit dated 19.10.2006

⁴⁴⁹ Affidavit dated 09.11.1998

⁴⁵⁰ Affidavit dated 09.11.1998

⁴⁵¹ SRO 19 dated 10.01.1979

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

In response to the larger concerns on wildlife conservation as sought by the Central Government, the State responded⁴⁵² by raising several key issues which is unique to the State of Jammu and Kashmir:

Illicit transboundary trade in tiger bone skin and other parts

There is no tiger population in J&K. Hence, no problem of transboundary trade in tiger body parts in J&K. During the last five years no case of illicit transboundary trade in tiger bone, skin, and other parts have been registered in the State. *This seems to be a simplistic treatment of the most dreadful impact on wildlife conservation.*

Shortage of resources at State level

The total staff posted in the State is five hundred sixty eight, which is not sufficient to enable the department to effective watch and ward and requires increasing the present staff for which the State Government requires more finances which are not immediately available due to the financial crunch. The staff does not have required equipments like wireless sets, arms and weapons nor do they have official living accommodations adjacent to the Protected Areas. The transport facility by way of vehicles is also not adequately available.

Delay in release of financial assistance, sanctioned by the Central Government

All efforts are being made to ensure that the funds released by the Government of India reaches the implementing agencies as quickly as possible and the department has made all the efforts to utilize the funds within the same financial year. In case there is a delay in releasing the funds there is under utilization. Evidence of under utilization is duly forwarded to the Central Government. Further efforts are being made to pursue the Central Government to sanction more hundred percent Centrally Sponsored Schemes in respect of State of J&K in view of the unique Wildlife present in the State and the inability of the State Government to provide funds as per requirement.

Vacancies of the staff at field level

At present there are no vacancies in the State Wildlife Department.

Transboundary trade and training of field staff

Field staff is posted at strategically located check posts, nakas and flying squad etc. in National Parks and Sanctuaries and in the remaining division, the DFOs are declared as Wildlife Wardens for protection of existing wildlife.

Conservation outside PA network

No tiger or elephant population in the State. Very few incidents of poaching at local village level have taken place. No organized gang of poachers is operating in the State. However, the State would be following in principle, the guidelines mentioned for the preservation of other wildlife species.

Settlement of rights

Matter has been taken up with District Collectors to ascertain the compensation to be paid to people for the settlement of their rights. Huge amount is required and the State Government is not in a position to meet the compensation amount.

Timely payment of compensation

Compensation is paid to people to compensate loss to their crops and livestock in Ladakh region where most of the wildlife is found. So far Rupees thirty lakhs have been paid as compensation, out of which Rupees thirteen lakhs have been paid during the last two years to avoid animal-man conflicts.

Incentives

⁴⁵² Affidavit dated 24.03.2001 in response to the affidavit filed on behalf of UOI on 26.08.2000

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

The department is keen to provide incentives like free residential accommodation to field staff, free education to the children of the field staff at district headquarters and special allowances to cover risk and hazardous life in the remote areas. The State Government is not in a position to make the expenditure due to financial crunch.

3.11.10. Some other unique issues on wildlife conservation

The State also raised some specific issues of wildlife conservation that impact the State⁴⁵³ as follows:

Animal population

Census observation on specimen was done. Emphasis is being given on most endangered species like Hangul, Black Necked crane and Water Fowl. There are projects for captive breeding for Leopards, Spotted deer, Hangul, Sambhar, Nilgai, Peacock and Barking deer. Although the Act provides for issue of permits for hunting, no permit has been issued since 1983. The State has been given the award for best management of National Parks by NBWL in 1981-82 and 1983-84.

Wireless set and communications

The Department has proposed to provide effective means of communications through telephones and wireless network. However, due to militancy in the State wireless network has not been activated. As and when the conditions allow, the whole of the area would be covered by wireless network.

Funds

The Department of Wildlife despite strains and inadequacy of manpower and funds is doing its best towards protection of wildlife. The need for more man power and funds to effectively protect the wildlife cannot be over emphasized. A case for this has been taken up. The details of recommendations have been made and have been duly approved by the Advisory Board.

Grazing

Local population living within the forest areas or on the fringes and high altitude has customary rights for use of forest produce and grazing. Alternative grazing areas outside the NP, WS and wildlife reserve areas have been selected and more areas are in the process of being selected in consultation with the local population. No grazing is permitted within NP or WS. Wildlife protection regime have suffered setback due to militancy activities.

3.11.11. Other issues

a) *National Park at Srinagar:*

The State informed⁴⁵⁴ that the State of J&K vide notification dated 22.07.1986 had proposed the setting up of NP at Srinagar. On 14.08.1986 another notification was issued showing the total area of 869 Kanals 6 Marlas to be utilized for the purpose of establishing the NP. By notification dated 21.01.1987 final award was given after settlement of rights over the land in question. This shows that NP comprised of 17,710 Kanals and 5 Marlas making entire area of the city forest as NP⁴⁵⁵. Final notification was issued by the Deputy Commissioner Srinagar on 21.01.1997. The said notification showed the area to be utilized by NP measure 17,710 Kanals and 5 Marlas. The difference in the proposed area and area proposed in the final notification is quite huge and if implemented, would include various public places including Governor's House, Chashme Shahi, Pari Mahal and areas that have been already reserved for construction of a prestigious International Golf Course. This needs to be sorted out.

⁴⁵³ Affidavit dated 03.10.1997

⁴⁵⁴ Affidavit dated 25.11.1999

⁴⁵⁵ Affidavit dated 24.3.2001

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

b) *Population of tigers*

The State informed that there is no population of tigers or elephants in J&K. The State Government is taking all adequate steps to conserve the other animal species existing in the State. However, few incidents of poaching have taken place at the local village level. Preservation of other wildlife species would be followed by the State as per the guidelines mentioned⁴⁵⁶.

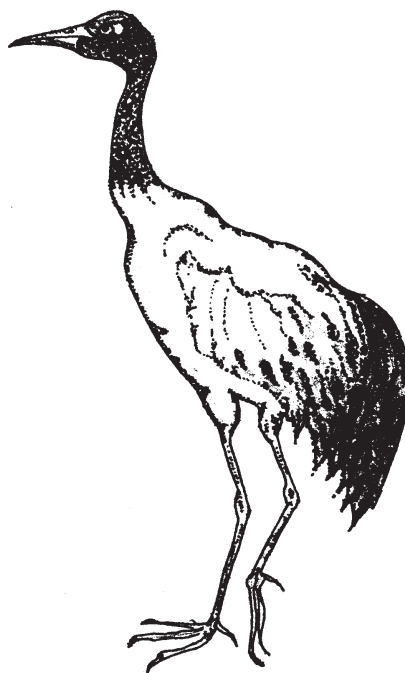
c) *Militancy and settlement of rights*

Due to militancy for past so many years the process could not be affected effectively but now with the improved conditions the matter is being vigorously taken up with the respective quarters by the Department and the process of proclamations and acquisitions will be completed shortly.

3.11.12. Diversion of Protected Areas

a) *Dereservation of Kishtwar High Altitude National Park for Hydro Electric Project*

National Hydro Electric Power Corporation Ltd. has sought permission of the Court⁴⁵⁷ for dereservation of forestland inside the Kishtwar High Altitude National Park for setting up Pakal Dul Hydro Electric project on river Marusudar in Jammu and Kashmir. The National Park was notified on 10.04.1990⁴⁵⁸. It was stated in the application that the proposal for dereservation was sent to the Standing Committee of National Board for Wildlife. The State Government, on the recommendations of the Board for a Managing Action Plan for Migratory Measures of Kishtwar High Altitude National Park, forwarded the proposal⁴⁵⁹ to the Ministry of Environment and Forests along with the comments received from Wildlife Institute of India. The Standing Committee recommended the project⁴⁶⁰ subject to fulfillment of certain conditions. On 17.09.2008, the Court has issued notice to the State Government to file its response.



⁴⁵⁶ Affidavit dated 24.3.2001

⁴⁵⁷ In I.A. No. 114-115

⁴⁵⁸ Under Section 35 of the J&K Wildlife Protection Act 1978

⁴⁵⁹ Vide letter dated 19.04.2007

⁴⁶⁰ Vide MoEF letter dated 04.10.2007

3.12. The State of Jharkhand

3.12.1. Introduction

The State of Jharkhand was created in 2000 out of the State of erstwhile Bihar. In this case the information on the Wildlife Advisory Board, Appointment of Wildlife Wardens and Honorary Wildlife Wardens, Immunization of Livestock, Registration of Arms, Settlement of Rights including issuance of proclamation notification has been dealt with in the context of Bihar. The main concern relates to the diversion of the Sanctuary for undertaking water project. The role of the Central Empowered Committee, the Standing Committee of the National Board of Wildlife becomes crucial in this regard.

3.12.2. Diversion of Dalma Wildlife Sanctuary for water project

The State of Jharkhand⁴⁶¹ had sought for diversion of 145.26 ha of Dalma Wildlife Sanctuary for Suberanrekha Multipurpose Project undertaken by the Department of Water Resources. It was submitted by the State that the project started prior to the Forest Conservation Act of 1980. A proposal was sent by the Irrigation Department to the Forest Department of the erstwhile Bihar who recommended the transfer of the required forestland. This matter was referred to the Standing Committee of NBWL⁴⁶² upon which a site inspection was conducted by the Committee members. It was submitted by Ministry of Environment and Forests to the Court that the said proposal was accepted by the Committee subject to certain conditions. The Court directed the State of Jharkhand to file its response⁴⁶³. The recommendations of the Committee were accepted by the State and hence the Court allowed the diversion upon fulfillment of the said conditions⁴⁶⁴.



⁴⁶¹ In I.A. No. 35

⁴⁶² Vide order dated 07.11.2003

⁴⁶³ See order dated 06.12.2004

⁴⁶⁴ Vide order dated 23.11.2005

3.13. The State of Karnataka

3.13.1. Introduction

There are five National Parks and eighteen Wildlife Sanctuaries in the State of Karnataka. The State has provided responses on various orders of the Court relating to constitution of Wildlife Advisory Board, appointment of Wildlife Wardens, settlement of rights, immunization of livestock, and registration of arms along with certain unique wildlife conservation measures. The State of Karnataka has responded to all queries put forward by the Supreme Court as follows:

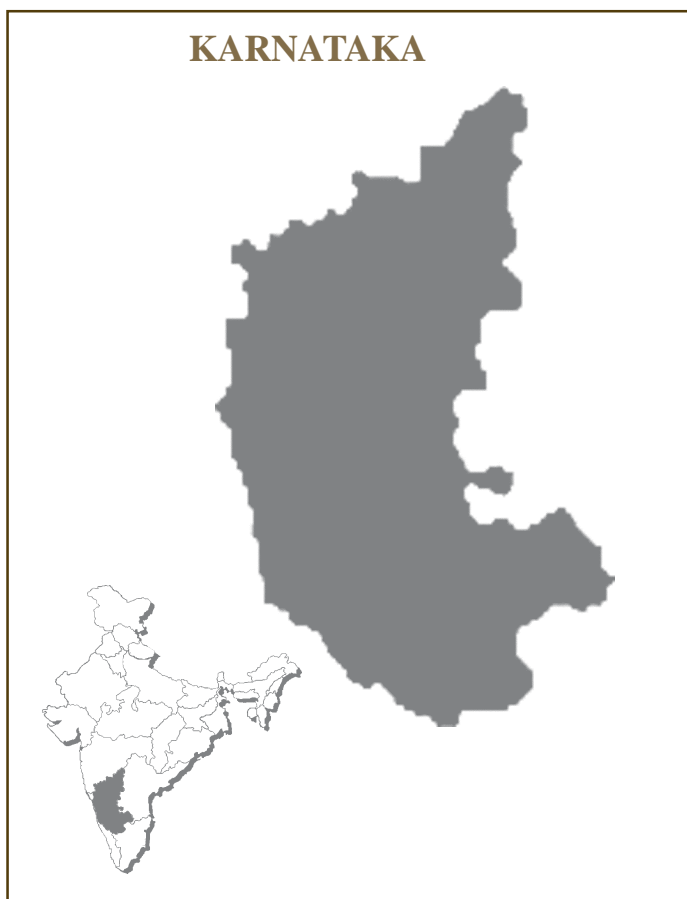
3.13.2. Constitution of Wildlife Advisory Board

In response to the order dated 25.03.1997, the State informed⁴⁶⁵ that the Board has already been constituted with twenty two members and the Minister in Charge of the Forests as Chairman, two nominated members of the State Legislature and persons interested and working for the protection of wildlife. Further, number of meetings has been held by the Advisory Board. However, the Court

specifically observed about Karnataka for the first time in an order dated 07.11.1997 that although the Wildlife Advisory Board has been constituted but the date of the constitution of the Board has not been mentioned⁴⁶⁶. Another affidavit was filed⁴⁶⁷ where it was informed that vide order dated 07.01.1998, Board has been reconstituted as per the provision of WLPA as amended in 1991 for the period of two years. It was further informed⁴⁶⁸ that the Advisory Board has now been reconstituted by order dated 05.02.2001 after the change of Government and on the recommendations of the Principal Chief Conservator of Forests (Wildlife).

3.13.3. Appointment of the Wildlife Wardens and Honorary Wildlife Warden

The State informed only about Honorary Wildlife Warden and stated that Honorary Wildlife Wardens have been appointed as required under Section 4(1) of the Act. The first appointment was made in 1980. Last renewal was made in 1993, sixteen Honorary Wildlife Wardens have been appointed and steps have been taken to appoint new Wardens for all the twenty districts. Persons having genuine concern for wildlife have been appointed as Honorary Wildlife Warden⁴⁶⁹. This was reiterated through an additional affidavit and it was also stated that actions are being taken for fresh appointment as per the provision of the Act and the recommendation of the State Wildlife Advisory Board. It further stated that the Board meeting could not take place due to the Lok Sabha election and the fresh appointments of Wildlife Wardens will take place as per the recommendations of Wildlife



⁴⁶⁵ Affidavit dated 25.07.1997

⁴⁶⁶ See order dated 07.11.1997

⁴⁶⁷ Affidavit dated 25.07.1997

⁴⁶⁸ Pursuant to UOI affidavit dated 26.08.2000

⁴⁶⁹ Affidavit dated 25.07.1997

Advisory Board⁴⁷⁰. It further informed⁴⁷¹ vide letter dated 18.08.1998 that it had furnished names, biodata's for appointment HWWs in the said letter.

3.13.4. State of the tiger: Karnataka reports steady increase in population within Tiger Reserve and non Tiger Reserve areas!

As regards the tiger population, it shows a steady increase right from 1972 to 1993, both in Project Tiger Reserve Bandipur as well as in the other parts of the State. There is no decline in tiger population. Due to concerned conservation and protection measures undertaken, the population of tigers has steadily gone up over the past twenty one years in the State.

3.13.5. Settlement of rights including issuance of proclamation notification

The Court observed that in the State of Karnataka there are five National Parks and nineteen Sanctuaries but in the affidavits that have been filed on behalf of the State no information has been furnished with regard to issuance of proclamation under Section 21 or the issuance of the final notification⁴⁷². The Court reminded the States including Karnataka that several opportunities were granted to issue proclamation and complete the settlement of rights process. Contempt proceedings were also threatened. In spite of the above there has been no response⁴⁷³. A last opportunity was granted to inform the Court by 16.03.1998 regarding the proclamation notification as well as the settlement of rights under the threat of contempt proceedings. The Government eventually informed the Court⁴⁷⁴ that it has issued proclamation under Section 21 of WLPA with regard to twenty one Sanctuaries and five NPs. Sixteen Sanctuaries has been issued the final notification as per provisions of WLPA with regard to five Sanctuaries and five NPs action has been taken to issue Government order entrusting the work to Forest Settlement Officer in areas to proclaim notification under Section 19-26 of WLPA. *Note that the WLPA does not envisage the role of FSO. It is the Collector who is responsible for the settlement of rights in PAs.* Ten weeks time was sought by the Government to follow the procedure and issue final notification with regard to five Ws and five NPs⁴⁷⁵.

Despite the above the Government of Karnataka did not respond and the Court in a very serious manner noted **"By our order dated 02.03.1998 ten weeks time was granted to the State of Karnataka to issue the necessary proclamation. Nobody appears for the said State to indicate as to what steps have been taken nor any affidavit has been filed. In the circumstances notice for initiating contempt proceedings is issued to the Chief Secretary to the State of Karnataka"**⁴⁷⁶.

The State finally responded in November 2005 in response to another reminder order that final notification for five National Parks and nineteen Wildlife Sanctuaries have been issued by Government of Karnataka as required under the provisions of WLPA, 1972⁴⁷⁷. It further informed that settlements of rights and acquisition of land or rights have been followed by the competent authority before the issuances of final notification.

⁴⁷⁰ Additional affidavit dated 12.03.1998

⁴⁷¹ Affidavit dated 08.09.1998

⁴⁷² See order dated 16.01.1998

⁴⁷³ See order dated 16.01.1998

⁴⁷⁴ Additional affidavit dated 12.03.1998

⁴⁷⁵ See order dated 20.03.1998

⁴⁷⁶ See order dated 20.03.1998

⁴⁷⁷ Affidavit dated 21.11.2005

3.13.6. Proposed denotification

Considering the population, quarry leases etc. it was submitted by the State⁴⁷⁸ that although no area has been denotified from any National Park or wildlife Sanctuary in the State, it is however, contemplated to delete 188.4 ha for relocation of tribals displaced due to the formation of the Bandipur National Park for which the final notification is yet to be issued. Also an area of 1452.74 ha is proposed to be deleted from the initial notified Kudremukh National Park for South Bhandra State Forest in favour of Kudremukh Iron Ore Company Ltd. wherein their mining operations has been going on for last thirty years.

3.13.7. Status of Protected Areas

The status of PAs in Karnataka along with the status of proclamation notification was finally elaborated in an affidavit dated 08.09.1998 as follows:

3.13.8. Issuances of final notification

With regard to eighteen WSs final notification has been issued;

1. **Adichunchanagiri Peacock WS:** Proclamation notification issued dated 13.03.1998, Sub- Divisional Officer. Sub Division, Pandavapura⁴⁷⁹. Final notification has been issued dated 01.09.1998.
2. **Arabithittu WS:** Final notification has been issued dated 04.02.1987.
3. **Bhadra WS:** Final notification has been issued dated 09.03.1998.
4. **Brahmagiri WS:** Final notification has been issued dated 02.12.1975.
5. **Billigiri WS:** Final notification has been issued dated 13.06.1995.
6. **Cauvery WS:** Final notification has been issued dated 13.06.1994.
7. **Dandeli WS:** Final notification has been issued dated 09.03.1998.
8. **Daroji Bear WS:** Final notification has not been issued.⁴⁸⁰
9. **Melkote WS:** Final notification has been issued dated 22.05.1978.
10. **Mookambika WS:** Final notification has been issued dated 22.05.1978.
11. **Nugu WS:** Final notification has been issued dated 09.03.1998.
12. **Pushpagiri WS:** Final notification has not been issued ⁴⁸¹.
13. **Rane Bennur WS:** Final notification has been issued dated 12.06.1975.
14. **Ranganathittu Bird WS:** Proclamation notification issued dated 13.03.1998 Sub Divisional Officer Sub Division, Pandavapura⁴⁸². Final notification has been issued dated 01.09.1998.
15. **Sharavathi WS:** Final notification has been issued dated 26.06.1978.
16. **Shettihalli WS:** Final notification has been issued dated 25.01.1977.
17. **Someshwara WS:** Final notification has been issued dated 12.10.1979.
18. **Talacauvery WS:** Final notification has been issued dated 13.06.1994.

⁴⁷⁸ Pursuant to UOI affidavit dated 26.08.2000

⁴⁷⁹ I.A. No. 8 Application dated 14.08.1998

⁴⁸⁰ Confirmed that final notification has not been issued vide I.A. No. 8 dated 14.08.1998

⁴⁸¹ Confirmed that final notification has not been issued vide I.A. No. 8 dated 14.08.1998

⁴⁸² I.A. No. 8 Application dated 14.08.1998

3.13.9. Proclamation notification

For the remaining three bird Sanctuaries proclamation under Section 21 has been issued.

1. **Attiveri BS:** proclamation under Section 21 has been issued dated 27.07.1998. Final notification remains to be issued which is expected to be done within week⁴⁸³.
2. **Ghataprabha BS:** proclamation under Section 21 has been issued dated 29.07.1998 (11.08.1998): By Assistant Commissioner cum FSO. Belgaum Sub Division.
3. **Gadavi BS:** proclamation under Section 21 has been issued dated 20.04.1998. Final notification issued dated 20.07.1998⁴⁸⁴.

Further, the revenue authorities have published proclamation notice under Section 21 of WLPA 1972 for all five NPs.

1. **Anshi NP:** Proclamation notice under Section 21 of WLPA dated 06.03.1998 is issued by Assistant Commissioner, Karwar Sub-Division, Karwar and statutory time period has lapsed on 05.05.1998. No complaints were received. There is agitation by the inhabitants constituted in NP. About six hundred families reside in the proposed park.
2. **Bandipur NP:** Proclamation notice issued by Assistant Commissioner Mysore dated 10.07.1998: and Kollegal dated 21.07.1998 and Hunsur dated 30.07.1998. The enquiry under Karnataka Wildlife (Protection) rules, 1973, is in progress.
3. **Bannerghatta NP:** Proclamation notice issued by Assistant Commissioner Bangalore, South dated 27.07.1998 and Ramanagaram, Bangalore Sub-division dated 03.07.1998. Thereafter enquiry under Karnataka Wildlife (Protection) rules 1973 in progress.
4. **Kudremukh NP:** Proclamation notice issued dated 10.08.1998, Nagarhole NP = 643.19 sq. km, 57,1.55 sq. km finally notified dated 06.03.1983, 71.84 sq. km areas included into park vide notification dated 08.02.1998. Assistant Commissioner issued proclamation notice under Section 21 of Act for additional area dated 05.05.1998. Statutory time limit expired on 04.07.1998. One thousand fifteen application have been received. Enquiry under Rule 27 of Karnataka Wildlife (Protection) rules, 1973, is in progress. One thousand five hundred fifty seven families are willing to relocate.

Details of only four NPs were provided.

The Government further informed that the settlement of rights is a time consuming process and the State Government has taken the stand for voluntary relocation. Secondly wildlife enthusiast and human rights activist insists on total pressure free National Parks. They advocate strongly the cause for retaining the local people living within the park limits. The Government requested the Court to further the time taking the holistic view of NPs.

3.13.10. Immunization of livestock

In response to the order dated 17.07.1998 the Government of Karnataka responded⁴⁸⁵ that the Animal Husbandry Department has taken action to establish veterinary centers in vicinity of WSS/NPs to take immunization of cattle. Animal Husbandry Department has taken vaccination free of cost with regard to following diseases: Haemorrhagic Septicaemia, Black Quarter, Anthrax and Rinder pest. Rinder pest has been discontinued from 01.04.1988. Rinder Pest (RP) squads functions to ascertain the disease anywhere before declaring it (RP) free. Foot and mouth diseases vaccination is taken up by forest department. The dates of vaccinations are made known to villagers through local and national newspapers and radio through Department of Publicity. Handouts circulated to villages before actual

⁴⁸³ I.A. No. 8, application dated 14.08.1998

⁴⁸⁴ I.A. No. 8, application dated 14.08.1998

⁴⁸⁵ Affidavit dated 08.09.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

program. The immunization is supervised by six veterinary doctors of forest department. Under Sub-Section 33(2) wherever violations are noticed, the cattle are regularly seized and impounded in notified cattle compound. No violation under Section 33A (1) are brought to the notice of State. Timely notifications are taken out by the State emphasizing the immunization needs available to the people in and around Ws/NPs.

3.13.11. Registration of arms and issuances of fresh licence: rules framed and last opportunity given

The Government of Karnataka has framed rules⁴⁸⁶ under the Central Act known as "Wildlife (Protection) (Karnataka) rules 1973 which provides an elaborate procedure for getting the registration done and for dealing with the defaulters. Rule 33 is self contained provision in this regard. Under the sub-rule 4 (a) provision is made for reporting the default and commission of offences for being dealt with and for cancellation of licence under the Arms Act. The last opportunity to register was given vide notification dated 24.08.1998 to those who failed to do the same within specified period.

3.13.12. Control over poaching: Arms and ammunition, wireless sets

The Government of Karnataka in compliance of Courts order dated 17.07.1998, 22.08.1997 responded⁴⁸⁷ that budgetary allocations are made for equipping the mobile squads with necessary arms and equipments. Each squad is about five-six persons. Forester/Range Officers are accompanied by two-three Forest Guards/Watchers. These squads do the patrolling with the required arms and move in jeeps, mounted with most effective wireless communication system. The entire system is controlled at headquarters on account of effective patrolling system. Additional staff is summoned whenever required. Anti poaching camps are stationed regularly inside deep forest with modern facilities of communications and arms and rations provisions.

3.13.13. Other wildlife conservation measures

Certain issues were submitted by the State in its affidavit to be considered which were stated in Navin Raheja Case which it reiterated for wildlife conservation measures in the State as follows⁴⁸⁸

Shortage of resources at State level and delay in release of financial assistance sanctioned by Government of India
State Government like other States has a problem of financing the annual plans. However with the available resources whatever amount can be provided to the wildlife sector, the same is being done. There has been delay in flow of funds released by Government of India due to the procedural formalities to authorize to spend the funds from the Central assistance.

Vacancies of staff

There is large number of vacancies at field level. However, the situation is being managed through establishment of anti-poaching camps in sensitive localities. Action has also been initiated for filling up of vacancies.

Reorganizing field formations

The field staff requires arms, adequate mobility and modern communication networking for effective patrolling. The department has a large number of fast moving vehicles, a wide system of wireless network besides arms. Besides the normal staff in the wildlife wing, forest mobile squads headed by Deputy Conservators of Forests and Assistant Conservators of Forests have been patrolling sensitive forest areas in the State. Police cell headed by an Inspector General of Police renders full assistance to the forest department against forest offences.

⁴⁸⁶ Affidavit dated 08.09.1998

⁴⁸⁷ Affidavit dated 14.08.1998

⁴⁸⁸ Pursuant to UOI affidavit dated 26.08.2000

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Training of field staff

The forest department is organizing help from the police department in the above besides maintenance of arms and wireless systems

Inadequate staff in cities/towns

In metropolitan cities like Bangalore the services of the officials of the forest mobile squad's territorial divisions are utilized to tackle the wildlife offences.

Inadequate intelligence network

There are numerous border meetings among officers and officials concerned in the field level frequently to fill the gap on intelligence network.

Timely compensation for livestock killed by predators

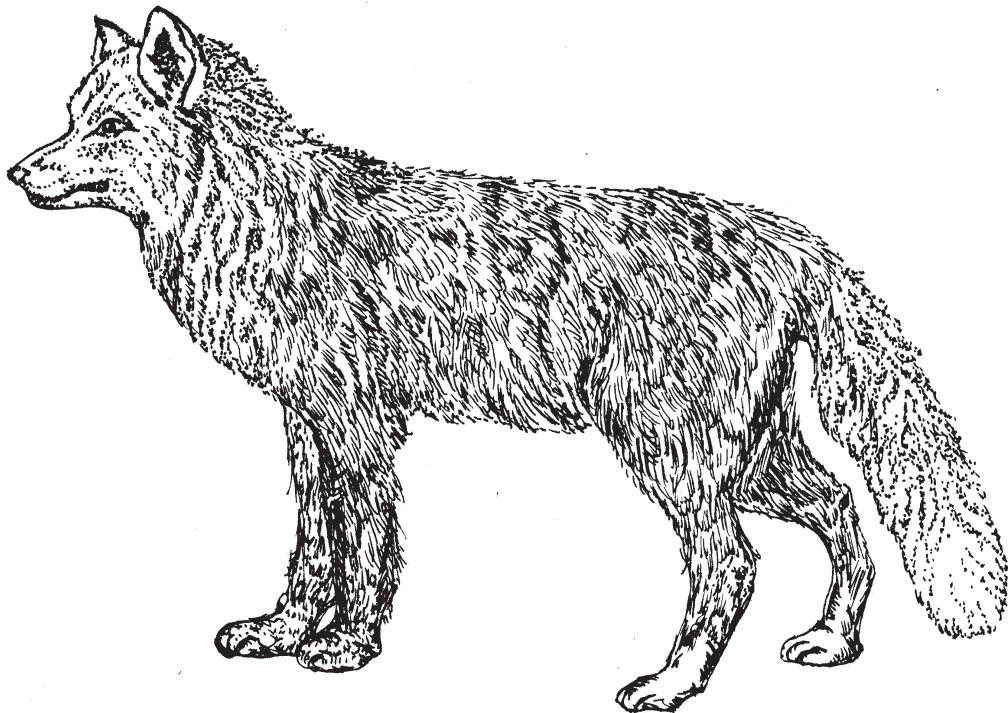
The Government of Karnataka is considering alternative measures for expeditious payment of compensation by enhancing the sanctioning powers at the field level.

Lack of deterrents for poaching

There has been no case of conviction to any wildlife offenders in any wildlife offence case in recent years.

Powers for confiscation of vehicles, weapons and tools

Forest officials namely Deputy Conservator of Forests empowered to confiscate vehicles, weapons and tools seized in wildlife offences under the provisions of Karnataka Forest Act 1963 and to use maximum force in retaining any person from poaching or illicitly felling trees as per the recent amendment to the Act.



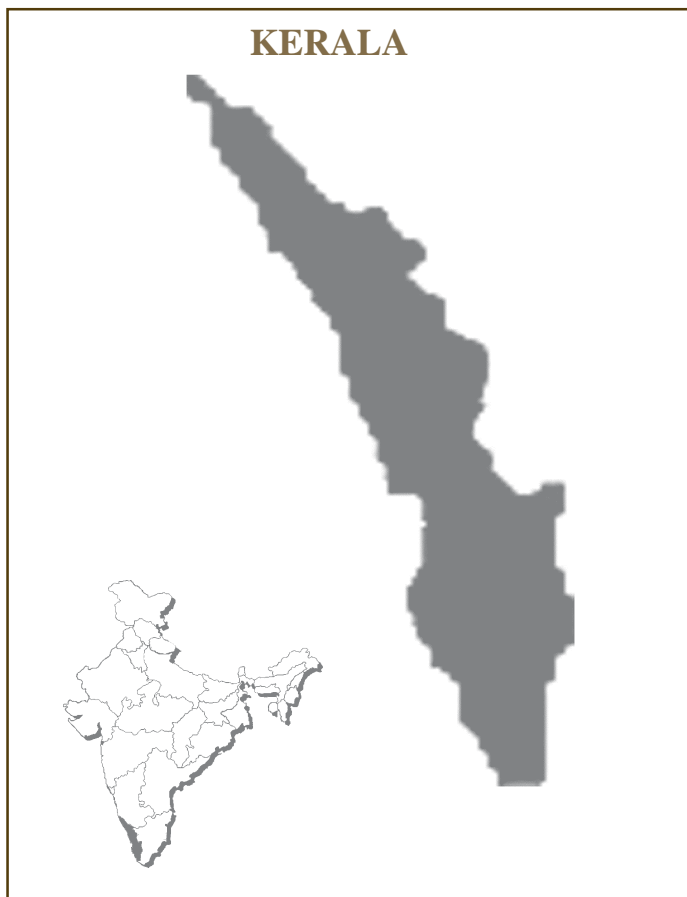
3.14. The State of Kerala

3.14.1. Introduction

In the State of Kerala there are eighteen Protected Areas, which includes five National Parks, twelve Wildlife Sanctuaries and two Bird Sanctuaries. The State has provided responses to the various orders of the Court relating to constitution of Wildlife Advisory Board, appointment of Honorary Wildlife Wardens, settlement of rights, measures taken to prevent poaching of wildlife, immunization of livestock, registration of firearms along with certain unique measures to protect the wildlife. The State has formulated Rules required under Section 64 of the Wildlife Protection Act. The details are as follows:

3.14.2. Constitution of Wildlife Advisory Board

Significant orders⁴⁸⁹ were passed to States including the State of Kerala to either constitute or reconstitute Wildlife Advisory Board. The State vide its affidavit⁴⁹⁰ responded that the Board was reconstituted in accordance to the Government order dated 21.11.1996. Further, it stated that the Board was functioning under chairmanship of the State Forest Minister⁴⁹¹.



3.14.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

Directions were issued to the State of Kerala to appoint Wildlife Wardens and Honorary Wildlife Wardens under Section 4 of the Wildlife Protection Act (WLPA). The State informed the Court that it had appointed nine Honorary Wildlife Wardens for a period one year vide notification dated 23.08.1997⁴⁹². The Court further directed the State to appoint Wildlife Wardens for other areas. It further informed that the appointment of five more Honorary Wardens were considered for the remaining five districts⁴⁹³. *It appears that the State has not provided any information regarding appointment of Wildlife Wardens. It has failed to take appropriate action in this regard.*

3.14.4. Implementation of the Wildlife Protection Act and rules

The State of Kerala submitted that it was strictly implementing the various provisions of the Act and rules⁴⁹⁴.

⁴⁸⁹ See order dated 25.03.1997 and 07.07.1997

⁴⁹⁰ Affidavit dated 28.08.1997

⁴⁹¹ Apology Affidavit dated 14.10.1997

⁴⁹² Affidavit dated 28.08.1997

⁴⁹³ Apology affidavit dated 14.10.1997

⁴⁹⁴ Affidavit dated 28.08.1997

3.14.5. Denotification of Protected Areas

In response to the order of the Court regarding denotification of Protected Areas, the State submitted that proposal was referred to the National Wildlife Board and the Legislative Assembly for its consideration⁴⁹⁵.

3.14.6. Settlement of rights

It is pertinent to note that the State of Kerala did not comply with two important orders⁴⁹⁶ of the Court on settlement of rights. Finally, the State filed a short statement regarding steps taken for completing the settlement procedure. The State submitted that there were twelve Wildlife Sanctuaries and two National Parks notified by the Government of Kerala under Section 18 and 35 of the Act. It stated that proclamation under Section 21 was not required as these Protected Areas were located within the Reserve Forests. Necessary State rules as contemplated in Section 64 of the Act was also formulated by the Government in 1978⁴⁹⁷. The State also neglected other preceding orders of the Court⁴⁹⁸. By the order dated 09.10.1998, the Court granted last opportunity to the State for filing its response. The State reiterated its earlier reply and informed the Court that settlement of rights was not required in its Protected Areas⁴⁹⁹. On 23.11.2005 another order was passed by the Court reminding the State to adhere to the settlement process. The State responded that the process of determination of rights in the newly created National Parks and Sanctuaries was being initiated and the final notifications would be issued without further delay. It also informed that no rights were pending to be settled with respect to any of the Sanctuary or National Parks in the State when the Court passed the earlier order dated 22.08.1997.

The Court passed an order⁵⁰⁰ in the year 2005 and reminded the State to complete its settlement process. The Government of Kerala stated that requisite steps were required to be taken to protect the rich biodiversity of the State. More areas were declared as Protected Areas. It further submitted that subsequent to order dated 22.08.1997 the State Government has issued initial notification with regard to five more Protected Areas. These were Mathikettan Shola National Park notified on 10.10.2003, Pampadum Shola National Park notified on 14.12.2003, Anaimudi Shola National Park notified on 14.12.2003, Mangalavanam Bird Sanctuary notified on 31.08.2004 and Kurinjimala Sanctuary notified on 06.10.2006.

3.14.7. Status of Protected Areas in Kerala

A status report was provided by the State Government of National Parks/Sanctuaries as existed on 01.11.2005⁵⁰¹.

1. **Wayanad Wildlife Sanctuary:** It was notified in 1973⁵⁰². It was ratified by the State under Section 66 of the Wildlife (Protection) Amendment Act, 1991. The State informed that no further proceedings were required under Section 21 and 26A of the Wildlife (Protection) Act.
2. **Parambikulam Wildlife Sanctuary:** It was notified in 1973⁵⁰³. It was ratified by the State under Section 66 of the Wildlife (Protection) Amendment Act, 1991. The State informed that no further proceedings were required under Section 21 and 26A of the Wildlife (Protection) Act.

⁴⁹⁵ Apology affidavit dated 14.10.1997

⁴⁹⁶ See order dated 07.07.1997 and 22.08.1997

⁴⁹⁷ Apology Affidavit dated 14.10.1997

⁴⁹⁸ See order dated 07.11.1997, 16.01.1998, 20.03.1998 and 17.07.1998

⁴⁹⁹ Affidavit date not mentioned

⁵⁰⁰ See order dated 23.11.2005

⁵⁰¹ Affidavit in compliance with order dated 23.11.2005 in I.A. No. 2

⁵⁰² Vide GO dated 30.05.1973

⁵⁰³ Vide GO dated 12.02.1973

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

3. **Neyyar Wildlife Sanctuary:** It was first notified in 1958. Subsequently, Neyyar Reservoir was also added to the Sanctuary. It was further notified in 1971⁵⁰⁴. It was ratified by the State under Section 66 of the Wildlife (Protection) Amendment Act, 1991. The State informed that no further proceedings were required under Section 21 and 26A of the Wildlife (Protection) Act.
4. **Peechi Vazhani Wildlife Sanctuary:** It was notified in 1958⁵⁰⁵. It was ratified by the State under Section 66 of the Wildlife (Protection) Amendment Act, 1991. The State informed that no further proceedings were required under Section 21 and 26A of the Wildlife (Protection) Act.
5. **Shendureney Wildlife Sanctuary:** It was notified in 1984⁵⁰⁶. It was ratified by the State under Section 66 of the Wildlife (Protection) Amendment Act, 1991. The State informed that no further proceedings were required under Section 21 and 26A of the Wildlife (Protection) Act.
6. **Chinnar Wildlife Sanctuary:** It was notified in 1984⁵⁰⁷. It was ratified by the State under Section 66 of the Wildlife (Protection) Amendment Act, 1991. The State informed that no further proceedings were required under Section 21 and 26A of the Wildlife (Protection) Act.
7. **Idukki Wildlife Sanctuary:** It was notified in 1976⁵⁰⁸. It was ratified by the State under Section 66 of the Wildlife (Protection) Amendment Act, 1991. The State informed that no further proceedings were required under Section 21 and 26A of the Wildlife (Protection) Act.
8. **Aralam Wildlife Sanctuary:** It was notified in 1984⁵⁰⁹. It was ratified by the State under Section 66 of the Wildlife (Protection) Amendment Act, 1991. The State informed that no further proceedings were required under Section 21 and 26A of the Wildlife (Protection) Act.
9. **Peppara Wildlife Sanctuary:** It was notified in 1983⁵¹⁰. It was ratified by the State under Section 66 of the Wildlife (Protection) Amendment Act, 1991. The State informed that no further proceedings were required under Section 21 and 26A of the Wildlife (Protection) Act.
10. **Chimmony Wildlife Sanctuary:** It was notified in 1984⁵¹¹. It was ratified by the State under Section 66 of the Wildlife (Protection) Amendment Act, 1991. The State informed that no further proceedings were required under Section 21 and 26A of the Wildlife (Protection) Act.
11. **Thattekad Bird Sanctuary:** It was notified in 1983⁵¹². It was ratified by the State under Section 66 of the Wildlife (Protection) Amendment Act, 1991. The State informed that no further proceedings were required under Section 21 and 26A of the Wildlife (Protection) Act.
12. **Periyar Wildlife Sanctuary:** It was declared as a Sanctuary in 1950⁵¹³. Later, it was declared as a Tiger Reserve under Project Tiger in 1977⁵¹⁴. The core area comprising of 350 sq km. was declared as Periyar National Park in 1984⁵¹⁵. It was ratified by the State under Section 66 of the Wildlife (Protection) Amendment Act, 1991. The State informed that no further proceedings were required under Section 21 and 26A of the Wildlife (Protection) Act.

⁵⁰⁴ Vide GO dated 18.03.1971

⁵⁰⁵ Vide GO dated 06.08.1958

⁵⁰⁶ Vide GO dated 25.08.1984

⁵⁰⁷ Vide GO dated 04.08.1984

⁵⁰⁸ Vide notification no. 78/98/FM3/76/AD dated 09.02.1976

⁵⁰⁹ Vide GO dated 15.10.1984

⁵¹⁰ Vide GO dated 21.12.1983

⁵¹¹ Vide GO dated 25.08.1984

⁵¹² Vide GO dated 27.08.1983

⁵¹³ Vide notification no. F1-2854/AD dated 11.08.1950

⁵¹⁴ Vide notification no. G-11025/34/FRY (Project Tiger) dated 29.08.1977

⁵¹⁵ Vide GO dated 15.10.1984

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

What is not clear from the above is whether the entire area only constitutes reserve forest land or there are other legal categories of land as well. This needs to be really ascertained. What is surprising is that neither the court nor any other empowered body has not gone into these basic questions of settlement of rights. Infact it is due to these lapses that such an alarming situation on settlement already exists.

3.14.8. Control of poaching: Equipment, wireless sets and arms and ammunition

In order to effectively control the poaching activities in the Sanctuaries/National Parks the State Government was directed⁵¹⁶ to ensure that the Forest Guards in the Protected Areas were provided with modern arms, communication facilities, viz. wireless sets and other necessary equipments. No response was filed. Specific directions were issued by the Court with regard⁵¹⁷. The State informed⁵¹⁸ that the wildlife wing was equipped with one hundred twelve wireless sets and one hundred nine rifles adequate for the present requirement. The State submitted that due consideration was given to improve the communication facilities with modern equipments on a time bound basis. On a later date the State informed that State Forest Department purchased thirteen revolvers with ammunition, rifles for one hundred nine Forest Guards, fourteen fixed sets, one mobile set and sixty six walkie talkies in addition to one hundred twelve wireless sets⁵¹⁹. Forest Officers up to the range of Range Officers were provided with revolvers⁵²⁰.

3.14.9. Immunization of livestock

On 20.03.1998 the Court issued directions to the State of Kerala to take appropriate steps with regard to immunization of livestock. The State responded that the Government has taken effective and perceptive steps for this purpose. One Forest Veterinary Officer and two Assistant Forest Veterinary Officers stationed in Periyar Tiger Reserve and in Wayanad Sanctuary were working in the Forest Department on regular basis. It also informed that since 1993-94 the Forest Department has been conducting camps in and around Sanctuaries and National Parks for immunizing livestock against Foot and Mouth disease, Rinder Pest and other communicable diseases. In Silent Valley National Park, Eravikulam National Park and the core areas of Periyar Tiger Reserve where preliminary notification were issued grazing of livestock was completely prohibited⁵²¹. Further, the State Government ⁵²² vide its order dated 16.10.1993 declared fourteen veterinary centers for immunization of livestock in and around of WSs/NPs.

3.14.10. Registration of firearms and issuance of new licences

Section 34 of the WLPA mandates registration of firearms in and around the Protected Areas and issuing licenses with prior approval of the Chief Wildlife Warden. Accordingly the Court directed⁵²³ the State to take action in this regard. The State responded⁵²⁴ that it had formulated the Kerala Wildlife Protection rules, 1978⁵²⁵. It informed the Court that Rule 34 deals with registration of persons holding firearms and residing within ten km. of the Wildlife Sanctuaries and National Parks. A circular was issued by the Kerala Government directing the District Collectors and the officers incharge of the Sanctuaries and Parks to ensure strict implementation of the said provision.

⁵¹⁶ Vide order dated 22.08.1997

⁵¹⁷ Vide order dated 17.10.1997

⁵¹⁸ Apology affidavit dated 14.10.1997

⁵¹⁹ Affidavit date not mentioned

⁵²⁰ Affidavit dated 27.03.2001 in response to the affidavit filed by Union of India on 26.08.2000

⁵²¹ Affidavit dated 09.07.1998

⁵²² In response to the order dated 17.07.1998

⁵²³ Vide order dated 20.03.1998

⁵²⁴ Affidavit dated 09.07.1998

⁵²⁵ Vide notification dated 16.02.1978

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

District Collectors were also directed not to issue any new licences without the concurrence of the Chief Wildlife Warden in accordance to Rule 29-33. Further, the State prohibited entry of person with weapons and use of injurious substances like chemicals and explosives in Wildlife Sanctuaries and National Parks as required under Section 31-32 of the WLPA. The State also informed that all District Collectors, Superintendent of Police, Commissioner of Police and all Chief Wildlife Wardens were asked to strictly comply with the orders of Court⁵²⁶.

3.14.11. Other unique issues concerning wildlife conservation measures

The Government of Kerala undertook certain important measures for conserving the wildlife in the Protected Areas under various directions of the Court⁵²⁷. This was elaborated in an affidavit dated 27.03.2001 in response to the affidavit filed by Union of India on 26.08.2000.

Wildlife staff

The Wildlife staff was posted in National Parks and Wildlife Sanctuaries to undertake various works such as patrolling, maintenance of boundary and habitat etc. Locals were provided free education regarding protection and conservation of wildlife⁵²⁸.

Permission for research in Protected Areas

The State permitted research subjected to the conditions specified in Form No. 28 notified vide dated 06.11.1996⁵²⁹.

Fire incidences

The State instructed the field officers to prevent fire incidences in Protected Areas⁵³⁰.

Financial assistances

The State informed that there was no delay in transmission of Central assistance to implementing agencies. It was decided that fifty percent of the total funds would be released in advance through a letter of credit.

Vacant post

The State has provided statistical information that there were two hundred ninety six vacant posts of foresters and twenty seven vacant Forest Guards out of which one hundred fourteen posts were sanctioned to foresters and seven posts were sanctioned to Forest Guards on 01.06.2000.

Timely compensation

The State reported to the Court that compensation for wildlife attacks was paid as per the rules, depending on availability of funds. The tribals were secured by an insurance company by paying compensation of Rupees twenty five thousand in cases of deaths. The Government of Kerala had also taken into consideration the question of raising the compensation amount as revised by Government of India.

Forest stations

Forest stations were established in Kerala from 1988. The State submitted that there were eighty eight Forest station operating in districts.

⁵²⁶ Vide letter dated 26.10.1998

⁵²⁷ Vide order dated 07.07.1997, 22.08.1997 and 20.03.1998

⁵²⁸ Affidavit dated 28.08.1997

⁵²⁹ Affidavit dated 09.07.1998

⁵³⁰ Affidavit dated 09.07.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Flying Squads Divisions

Flying Squads Divisions were established and were well equipped with vehicles and transport facilities. These Flying Squads Divisions acted as a Strike Force and helped the Wildlife Wardens as and when required.

Protection of Tiger Reserve

Officer of rank of Range Officer with supporting staff, vehicles and other facilities were posted at Periyar Tiger Reserve as Strike Force.

Training to forest staff

Arippa and Walayar were two centers established by the State to impart different skills to front line staff. The centres also provided short term training programs and one day program on the provisions of WLPA through resource persons.

Intelligence networking

Proposal for setting up the intelligence units to the district levels were considered by the State. The information about the illegal forest activities was provided by the local inhabitants of the area. Joint patrolling at inter State borders, information sharing, and meetings were held on regular basis. The State informed that the implementation of eco development strategies had improved the information sharing from local people about the illegal activities such as wildlife trade, ganja cultivation etc.

Incentives

The Government of Kerala under active consideration proposed to provide incentives to the forest staff.

3.15. The State of Madhya Pradesh

3.15.1. Introduction

In the reorganized State of Madhya Pradesh, there are nine National Parks and twenty five Wildlife Sanctuaries where settlement process has been initiated. The State has provided responses on various orders relating to tiger population, constitution of Wildlife Advisory Board, appointment of Honorary Wildlife Wardens, immunization of livestock, registration of arms and other effective measures to conserve and protect wildlife. Issues relating to relocation and rehabilitation of villages inside Protected Areas were also dealt in through interlocutory applications. The State of Madhya Pradesh had responded to the Supreme Court orders and also elaborated its uniqueness on issues relating to wildlife conservation as follows. The division of the State has added to the complexity of management of wildlife.

3.15.2. Constitution of the Wildlife Advisory Board

Pursuant to order dated 25.03.1997 the State of M.P. informed⁵³¹ that it has constituted the State Wildlife Board in 1994⁵³² with members so specified under Section 6 of the Wildlife (Protection) Act, 1972. It further informed⁵³³ through another affidavit that the last meeting of the State Wildlife Board took place on 12.06.1997. The State Wildlife Board was reconstituted due to expiry of the period of earlier Board, vide notification dated 08.07.1997 for a period of three years⁵³⁴.

3.15.3. Appointment of Wildlife Wardens: Confusion between Wildlife Warden and Honorary Wildlife Warden

The State of Madhya Pradesh too misread the Court order and gave information about Honorary Wildlife Wardens instead of Wildlife Wardens. As informed earlier, they are two different statutory positions with two very different mandates. As regards appointment of Honorary Wildlife Warden, the State informed that it has appointed fifteen Honorary District Wildlife Wardens for the period of one year vide notification dated 06.12.1994. After the expiry of this period the process has been initiated to appoint such Wardens in each district. The process of verification of the antecedents of these persons is in progress. Nineteen of these names are due for final notification and the process for the rest of the districts shall be finalized soon. It further informed⁵³⁵ that names of ten persons have



⁵³¹ Affidavit dated 23.04.1997

⁵³² Vide notification dated 25.06.1994

⁵³³ Additional affidavit dated 31.07.1997

⁵³⁴ Affidavit dated 14.10.1997

⁵³⁵ Additional affidavit dated 31.07.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

been finalized for appointing them as Honorary Wildlife Wardens in ten districts and the same have been forwarded for police verification. The same is awaited. Reminders have been sent to the police to expedite the process. *Note that neither the State has still figured out and nor the Court has pointed out the difference between Wildlife Wardens and Honorary Wildlife Wardens in these submissions.*

In another affidavit the State informed⁵³⁶ that there are forty five districts, out of which thirty five Honorary Wildlife Wardens have been appointed. The last Notification appointing twenty five Wardens was issued on 09.10.1997. The first notification was issued on 08.05.1997. Ten more Wardens have been appointed in the remaining districts. The delay was due to difficulty in finding suitable person and the time needed to get the confidential information on the credentials and public behavior of the nominated persons, from the Superintendent of Police. The State therefore sought two more months to appoint the remaining Wardens. It was pleaded again in the affidavit⁵³⁷ to grant two more months time to appoint the ten Wildlife Wardens. Finally, it was informed that HWWs have been appointed in all the districts⁵³⁸

3.15.4. Settlement of rights: Phase wise program of relocation and acquisition of rights requested

As regards the most important issue raised in the petition the response, initially was rather casual where the State informed the Court that the settlement of rights in various National Parks and Sanctuaries are in progress and shall be completed soon⁵³⁹. Subsequently, pursuant to order dated 22.08.1997, the State responded⁵⁴⁰ in detail regarding the settlement of rights process. The proclamation notification under Section 21 for WSSs and NPs was issued in 1996. The process of determination of rights is also in progress. It has been completed in Badakhhol, Narsinghgarh, Gandhisagar and Kheoni Sanctuaries and final notifications will be issued shortly⁵⁴¹

It is almost impossible to acquire all rights and land within a period of one year i.e. by 21.08.1998 owing to the following:

- a. There are eleven NPs and thirty five WSSs, two hundred thirty five forest villages and seven hundred twenty revenue villages are located within the boundary of these NPs and WSSs.
- b. Seventy seven thousand three hundred thirty nine families live in these nine hundred fifty five villages.
- c. Even if the process of determination of rights is completed by 21.08.1998 it is not possible to acquire the land and rights due to lack of financial resources. The Central Government provides assistance @ Rupees one lakh per family under the beneficiary oriented tribal development scheme to relocate and resettle the tribal families. Till date State has only received Rupees one hundred thirteen lakh and thirty five thousand since 1991 for this purpose. A total of Rupees seventy seven thousand three hundred thirty nine lakhs for relocation and resettlement alone and similar amount may be needed for the acquisition of rights. It is estimated that a total amount of Rupees one hundred fifty four thousand six hundred seventy eight lakhs will be needed for acquisition of rights and land and for relocation of all the above villages⁵⁴².
- d. About four thousand five hundred twenty three families would be required to be relocated which reside within the NP for which an estimate of about Rupees nine thousand fourty six lakhs will be required. The State's financial position is not such that all acquisitions of land and rights of people can be completed by 21.08.1998.

⁵³⁶ Affidavit dated 14.10.1997

⁵³⁷ Application for extension of time dated 14.10.1997

⁵³⁸ Affidavit dated 24.08.1998

⁵³⁹ Additional affidavit dated 31.07.1997

⁵⁴⁰ Affidavit dated 14.10.1997

⁵⁴¹ Affidavit dated 14.10.1997

⁵⁴² Affidavit dated 24.08.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Another important issue raised in the context of wildlife conservation relates to relocation of village within PAs. The State informed⁵⁴³ that there is no provision either in the State budget or in Central budget to provide for relocation and resettlement of the non tribal villages nor for payment or compensation for acquisition of land and rights of people. The Central Government has included these two items in the Ninth Plan proposal and most likely the assistance will be available from next year.

It is also the declared policy of State Government not to evict people forcibly from NPs/WSs. They can be relocated only if the villagers are willing to shift or they are persuaded to understand the need for relocation and their acceptances is voluntary thereafter. This entire process of persuasion through conservation awareness Program may need time⁵⁴⁴. The State may therefore be permitted to prepare a phase wise program of relocation and acquisition of rights in concurrence with the Central Government and financial provisions be made available accordingly for this purpose to the State Government⁵⁴⁵. It was further stated that the settlement of rights has not been completed in totality. Most of the NPs and Sanctuaries the work has been completed or in progress which may take six-seven months in completing task⁵⁴⁶.

3.15.5. Determination and settlement of rights: Post the division of State: Focus on critical habitats and realignment of boundaries

The Government of Madhya Pradesh informed⁵⁴⁷ that in the reorganized State of M.P. there are nine NPs and twenty five WSs spread over eleven percent of the geographical area of the State. About ninety forest villages and five hundred fifty revenue villages are located within the boundaries of these NPs/WSs which are home to around forty eight thousand families. The determination of rights and their settlement is required to be done. Besides this there are people living beyond the limits of the Protected Areas having claims to certain rights within the boundaries notified in the preliminary notification. However, some of the settlement orders issued by the Collector have been found inconsistent with the spirit or letter of the law and the Government is in the process of having such order reviewed/ revised. In order to sensitize Collectors, a workshop was organized by Government of M.P. on 29.08.2005.

In view of the enormity of the task and considering the non availability of revenue land for relocation and the dearth of funds for rehabilitation, M.P. Government is pursuing the strategy of prioritization wherein the State does not intend to relocate all the villages from proposed areas immediately. The focus is the villages within the critical habitats inhabited by endangered species and highly sensitive ecosystems. All the sixty four villages from NPs and only eighty six from the WSs out of total five hundred seventy six would be relocated. Rest of the villages that are within the Sanctuaries, on the periphery are to be removed from the existing limits of the Sanctuaries by realignment of the PA boundaries after seeking permission of the National Board.

3.15.6. Resettlement and rehabilitation: Voluntary is a priority, Net Present Value a barrier

For acquisition of land and rights and relocation and rehabilitation of about six thousand eligible families from sixty four villages of the NPs, it is estimated that Rupees one hundred twenty crore will be required and Rupees one hundred sixty crore would be needed for relocation and rehabilitation of about eight thousand eligible families from eighty six villages of the Sanctuaries. This is the minimum amount needed if acquisition of land and rights of people and rehabilitation of villages from NPs and Sanctuaries is to be completed.

⁵⁴³ Affidavit dated 14.10.1997

⁵⁴⁴ Affidavit dated 24.08.1998

⁵⁴⁵ Affidavit dated 24.08.1998

⁵⁴⁶ Affidavit dated 24.08.1998

⁵⁴⁷ Additional Affidavit dated 01.04.2006 filed in compliance with order dated 23.11.2005

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

The relocation of people will be done in a phased manner and consultative effort of concerned villages. Therefore first those villages will be relocated where people are willing to shift or after persuasion voluntarily accept to shift. This process may not happen within the specific time limit. So far the Government has relocated and rehabilitated around fifty four villages and rehabilitation of ten villages is in progress. But the recent insistence of the Government on payment of Net Present Value of forest land diverted for rehabilitation of villages is acting as a serious impediment in the implementation of this scheme. Earlier the Government of India had allowed diversion of forest land for rehabilitation of the villages from PAs without demanding the payment of Net Present Value, but there are three recent cases of diversion of forest land in which Government of India has insisted that NPV must be paid by the State Government in compliance to the order of SC in I.A. 566 in Civil Writ Petition No. 202/95. An I.A. No. 92 was accordingly moved which prays that the Central Government waive off payment of NPV for diversion of forestland for the purpose of rehabilitation of people located from National Parks and Sanctuaries. This application by State of Madhya Pradesh is ordered to be brought up along with I.A. No.2. In the meanwhile, MoEF and NBWL are directed to file their response⁵⁴⁸. This issue has now been settled vide order dated 28.03.2008 read with 09.05.2008 in WP(C) No 202 of 1995 wherein on the recommendation of CEC, the Court has permitted MoEF to approve diversion of forest land under FCA for relocation of villagers from National Parks/Sanctuaries without payment of NPV. This has been approved by the SC after considering the report of expert committee and CEC.

3.15.7. On obligations and specific steps being taken under the Wildlife Protection Act

Another generic response where the affidavit⁵⁴⁹ states that the State of M.P. is committed to discharging its obligations for the implementation of the provisions of the Wildlife (Protection) Act, 1972.

3.15.8. Tiger population: Don't worry be happy!

On the other crucial prayer on status of tiger conservation and this becomes rather crucial in the context of the State of Madhya Pradesh (the Tiger State of India) the response is rather casual again where there is a very generic response stating that "The population of tigers in the State of M.P. is properly taken care of and every effort is being taken for the conservation of the flora and fauna in the State"⁵⁵⁰.

3.15.9. Immunization of livestock

Pursuant to the order dated 20.03.1998, which required, among other things the details on immunization of livestock in and around PAs, the State Government informed⁵⁵¹ that the Directors of NPs and Superintendents of the WLs have been instructed to seek help of the Animal health Services (Veterinary Department) of the State. In several NPs and WLs the local veterinary officers carry out the prophylactic vaccination of the livestock against common diseases, within and around the NPs and WLs. Immunization work could not be carried out owing to insufficient supply of vaccines as well as paucity of financial allocation for purchasing vaccine that are used against common diseases of livestock. In certain bird and reptile. WLs such as Sardarpur Bustard Sanctuary, Dhar and National Chambal Sanctuary, Morena where large land mammals are absent, the necessity to immunize livestock is not found necessary. (Note that the recent deaths of the Gharials in Chambal flies on the face of these assumptions where such decisions relating to immunization are taken without any ground truthing and scientific basis). The Animal Health Services of the State was required to issue appropriate instructions to subordinate offices to carry out the immunization of livestock in and around the NPs and WSs. Immunization was carried out against communicable diseases within radius of ten km.

⁵⁴⁸ See order dated 14.11.2007

⁵⁴⁹ Additional affidavit dated 31.07.1997

⁵⁵⁰ Additional affidavit dated 31.07.1997

⁵⁵¹ Affidavit dated 09.05.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

It was further informed⁵⁵² in compliance to Courts order dated 17.07.1998 that the State has established a number of veterinary centers. These are within half to thirty km of NPs/WSs. There are sub centers and one mobile unit in each district to immunize cattle within the vicinity of WSs/NPs. Two hundred fifty six veterinary centers are established in the State to take immunization of large domestic cattle population⁵⁵³. The immunization is an annual process taken up before the onset of rains. Large resources are required for immunization, which is not available so hundred percent immunization could not be achieved. Vaccination is generally free, but for foot and mouth diseases cattle owner has to pay Rupees ten for main dose. In twenty eight Protected Areas so far two lakh nine thousand four hundred thirty five cattle have been immunized. Further, in the Fossil NP and Van Vihar NP the immunization of cattle is not necessary as the former is to preserve the prehistoric plants, and the latter is fenced properly. But immunization of cattle is been carried out in surrounding villages⁵⁵⁴.

3.15.10. Registration of arms

Pursuant to the order dated 20.03.1998 which required, among other things the details on registration of arms in and around PAs, the State Government informed⁵⁵⁵ that it is immediately initiating the exercise to find out the non registration of arms if any and complete the registration as soon as possible. Various Departments are being directed to comply with the directions of this Honorable Court and shall do all required to be done in this behalf. The State responded⁵⁵⁶ in compliance to Courts order dated 17.07.1998, in a more specific manner and stated that the State Government has started the registration of persons possessing firearms under Rule 39 of M.P. Wildlife Protection rules 1974 in and around the areas of NPs/WSs. Notices are issued to persons who have not yet registered under the law. District Collectors were been informed by Park Directors and Superintendent of Sanctuaries not to renew licences of defaulters. Further, no new or fresh licence without prior consent of CWLW as per provision of WLPA 1972 is to be issued.

Pursuant to order dated 17.07.1998, another affidavit⁵⁵⁷ was filed which gave the updates of WLS where registration of persons possessing firearms is completed. So far four thousand eight hundred thirty six firearms holders have been registered in thirty three Sanctuaries and nine NPs. Registration completed for twenty Sanctuaries. There is large number of villages in and around PAs of M.P. and owing to the frequency of crop damage by herbivores, licenses were earlier issued to a large number of villagers for crop protection. The progress has been slow in districts like Bind, Morena and Sheopur where five thousand five hundred twelve firearms holders have been identified in a radius of ten km of the National Chambal Sanctuary. Till now six hundred firearms holders could be registered around the National Chambal Sanctuary.

3.15.11. Control over poaching: Equipment, wireless network and arms

Pursuant to order dated 22.08.1997 which requires to inform about the steps taken to control poaching, the State responded⁵⁵⁸ that directions are given so that necessary steps should be taken to ensure that the Forest Guards in the WLS/NPs are provided with modern arms, communication facilities viz. wireless sets and other necessary equipments in that regard be taken up within six months. The State wildlife wing was the first to establish wireless network in the PAs in 1978. Owing to paucity of financial resources, the program of establishing wireless network in all PAs has slowed down till 1996. Since 1996, under the World Bank aided M.P. Forestry Project, staff of twenty four selected PAs has received wireless equipment worth Rupees sixty three lakhs. The other twenty two PAs will

⁵⁵² Affidavit dated 18.09.1998

⁵⁵³ Additional affidavit dated 24.02.1999

⁵⁵⁴ Additional affidavit dated 24.02.1999

⁵⁵⁵ Affidavit dated 09.05.1998

⁵⁵⁶ Affidavit dated 18.09.1998

⁵⁵⁷ Additional affidavit dated 24.02.1999

⁵⁵⁸ Affidavit dated 14.10.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

be equipped accordingly in the second phase of the project which will begin in 1998. Efforts are being made to provide arms and ammunition to the field staff. The total of six hundred ninety eight wireless equipments is provided in the Protected Areas. Detailed procedure for possession and use of firearms has been laid for Forest Department field staff, efforts is on to provide arms and ammunition to field staff. Seven hundred guns have been issued in twenty one forest circles⁵⁵⁹. Training of staff in various disciplines of wildlife management, ecocodevelopment and intelligence gathering has also been started.

3.15.12. Larger measures on wildlife conservation as per information sought by the Central Government

In response to the affidavit dated 31.08.2000 of Union of India, the State Government elaborated⁵⁶⁰ the larger measures of the wildlife conservation in the State.

Budget Allocation

State Government makes adequate allocation of the share, under scheme where fifty percent of amount is provided by State.

Delay in release of financial assistance given by Central Government

Government of India provides Central assistance for wildlife habitat improvement, protection from fire, poaching control measures and development of infrastructure such as roads, buildings and establishment of wireless network in all the forty five PAs of the State. For development of NPs and WSs about fifty percent is received. For ecocodevelopment about hundred percent is received. Beneficiary oriented hundred percent for Project Tiger hundred percent for non recurring works and fifty percent for recurring works and for Van Vihar National Park Captive Animal Management about fifty percent. Allocation from the Centre is received between the month of August and March every year. Soon after the amount received it is released to the respective Parks/Sanctuaries

Vacancies of field staff

The Chief Secretary has assured the Central Government that State will try to insulate wildlife sector from the exercise of downsizing as far as possible. As there is a ban on fresh recruitment, efforts are being made to fill up the vacant posts by redeploying staff from other wings of the Forest Department.

3.15.13. Exclusion of protected forest areas for notifying the Gangau Wildlife Sanctuary

The State of Madhya Pradesh⁵⁶¹ has sought modification⁵⁶² of the dereservation order⁵⁶² of the Court for issuing final notification⁵⁶³ of the Gangau Wildlife Sanctuary. The State submitted that initial notification for the Sanctuary was issued during November 1976. Thereafter, the area was increased and the proceedings under the Wildlife Protection Act were completed. The Court directed the matter to National Board for Wildlife for its recommendations⁵⁶⁴. Further, the MoEF informed the Court⁵⁶⁵ that a presentation was made by the Chief Wildlife Warden whereby it stated that by issuing the final notification about 1659.693 ha revenue land and protected forestland could be excised from the proposed Sanctuary. Also that the proposal was considered and recommended by the Rationalization Committee for Protected Areas and the Committee required the State Government to provide a written submission for adding equivalent area of reserved forest in the Gangau Sanctuary in lieu of the proposed

⁵⁵⁹ Affidavit dated 24.08.1998

⁵⁶⁰ Affidavit dated 29.09.2000

⁵⁶¹ In I.A. No. 106

⁵⁶² See order dated 13.11.2000

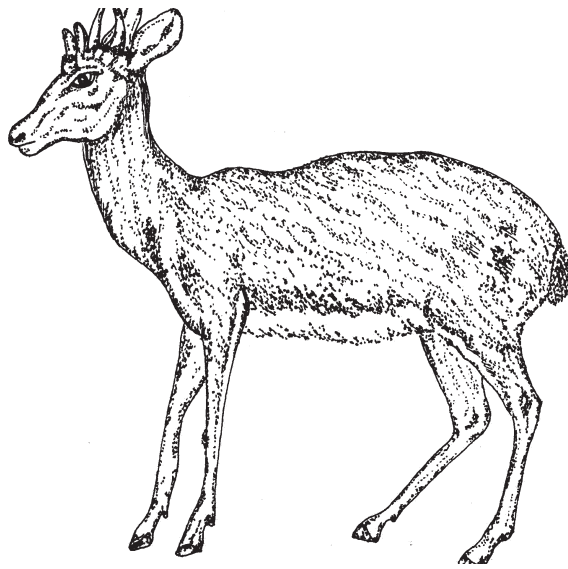
⁵⁶³ Under Section 26(2) of the Wildlife Protection Act

⁵⁶⁴ Vide order dated 11.03.2008

⁵⁶⁵ Through its affidavit dated 21.07.2008

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

deletion. On 30.04.2008 the Court observed that the State had not filed the detailed proposal before the National Board for Wildlife regarding exclusion of 1659.693 ha of revenue/protected forest. Therefore, directions were issued to the State Government to submit their proposal to the Board within period of four weeks. This application is pending before the Board.



3.16. The State of Maharashtra

3.16.1. Introduction

Five National Parks and thirty three Wildlife Sanctuaries exist in the State of Maharashtra. It was informed that settlement procedure has been initiated in all these Protected Areas; however final notification has not been issued with respect to few Sanctuaries and National Parks. The Government has taken certain steps towards rehabilitating and relocating villagers residing inside the Protected Areas. The State has also initiated separate applications for diverting forestland for developmental projects. The State of Maharashtra has also responded to the various queries to the Supreme Court on different aspects of wildlife conservation including the constitution of Wildlife Advisory Board, appointment of Wildlife Wardens including Honorary Wildlife Wardens, among others. These are further described in detail as follows:

3.16.2. Constitution of the Wildlife Advisory Board

The State of Maharashtra informed⁵⁶⁶ in compliance with the order dated 25.03.1997 that it had reconstituted the Board vide Government Resolution dated 26.06.1996.

3.16.3. Appointment of Honorary Wildlife Wardens

The State of Maharashtra too misread the order of the Supreme Court on the appointment of Wildlife Warden and informed the Court about the appointment of the Honorary Wildlife Warden. It stated in its affidavit⁵⁶⁷ that the appointment in each district was under consideration by the State Government. The Chief Conservator of Forests of Nagpur was required to bring the proposal for the same before the State Wildlife Advisory Board. After receiving recommendations from the Board, further necessary action would be taken. No response was filed by the State in the consequent orders passed by the Court on 22.08.1997 and 17.10.1997. The Court thus, granted four weeks time for the State to comply with its order on appointing the Honorary Wildlife Wardens⁵⁶⁸. The State Government submitted⁵⁶⁹ that it had appointed Honorary Wildlife Warden in each district as per provisions of Section 4 of the Act in October 1997⁵⁷⁰.



⁵⁶⁶ Affidavit dated 10.06.1997

⁵⁶⁷ Affidavit dated 10.06.1997

⁵⁶⁸ Vide order dated 07.11.1997

⁵⁶⁹ Affidavit dated 21.11.1997

⁵⁷⁰ Vide Government notification, Revenue & Fiscals Department, dated 16.10.1997

3.16.4. Settlement of rights

The Court directed the State to take appropriate steps for completing the settlement procedure failing which contempt proceedings would be initiated against the State⁵⁷¹. The State Government immediately responding to the order stated that the notifications were issued for five National Parks and thirty three Wildlife Sanctuaries. The Enquiry Officers were requested to complete the process of determination of rights and acquisition of land within a period of one year as directed by the Court vide order dated 22.08.1997⁵⁷². The State also submitted⁵⁷³ that enquiry reports were received from the Sub Divisional Officers. The remaining National Parks and Sanctuaries were examined by the Chief Wildlife Warden and action for issuing final notifications and acquisition of rights would commence after report of Chief Wildlife Warden was received by the State Government

On 23.11.2005 the Court had directed the State to provide a status report of various Protected Areas as existed on 01.11.2005. It took another one year for the State to provide its status report. It submitted⁵⁷⁴ that out of forty one PAs final notifications were issued for eight Protected Areas. Procedure under Section 22 relating to inquiry by Collector was completed in respect of all Sanctuaries except for the Karanja Sohul Wildlife Sanctuary, Karnala Wildlife Sanctuary (Extension) and part of Great Indian Bustard Sanctuary (Madha Sub Division). Further, it explained the reasons for the delay like identification of the sites for rehabilitation, consent of the people for rehabilitating them outside Protected Areas, and the process involved in preparation of the proposals for diversion of the forest land and availability of funds for rehabilitation.

3.16.5. Status of Protected Areas in State of Maharashtra

The State submitted a statement containing requisite details of Wildlife Sanctuaries and National Parks⁵⁷⁵.

1. **Gugamal National Park:** Proclamation was issued on 21.12.1996⁵⁷⁶.
2. **Melghat Sanctuary:** It was constituted in a Reserve Forest. Final notification has been issued⁵⁷⁷. Proclamation was issued on 21.12.1996⁵⁷⁸.
3. **Painganga Sanctuary:** Proclamation was issued on 14.01.1993 for Pusad and 12.03.1997 for Kinwat⁵⁷⁹.
4. **Katepurna Sanctuary:** Proclamation was issued on 11.12.1996, 18.12.1996 for Akola district and 17.02.1997 and 20.12.1996 for Mangrulpir district⁵⁸⁰.
5. **Gautala Autramghat Sanctuary:** Proclamation was issued on 27.10.1997 for Sillod district and 20.02.1993 for Chalisgaon⁵⁸¹.
6. **Jaikwadi Sanctuary:** Proclamation was issued on 11.02.1994 for Aurangabad, 11.08.1997 in Shirampur and 10.07.1997 for Ahmadnagar⁵⁸².
7. **Yawal Sanctuary:** Proclamation was issued on 04.01.1994 and 09.02.1994 for Bhusawal⁵⁸³.
8. **Aner Dam Sanctuary:** Proclamation was issued on 30.10.1994 for Dhule ⁵⁸⁴.

⁵⁷¹ Vide order dated 07.11.1997

⁵⁷² Affidavit dated 21.11.1997

⁵⁷³ Affidavit dated 29.09.1998 filed in response to the order dated 17.07.1998

⁵⁷⁴ Affidavit dated 13.11.2006

⁵⁷⁵ Affidavit dated 21.11.1997

⁵⁷⁶ Affidavit dated 21.11.1997

⁵⁷⁷ Affidavit dated 29.09.1998 filed in response to the order dated 17.07.1998

⁵⁷⁸ Affidavit dated 21.11.1997

⁵⁷⁹ Affidavit dated 21.11.1997

⁵⁸⁰ Affidavit dated 21.11.1997

⁵⁸¹ Affidavit dated 21.11.1997

⁵⁸² Affidavit dated 21.11.1997

⁵⁸³ Affidavit dated 21.11.1997

⁵⁸⁴ Affidavit dated 21.11.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

9. **Deulgaon – Rehkuri Sanctuary:** A deemed Sanctuary for Karjat⁵⁸⁵.
10. **Mandur Madhmeshwar Sanctuary:** Proclamation was issued on 08.11.1995 for Niphad⁵⁸⁶.
11. **Kalasubai Harishchandragad Sanctuary:** Final order for receiving objections was issued by the Enquiry Officer of Sangamner on 28.08.1997⁵⁸⁷.
12. **Maldhok Sanctuary:** Proclamation was issued on 02.06.1997 in Karjat, 10.11.1997 for Shrirampur, 10.11.1997 in Madhgate and Kurduwadi and 10.11.1997 for Solapur⁵⁸⁸.
13. **Koyana Sanctuary:** Proclamation was issued on 01.03.1993 for Satara and Karad⁵⁸⁹.
14. **Radhanagari Sanctuary:** Proclamation was issued on 17.10.1986 for Radhanagari⁵⁹⁰.
15. **Sagareshwar Sanctuary:** Proclamation was issued on 26.08.1992 for Khanapur and Walva⁵⁹¹.
16. **Chandoli Sanctuary:** Proclamation was issued on 26.08.1992 for Walva, 09.11.1992 for Karad, 03.11.1992 for Karvir and 01.03.1993 and 20.10.1997 for Chiplun⁵⁹².
17. **Sanjay Gandhi National Park:** Final notification has been issued⁵⁹³.
18. **Karnala Sanctuary:** A deemed Sanctuary in Panvel⁵⁹⁴.
19. **Tansa Sanctuary:** A deemed Sanctuary in Bhiwandi. Proclamation was issued for Jawhar district on 14.08.1995⁵⁹⁵.
20. **Phansad Sanctuary:** Proclamation was issued on 01.02.1997 for Alibag and 01.01.1997 for Mangaon⁵⁹⁶.
21. **Malvan Sanctuary:** Proclamation was issued on 03.12.1991 for Kankawali⁵⁹⁷.
22. **Tadoba National Park:** Final notification has been issued⁵⁹⁸.
23. **Nawegaon National Park:** Proclamation was issued on 01.10.1985 for Sakoli⁵⁹⁹.
24. **Bor Sanctuary:** Proclamation was issued on 15.05.1993 for Katel and 20.10.1997 for Wardha⁶⁰⁰.
25. **Andheri Sanctuary:** Proclamation was issued on 30.04.1997 for Warora⁶⁰¹.
26. **Chprala Sanctuary:** Proclamation was issued on 21.10.1994 for Gadchiroli⁶⁰².
27. **Pench National Park:** Proclamation was issued on 08.09.1993 for Ramtek⁶⁰³.
28. **Naigaon Peacock Sanctuary:** Proclamation was issued on 20.10.1997 for Beed⁶⁰⁴.
29. **Tripeshwar Sanctuary:** It was constituted in Reserve Forest in Beed district. Final notification has been issued⁶⁰⁵. Proclamation was issued on 01.09.1997 for Pandharkawda⁶⁰⁶.
30. **Dnyanganga Sanctuary:** It was constituted in a Reserve Forest. Final notification has been issued⁶⁰⁷. Proclamation was issued on 13.10.1997 for Khamgaon⁶⁰⁸.

⁵⁸⁵ Affidavit dated 21.11.1997

⁵⁸⁶ Affidavit dated 21.11.1997

⁵⁸⁷ Affidavit dated 21.11.1997

⁵⁸⁸ Affidavit dated 21.11.1997

⁵⁸⁹ Affidavit dated 21.11.1997

⁵⁹⁰ Affidavit dated 21.11.1997

⁵⁹¹ Affidavit dated 21.11.1997

⁵⁹² Affidavit dated 21.11.1997

⁵⁹³ Affidavit dated 29.09.1998 filed in response to the order dated 17.07.1998

⁵⁹⁴ Affidavit dated 21.11.1997

⁵⁹⁵ Affidavit dated 21.11.1997

⁵⁹⁶ Affidavit dated 21.11.1997

⁵⁹⁷ Affidavit dated 21.11.1997

⁵⁹⁸ Affidavit dated 29.09.1998 filed in response to the order dated 17.07.1998

⁵⁹⁹ Affidavit dated 21.11.1997

⁶⁰⁰ Affidavit dated 21.11.1997

⁶⁰¹ Affidavit dated 21.11.1997

⁶⁰² Affidavit dated 21.11.1997

⁶⁰³ Affidavit dated 21.11.1997

⁶⁰⁴ Affidavit dated 21.11.1997

⁶⁰⁵ Affidavit dated 29.09.1998 filed in response to the order dated 17.07.1998

⁶⁰⁶ Affidavit dated 21.11.1997

⁶⁰⁷ Affidavit dated 29.09.1998 filed in response to the order dated 17.07.1998

⁶⁰⁸ Affidavit dated 21.11.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

31. **Yedsi Ramling Ghat Sanctuary:** Proclamation was issued on 27.10.1997 for Osmanabad and Bhoom⁶⁰⁹.
32. **Ambabarwa Sanctuary:** Proclamation was issued on 14.10.1997 for Bhuldhana⁶¹⁰.
33. **Mayureshwan Sanctuary:** Final notification has been issued⁶¹¹. It was submitted that enquiry was not required⁶¹².
34. **Bhamragad Sanctuary:** Final notification has been issued⁶¹³. It was submitted that enquiry was not required⁶¹⁴.
35. **Narnala Sanctuary:** It was submitted that enquiry was not required⁶¹⁵.
36. **Wan Sanctuary:** Proclamation was issued on 22.10.1997 for Dharni⁶¹⁶.
37. **Naigaon Mayur Sanctuary:** It was constituted in Reserve Forest in Beed district. Final notification has been issued⁶¹⁷.
38. **Van Sanctuary:** It was constituted in Reserve Forest in Amravati district. Final notification has been issued⁶¹⁸.

3.16.6. Status of rehabilitation process in Protected Areas

The State submitted⁶¹⁹ that efforts were made to expedite the settlement process and to relocate the villages willing for rehabilitation from the Sanctuaries and National Parks. Necessary guidelines in this regard were issued. Three villages, namely, Bori, Kohna and Kund in the Melghat Tiger Reserve were rehabilitated during 2000-2001. It also informed that two villages namely Fulzhari and Totladoh, from the Pench Tiger Reserve as well as three villages namely Kolsa, Botezhari and Palasgaon from the Tadoba Andhari Tiger Reserve would be shifted in the year 2001-2002. The State provided⁶²⁰ status of rehabilitation and enquiry as existed in 01.11.2005.

3.16.7. Immunization of livestock

The State reported that the responsibility of vaccination of cattle was vested in the Animal Husbandry Department. Information on the immunization of livestock was upgraded from time to time with the help of the Department. The State sought two months time for filing its response with regard to action taken under Sections 33 (A) of the Act⁶²¹. The State informed⁶²² that it had initiated wise programs to immunize livestock against contagious diseases in villages located within five kms of Sanctuaries and National Parks. The State Government had also identified the Veterinary Centers in and around five National Parks and twenty five Sanctuaries for this purpose⁶²³. Action was taken to identify immunization centers in and around eight newly constituted Sanctuaries for immunizing the livestock. Further, it stated that the Animal Husbandry Department were assigned activities for veterinary services, animal health, cattle and fodder development, sheep and goat development and extension services. Veterinary services to the domestic animals were provided mainly through thirty one veterinary polyclinics at district centers. One thousand one hundred fifty six Veterinary dispensaries were established at Taluka and village level along with

⁶⁰⁹ Affidavit dated 21.11.1997

⁶¹⁰ Affidavit dated 21.11.1997

⁶¹¹ Affidavit dated 29.09.1998 filed in response to the order dated 17.07.1998

⁶¹² Affidavit dated 21.11.1997

⁶¹³ Affidavit dated 29.09.1998 filed in response to the order dated 17.07.1998

⁶¹⁴ Affidavit dated 21.11.1997

⁶¹⁵ Affidavit dated 21.11.1997

⁶¹⁶ Affidavit dated 21.11.1997

⁶¹⁷ Affidavit dated 29.09.1998 filed in response to the order dated 17.07.1998

⁶¹⁸ Affidavit dated 29.09.1998 filed in response to the order dated 17.07.1998

⁶¹⁹ Through affidavit dated 03.01.2001 in response to the Central Government's affidavit dated 26.08.2000

⁶²⁰ In affidavit filed in November, 2006

⁶²¹ Affidavit dated 24.06.1998 in response to order dated 20.03.1998

⁶²² Affidavit dated 29.09.1998 in response to the order dated 17.07.1998

⁶²³ Vide circular dated 15.09.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

two thousand seventy three veterinary aid centers in rural areas. The State Government⁶²⁴ declared all existing Veterinary Centers within five kms of Sanctuaries as Immunization Centers. The State further submitted that a proposal was under active consideration for awarding consultancy to study technical feasibility for establishing wireless network in Protected Areas and for providing arms to Forest Guards. The Government had approved a scheme of Rupees ten crore fourty eight lakhs for establishing wireless network in four circles namely Dhule, Thane, Nagpur and North Chandrapur which were sensitive from illicit cutting point for a period of three years. It stated that after receiving this report steps would be initiated for providing arms and wireless network in Protected Area.

3.16.8. Registration of arms and issuance of licences

In compliance to the order dated 20.03.1998, the State informed that registration of arms under the Arms Act and renewal of licences is done by the Revenue Department. It sought two months time for filing its response regarding action taken under Section 34 of the Wildlife Protection Act⁶²⁵. It further informed⁶²⁶ that steps were initiated for the registration of persons in possession of arms.

3.16.9. Control of poaching: Communication facilities, arms and ammunition

The Court directed⁶²⁷ the State to take effective steps for controlling poaching activities in the Protected Areas. Accordingly, the State submitted⁶²⁸ that under Central Government's assistance through Centrally Sponsored Schemes, the State has endeavoured to equip the staff of Forest Department with better communication facilities for managing the Parks and Sanctuaries. It also informed that all the National Parks and four Sanctuaries have wireless network. The State Government had proposed to upgrade the existing wireless network and establish new facilities in other areas. It also stated that it would improve the communication facilities and provide arms to the field staff in a phased manner. A study through appropriate consultants was proposed to assess the requirement of wireless network, modern arms and other equipments and based on their recommendations financial provisions would be proposed in the yearly budgets.

3.16.10. Other issues relating to wildlife conservation

In response to the affidavit⁶²⁹ filed by Union of India, the State of Maharashtra informed⁶³⁰ the Court certain other measures that it had undertaken for wildlife conservation.

Release of funds

It was stated that procedural formalities in making budgetary provisions in some cases lead to delay in releasing the funds to the field staff. Therefore an implementation cum monitoring society under the State Chief Secretary was formed to receive the Central funds and their speedy release to the concerned Protected Areas.

Vacant posts

The State Government stated that it had agreed to fill up the existing vacancies of Forest Guards and foresters on a priority basis. The Chief Secretary had also agreed to fill up the vacancies at field level in the wildlife sector within next six months.

⁶²⁴ Vide circular dated 15.09.1998

⁶²⁵ Affidavit dated 24.06.1998

⁶²⁶ Affidavit dated 29.09.1998 in response to the order dated 17.07.1998

⁶²⁷ Vide order dated 22.08.1997

⁶²⁸ Affidavit dated 21.11.1997

⁶²⁹ Affidavit dated 26.08.2000

⁶³⁰ Affidavit dated 03.01.2001

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Timely payment of compensation

It was submitted that most compensation claims for injuries and casualty due to wildlife were settled expeditiously by the State.

Training of forest staff

It informed that the training, especially in the use of arms, would be done in consultation with the police. Provisions of Act, rules and procedures were made available in vernacular language by means of imparting training to the staff in the colleges. This document was made available to all the field staff. Facilities for forensic examination of wild animals and their products would be provided either by creating the same within the Forest Department or in collaboration with existing institutions.

Powers to confiscate

The State requested the concerned authorities not to release seized vehicles to offenders whenever such offences occur.

Intelligence networking

Two tier conservation cell named as the Tiger Cell was created consisting of Police and Forest Officers both at the State and Revenue Division levels. On the pattern of Kerala, Tamil Nadu and Andhra Pradesh a system of regular meetings of Chief Wildlife Wardens would be held to apprehend wildlife criminals. Information about existing illicit trade would be brought in the report of intelligence units at the district level.

Improvement of zoos

The State Government provided suggestions for improvement of zoos. It informed that as per policy of the Government no new zoo was to be set up without the Central Zoo Authority's approval. Krishnagiri Upavan Zoo was recognized by the Authority on 30.06.2000 and all conditions were complied with. The Government has allowed exchange of animal between zoos and that no price tags would be put on animals. Minimum supervisory level personnel as stipulated in Recognition of Zoos rules 1992 were deployed in Krishnagiri Upavan Zoo which has one veterinary doctor and three animal keepers apart from adequate number of forest labourers for proper maintenance and care for animals. There was no overcrowding and consequent inbreeding of animals in the zoo.

Field formations

Protection Staff and Development Staff were segregated at the Range Level as a reform measure and the concept of patrol teams and forest stations was introduced on a pilot basis in four circles.

Steps to prohibit activities in the Protected Areas

The State undertook appropriate protection measures as required under the provisions of the Wildlife Protection Act, 1972 and Wildlife (Protection) Maharashtra rules, 1975. Permits were granted by the authorized Wildlife Wardens for investigation, photography, scientific research as per Section 28 of the Act. The Government informed that it had stopped harvesting of timber and non wood forest produce like bamboo, tendu leaves etc. Separate Wildlife Wing was created under Chief Wildlife Warden for effective implementation of the aforesaid provisions and also for proper management of National Parks and Sanctuaries⁶³¹.

⁶³¹ Affidavit dated 29.09.1998 in response to the order dated 17.07.1998

3.16.11. Diversion of Protected Areas

Interim applications were filed by various agencies of the State Government for diversion of forestland in Protected Areas for developmental projects.

3.16.11.1. Regularization of Agri Silvi plots along with conversion of forest villages into revenue villages

An application⁶³² was filed by the State of Maharashtra for diversion of 1658 ha. of forest land for regularization of Agri Silvi plots in district Nandurbar and diversion of 4073.95 ha. of forest land for conversion of seventy three forest villages into revenue villages in the same district. The Court directed⁶³³ this application to be sent to the Central Empowered Committee for its comments. The State of Maharashtra disagreeing to the recommendations of Committee submitted⁶³⁴ that the proposal for regularization of encroachment was not submitted to Government of India for clearance under the Forest Conservation Act. The claims of pre 1980 encroachers were determined by the State. It assured that the proposal for regularization of encroachment would be sent while abiding by the instructions contained in the Resolutions on regularization of encroachment of 1978 and 1979 of Government of Maharashtra as well as the Guidelines of 18.09.1990 of Government of India. The State also informed that necessary steps were taken to ensure that only genuine encroachers get the benefit of this regularization and that unauthorized encroachers were evicted as per the approved Eviction Plan. Further, the decision of providing land to Eksali and Agri Silvi plot was taken much before the enactment of the Forest Conservation Act to benefit the underprivileged people and landless population of backward areas of Dhule district. It stated that since the Government was in severe resource crunch, it was not in position to allot extra funds to pay the sudden financial demand of Net Present Value. The Ministry of Environment and Forest explained⁶³⁵ that since the area under diversion did not form part of any Protected Areas, the matter should be placed before the Forest Advisory Committee constituted under the provisions of Section 3 of Forest Conservation Act 1980. It further stated that the Committee had considered the proposal and gave approval for regularizing the forest area out of seventy three villages under Eksali plot/permanent plot holders measuring 4073.95 ha of forest land⁶³⁶ along with the forest land under Agri Silvi plot measuring 1658 ha. The approval was granted on condition that prior permission of the Court would be taken in view of the order dated 13.11.2000⁶³⁷. *It clearly reflects that neither the State Government of Maharashtra nor the Ministry ever informed the Court that the diversion of forestland was not in any Protected Area. Hence the matter should have been placed before FAC and not before NBWL at the very beginning.*

3.16.11.2. Construction of minor irrigation project in Bhimashankar Sanctuary

The State of Maharashtra sought permission⁶³⁸ to use 7.76 ha of land of Bhimashankar Wildlife Sanctuary for construction of a minor irrigation project by Krishna Valley Development Corporation. This matter was referred to the Central Empowered Committee for its recommendations. The Committee rejected the proposal and asked the Chief Secretary of the Government of Maharashtra to fix the responsibility for undertaking the work in violation of the Forest (Conservation) Act and to ensure that projects involving use of forest land should be implemented in the State only after obtaining necessary approval under the Act and if the land falls within a National Park or Wildlife Sanctuary, only after obtaining the permission of this Court. The Committee in its report⁶³⁹ stated that in

⁶³² I.A. No. 36

⁶³³ Vide order dated 07.11.2003

⁶³⁴ Counter affidavit filed on 16.12.2004

⁶³⁵ Vide letter no. F. No. 8-99/2001 dated 24.12.2002.

⁶³⁶ Vide letter no. F. No. 8-109/2002 FC dated 24.12.2002

⁶³⁷ Affidavit filed by MoEF in November, 2007

⁶³⁸ In I.A. No. 67

⁶³⁹ It was numbered as I.A. No. 76

spite of repeated objections raised by the Forest Department against the project, the work continued⁶⁴⁰. The Corporation⁶⁴¹ has filed its response to the recommendation of the CEC. However, the Committee unanimously decided that the State Government should file a proposal giving all details along with the recommendation and comments of the Chief Wildlife Warden for consideration of Standing Committee⁶⁴². The matter was then referred to the National Board for Wildlife on 28.03.2007 and the State Government was directed to submit its proposal in this behalf to the National Board for Wildlife⁶⁴³. This matter is pending in the Court.

3.16.11.3. Construction of water project within the Radhanagiri Wildlife Sanctuary

The State of Maharashtra⁶⁴⁴ sought for transfer of 46 ha land which forms part of Radhanagiri Wildlife Sanctuary for completion of Dhamini Water Project. It proposed alternate land for Compensatory Afforestation adjoining to the Sanctuary land of equal areas. As per the Expert Committee Report, there was no stable wildlife in the area which the project authority required. It further stated that in July 2000 the Ministry of Environment and Forests had given permission for preliminary survey work in Radhanagiri Wildlife Sanctuary for construction of this project. This matter was placed before the Standing Committee of National Board for Wildlife⁶⁴⁵. Accordingly the Board appointed a sub-committee for inspection of the Sanctuary area. The sub-committee noticed⁶⁴⁶ that submergence of the said area would create a water body which could be used by the wildlife of the area. It laid down five conditions for granting final clearance for the project⁶⁴⁷. These five conditions were:

- 1) Financial compensation for 46 ha of forestland inside the Sanctuary be recovered as per Supreme Court norms on the matter.
- 2) The State Government via the State Forest Department should commit to addition of reserve forest locations to the Wildlife Sanctuary in order to improve the quality of the Sanctuary. The State Wildlife Advisory Board has given clearance to the proposal of extending the Radhanagiri Wildlife Sanctuary and the process of submission of proposal for notification is in progress.
- 3) The 150 ha of reserve land offered by the State Government be considered for notifying as part of Radhanagiri Wildlife Sanctuary provided annexing of this land does not violate or extinguish any local community rights on the land.
- 4) The financial compensation received from the Irrigation Department be placed at the disposal of the Principal Chief Conservator of Forests or in the Compensatory Afforestation of Management Planning Authority for strengthening the Protected Area network
- 5) Total dependence on water from the Sanctuary should be slowly eradicated and alternate source of water provisions for the city should be undertaken.

The State submitted⁶⁴⁸ that the Board had passed a general decision⁶⁴⁹ for projects cleared for implementation inside Protected Areas, a payment of five percent of the project cost subject to a minimum amount of Rupees one crore would be stipulated. It further stated that the Board had recommended to 150 ha. of reserve land, which was offered by the State Government, for compensatory afforestation to be first notified as part of the Radhanagiri

⁶⁴⁰ Through various letters which were placed before the CEC. Those letters were also filed along with the Report of the CEC

⁶⁴¹ Dated 22.09.2005

⁶⁴² As stated in the affidavit filed by MoEF in November, 2007

⁶⁴³ Vide order dated 14.11.2007

⁶⁴⁴ In I.A. No. 33

⁶⁴⁵ Vide order dated 07.11.2003

⁶⁴⁶ After conducting site inspection on 26.02.2005

⁶⁴⁷ Affidavit by the State of Maharashtra in reply to the recommendations of Standing Committee of NBWL pursuant to the order of SC dated 07.11.2003

⁶⁴⁸ Affidavit by the State of Maharashtra in reply to the recommendations of the Standing Committee on 02.12.2005

⁶⁴⁹ This decision was adopted by CEC in report dated 16.07.2004 in I.A. No. 1175 in WP. No. 202/1995. This report of CEC was later approved by the Supreme Court in order dated 01.04.2005 passed in the same I.A.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Wildlife Sanctuary. However, the State contended that if such land was notified as a Sanctuary then compensatory afforestation would not be carried out⁶⁵⁰. Thus, the State suggested compensatory afforestation to be carried out first⁶⁵¹ and after that the area would be constituted as part of the Sanctuary. It also informed that immediate steps were taken in this regard by concerned officers of Water Resource Department. It sought time from the Court to submit its affidavit⁶⁵². The Standing Committee of the National Board for Wildlife⁶⁵³, accepted the recommendation of the sub-committee for permitting the project subjected to the five conditions. The Court observed that there were discrepancies in accepting few conditions of the Board and therefore the matter was redirected to the Board for consideration⁶⁵⁴.

3.16.11.4. Regularization of land in two Wildlife Sanctuaries

The State of Maharashtra⁶⁵⁵ sought to take permission for regularization of lands to the extent of 707.74 ha in Kalsubai Harishchandragad and Great Indian Bustard Wildlife Sanctuaries in Maharashtra in favour of one hundred eighty adivasis as per the provisions of the Forest (Conservation) Act 1980. This matter was referred to the Central Empowered Committee⁶⁵⁶. The Ministry of Environment and Forest reported⁶⁵⁷ that no proposal was submitted to the Chief Wildlife Warden. It also stated that it was observed by the CEC that no proposal in appropriate performa was received by the Wildlife Division of the Ministry. Thus, CEC unanimously decided that a proposal would be submitted to the Standing Committee with the recommendation and comments of Chief Wildlife Warden, Maharashtra. The matter is pending with the National Board for Wildlife⁶⁵⁸.

3.16.11.5. Construction of Bamangaon Minor Irrigation Project in Tadoba Tiger Reserve

An application⁶⁵⁹ was filed by the State of Maharashtra for dereserving part of Tadoba Andhari Tiger Reserve situated in district Chandrapur. About 62.582 ha land was required for the construction of Bamangaon Minor Irrigation Project to irrigate 550 ha of land in the villages of Bamanagaon, Satara, Masaltukum and Tekepar Tukum. The Irrigation Department had granted approval for dereserving the aforesaid area in 1969 and the project commenced in the year 1971-72. However, on account of practical difficulties the work was stopped and subsequently the Forest Conservation Act came into force which stipulated condition for prior approval of the Ministry of Environment and Forest. Meanwhile, the Supreme Court prohibited dereservation without its approval⁶⁶⁰. The application was referred to Central Empowered Committee on 16.04.2004. *It is pertinent to mention that in consequence to the order dated 06.05.2003 passed in the Godavarman case⁶⁶¹ whereby it directed the applications concerning Protected Areas to be considered by the Standing Committee of the National Board for Wildlife.* On 26.07.2005 this matter was rejected by the Standing Committee.

The State⁶⁶² denied the grounds stated in CEC report⁶⁶³ and in the Standing Committee report⁶⁶⁴. It submitted that the area under submergence was hardly 0.1 percent of the total area of the Tiger Reserve. Further, the water table of the said reservoir could be utilized by Wildlife including tigers inhabiting in the Tiger Reserve. The State

⁶⁵⁰ As the State submits that raising of plantations was not compatible with the Section 29 and 30 of the Wildlife Protection Act

⁶⁵¹ Under the directions of the Chief Wildlife Warden

⁶⁵² Affidavit dated 07.12.2005 filed by State of Maharashtra in response to the order dated 23.11.2005

⁶⁵³ In its meeting dated 06.04.2005

⁶⁵⁴ Vide order dated 18.07.2006

⁶⁵⁵ I.A. No. 54

⁶⁵⁶ Vide order dated 16.04.2004

⁶⁵⁷ Affidavit filed by MoEF in November, 2007

⁶⁵⁸ Vide order dated 14.11.2007

⁶⁵⁹ I.A. No. 55

⁶⁶⁰ Vide order dated 13.11.2000

⁶⁶¹ T. N. Godavarman case (CWP No 202 of 1995)

⁶⁶² Counter Affidavit of State of Maharashtra in response to decision of the Standing Committee of NBWL dated 06.04.2005 filed on 23.01.2006

⁶⁶³ Dated 14.07.2004

⁶⁶⁴ Dated 06.04.2005

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

submitted that the then member of CEC Mr. Valmik Thapar who negated the said project and it appears from the one line order of the Board that recommendations of Valmik Thapar is the only basis for rejection by the Board. Also, the decision of the Board was never supplied to the State in spite of repeated specific directions from the Court. In lieu of the project being rejected by both the Central Empowered Committee and the Standing Committee of the National Board for Wildlife, the Court disposed of the application⁶⁶⁵.

3.16.11.6. Water project for drought affected areas

The State of Maharashtra⁶⁶⁶ sought diversion of the forestland in Mayureshwar Sanctuary for building an irrigation canal for drought affected areas of Baramati, Purandar and Daund Talukas of Pune district. The Central Government agreed to divert the forestland subject to fulfillment of certain conditions. These were:

- 1) The legal status of the forestland shall remain unchanged.
- 2) Compensatory afforestation will be done on equivalent non forest land within two years from the date of issue of this letter at the cost of the project authority.
- 3) The non forest land where the afforestation is undertaken, shall be declared as protected forest/ reserve forest.
- 4) Water would be available at the rate fixed by Government of Maharashtra for forestry and allied activities in the vicinity of the project.
- 5) Any other condition which the State Government may stipulate.

These conditions were agreed by the Maharashtra Government. However, on 13.11.2000 order was passed prohibiting dereservation of forests, National Parks and Sanctuaries without prior approval of the Court. The matter was referred to the Standing Committee of National Board for Wildlife⁶⁶⁷. The matter is pending before the Court.

3.16.11.7. Water scarcity: Water pipelines in Pench National Park

Applications⁶⁶⁸ were filed by the State of Maharashtra for dereserving part of Pench National Park situated in Nagpur district for construction of an earthen dam on Sagar Nala. The Irrigation Department had granted administrative approval in the year 2001⁶⁶⁹. Accordingly 4.56 ha of land belonging to the Pench National Tiger Reserve was required for the construction of tunnel for the Nalla. In another subsequent application⁶⁷⁰ the State reduced the area from 4.56 ha to 1.48 ha in an effort to minimise hindrance to the natural flora and fauna and to reduce the forest land required in the National Park. Also, the land required in Zudpi Jungle for canal was reduced from 10.73 ha to 5.52 ha. Thus, the total revised land required was 7 ha as against 15.79 ha proposed initially. These matters were referred to the Standing Committee of National Board for Wildlife⁶⁷¹. The Ministry of Environment and Forest submitted⁶⁷² that the inspection report of the Wildlife Institute of India was submitted to the Standing Committee for its consideration wherein it informed that the proposed project was likely to cause physical disturbances, disruption to movement of animals and reduction of habitat quality influencing the hydro and ecological feature of this area. The Committee after due consideration of the inspection report submitted to the Court on 20.12.2005, its unwillingness to recommend the said proposal of the Maharashtra Government. The State contended that the project was part of a minor irrigation project of providing water to the agriculturists in

⁶⁶⁵ Vide order dated 29.08.2006

⁶⁶⁶ In I.A. No. 57

⁶⁶⁷ Vide order dated 30.08.2004

⁶⁶⁸ I.A. No. 65 and 66

⁶⁶⁹ Vide Government Resolution dated 08.06.2001

⁶⁷⁰ I.A. No. 86

⁶⁷¹ Vide order dated 06.12.2004

⁶⁷² Affidavit filed by MoEF on 17.03.2006

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Nagpur district who are badly in need of the water. It informed the Court that there was large scale scarcity of water and some farmers had committed suicides as a result of failure of rains and non availability of water for agricultural activities. The Court considering the above circumstances granted permission⁶⁷³ to lay pipelines in the Pench National Park subject to the condition that it shall cause minimum disturbance to the ecological features or to the animal movement in the National Park and that only 1.48 ha of land would be used for this purpose.

3.16.11.8. Diversion of forestland for regularization of Eksali and Dali plots

Diversion of forestland was required for regularizing Eksali plots in four forest divisions and Dali plots in two forest divisions in Thane and Raigad districts of Maharashtra as part of the scheme implemented for betterment of landless labourers especially tribals. A resolution was passed by the Revenue and Forest Department⁶⁷⁴ to deforest and transfer Eksali land and handover it to on permanent tenure basis to concerned Eksali Plot holders. Similarly, another resolution was passed⁶⁷⁵ to deforest and transfer the Dali land in Raigad district and hand it over to on permanent tenure basis to the concerned Dali plot holders. Thereafter, the State Government moved a proposal for diversion of the area for Eksali and Dali Plots to Government of India under the provisions of Forest (Conservation) Act. However, in view of the dereservation order⁶⁷⁶ of the Court, prior permission was required in order to effectuate the said diversion⁶⁷⁷. The Court directed⁶⁷⁸ the matter to the Standing Committee of National Board for Wildlife. Later, the Ministry of Environment and Forest informed the Court⁶⁷⁹ that the Maharashtra Government had not submitted any proposal for diversion/regularization of forestland to the Standing Committee. Also, that there was no clarity whether any land of the Sanctuary or National Park was involved in such proposal and no comments were received from the Chief Wildlife Warden of Maharashtra. The Court considering the above facts directed the matter to the Forest bench⁶⁸⁰.

3.16.11.9. Construction of earthen dam in Radhanagari Wildlife Sanctuary

Applications⁶⁸¹ were filed by the Irrigation Department, Government of Maharashtra for construction of an earthen dam across Waki River, a tributary of Dudhganga River under the Sawarde multipurpose irrigation project. The project required diversion of forestland falling within Radhanagari Sanctuary in district Kolhapur. It was submitted by the State Government that about four tribal villages namely Sawarde, Sawardewadi, Kamatewadi and Wadachiwadi on both banks of the river would be benefitted due to this project. It also stated that the construction of this project would help in the betterment of wildlife and improvement of living status of people in Sawarde village. However, with the dereservation order of the Court⁶⁸², prior approval was required. Ministry of Environment and Forest informed⁶⁸³ the Court that though the application was placed before the Standing Committee of National Board for Wildlife but the State Government had not submitted a detailed proposal in prescribed format along with comments of the Chief Wildlife Warden. The Court issued directions to the Government of Maharashtra⁶⁸⁴ to furnish all project details within a time period of four weeks. The application is pending before the Board for its recommendations.

⁶⁷³ Vide order dated 25.04.2007

⁶⁷⁴ Dated 22.03.1969

⁶⁷⁵ Dated 14.01.1970

⁶⁷⁶ See order dated 13.11.2000

⁶⁷⁷ In I.A. No. 103

⁶⁷⁸ Vide order dated 14.11.2007

⁶⁷⁹ In its affidavit dated 21.07.2008

⁶⁸⁰ Vide order dated 11.03.2008

⁶⁸¹ I.A. No. 104 & 105

⁶⁸² See order dated 13.11.2000

⁶⁸³ Through its affidavit dated 21.07.2008

⁶⁸⁴ Vide order dated 11.03.2008

3.17. The State of Manipur

3.17.1. Introduction

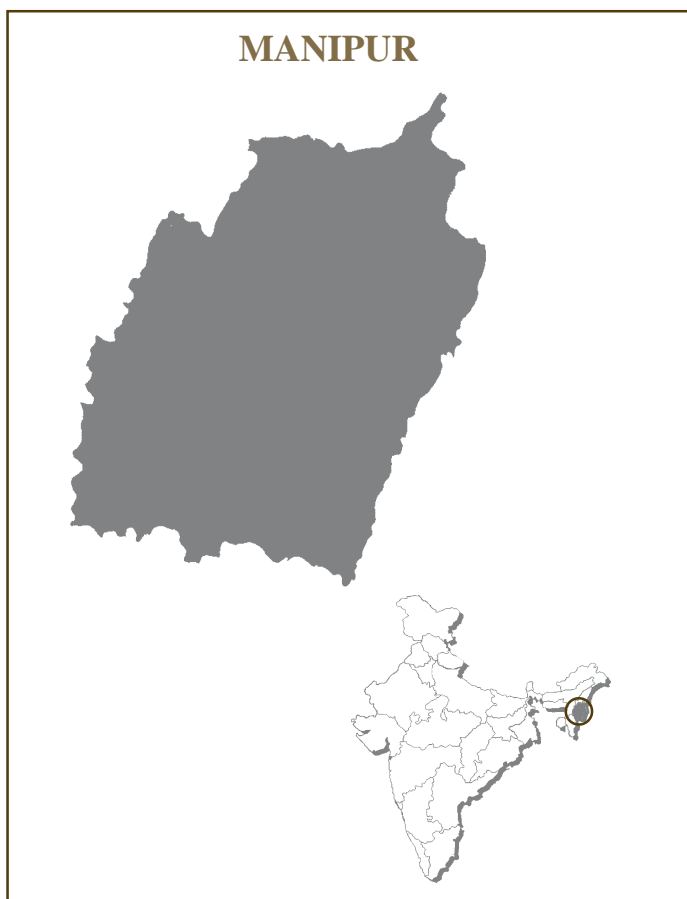
The State of Manipur had been silent to earlier orders of the Court. After a gap of nearly two years after the first order, the State provided relevant information with regard to Wildlife Advisory Board, Wildlife Wardens including Honorary Wildlife Wardens, status of settlement process in Protected Areas, immunization of livestock and registration of arms. The State Government has addressed certain unique issues concerning wildlife protection like encroachment in Protected Areas, plantations in buffer zone, storage of water in National Parks. The State of Manipur responded to all the queries put forward by the Supreme Court as follows:

3.17.2. Wildlife Advisory Board

The State of Manipur, after repeated orders finally replied⁶⁸⁵ to the show cause Contempt Notice vide order dated 22.08.1997 and stated that the State Wildlife Board has been constituted under the WLPA in 1976. This could not be brought to the notice of this Honorable Court in time as there was no appearance on behalf of the State until 12.09.1997, nor was there any communication of various orders except the order dated 07.07.1997. It further informed⁶⁸⁶ that the first meeting of the Board was held on 06.02.1976 and fourteenth meeting was held on 05.02.1997. With the expiry of the term of the last Board constituted on 04.09.1991, the Board was reconstituted.

3.17.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

Pursuant to order dated 07.07.1997 and order dated 22.08.1997 wherein the appointment of Wildlife Wardens were sought, the State informed⁶⁸⁷ that the Chief Wildlife Warden has been already appointed in 1976. Further, the State Government has taken up action for appointment of Wildlife Wardens for eight districts and one Sub Division on the proposals made by the CWLW on 15.09.1997. The State further informed⁶⁸⁸ that vide Government order dated 04.10.1997, Conservators of Forest have been appointed as Wildlife Wardens. Also, Wildlife Wardens (read Honorary Wildlife Wardens) in respect of all the districts have been appointed. Another affidavit⁶⁸⁹ clarified that the State Government vide its order dated 02.01.1998 has appointed the Honorary Wildlife Wardens.



⁶⁸⁵ Affidavit date not mentioned

⁶⁸⁶ Written reply affidavit dated 30.09.1997

⁶⁸⁷ Written reply affidavit dated 30.09.1997

⁶⁸⁸ Affidavit dated 05.11.1997

⁶⁸⁹ Affidavit dated 16.01.1998

3.17.4. Status of Protected Areas

Pursuant to order dated 07.07.1997 and order dated 22.08.1997, the State also elaborated⁶⁹⁰ the status of PAs including the status of settlement of rights.

1. **Keibul Lamjao National Park:** (Area of 40 sq. km.). Final declaration on 28.03.1977; the process of completion and determination of rights is complete.
2. **Yangoupokpi Lokchao Wildlife Sanctuary:** (Area of 184 sq. km.). Final Declaration on 21.03.1989; the process of completion and determination of rights is complete.
3. **The Siroy National Park:** The matter could not be taken up due to a case pending with Gauhati High Court under Civil Rule No. 209/1991.

The State Government has declared constitution of four Sanctuaries as under:

1. **Kailam WS:** Initially declared on 18.06.1997 for an area of 187.5 sq. km.
2. **Zeilad WS:** Declared on 24.04.1997 for an area of 21 sq. km. Proclamation under Section 21 of the WLPA has been issued on 22.10.1997⁶⁹¹.
3. **Bunning WS:** Declared on 08.09.1997 for an area of 115.8 sq. km. Proclamation under Section 21 of the WLPA has issued on 22.10.1997⁶⁹².
4. **Jiri WS:** Proclamation under Section 21 of the WLPA has been issued on 22.10.1997⁶⁹³.

3.17.5. Settlement of rights including issuance of proclamation notification

For determination of rights in respect of the above WSs declared under Section 18 WLPA 1972, the State Government has taken up action with the concerned Deputy Commissioner (Collectors) for issuing proclamation under Section 21 at the earliest as per the proposal made by the Chief Wildlife Warden on 15.09.1997.

Another affidavit⁶⁹⁴ claimed that determination of rights is completed in respect of NPs and Sanctuaries. However, another affidavit⁶⁹⁵ clarified that any person claiming any right or interest mentioned in the areas that are proclaimed as the above WS should claim it before the District Collector/Deputy Commissioner Tamenglong district within two months from the issue of notification.

In another significant order dated 20.03.1998, the Court observed that for the State of Manipur, proclamation has been issued in respect of three Sanctuaries and out of the two National Parks, proclamation has been issued in respect of both the National Parks and as regards the Siroy National Park it has been stated that the matter could not be taken up due to a Court case pending with the Honorable Gauhati High Court in Civil Rule 209/91. From the affidavit it is not clear as to whether any interim order has been passed by the High Court prohibiting the State from issuing the said proclamation. A better affidavit should be filed indicating the correct position in this regard within eight weeks.

The State responded⁶⁹⁶ to clarify the position regarding W.P. No. 209 of 1991 challenging proclamation issued in connection with Siroy NP. It stated that the said petition was dismissed as withdrawn by the Gauhati High Court

⁶⁹⁰ Written reply affidavit dated 30.09.1997

⁶⁹¹ Affidavit dated 16.01.1998

⁶⁹² Affidavit dated 16.01.1998

⁶⁹³ Affidavit dated 16.01.1998

⁶⁹⁴ Affidavit dated 05.11.1997

⁶⁹⁵ Affidavit dated 16.01.1998

⁶⁹⁶ Affidavit dated 16.07.1998

by order dated 22.01.1998. Due to pendency of W.P. no action could be taken with regard to Siroy NP. After its disposal, the State Government vide order dated 02.07.1998 directed Deputy Commissioner, Ukhrul to initiate further action as per WLPA with regard to Siroy NP.

3.17.6. Immunization of livestock

Pursuant to order dated 20.03.1998 on immunization of livestock, the State informed⁶⁹⁷ that the State Government has been immunizing the animals as per WLPA provisions. Thirteen thousand five hundred cattle have been immunized in and around NPs/WSs in the last two years. The State further responded⁶⁹⁸ pursuant to order dated 17.07.1998 and 09.10.1998 that necessary steps are being taken up by the Department of Veterinary for opening a center near Yangou-Pokpi Lochao WS.

3.17.7. Registration of arms

A very generic response⁶⁹⁹ in pursuance of the order dated 20.03.1998 regarding issuance of firearms licence and registration of firearms was stated by Manipur. It informed that no concurrence has been given for issuance of firearm licence as provided under WLPA. Further, steps are being taken and the Deputy Commissioners have been requested to give particulars of such persons. Another affidavit⁷⁰⁰ pursuant to order dated 17.07.1998 and 09.10.1998 claimed that the State has framed the Wildlife Protection rules, 1974 under which thirty nine persons holding arms have been registered with CWLW, Manipur.

3.17.8. Control over poaching: Equipment, wireless sets, arms and ammunition

The order dated 07.07.1997 and order dated 22.08.1997 also required States to inform about the steps that have been undertaken to control poaching and implement the provisions of the Wildlife Protection Act, 1972. In response⁷⁰¹ to that the State explained that due to extreme law and order situation in the State, all the firearms issued earlier to the field staff had since been withdrawn and ordered to be deposited with the Police Department. Since then no action has been taken by the State to provide arms and other communication facilities to the Forest Guards due to security risk. As soon as the situation improves this part of the direction will be implemented.

3.17.9. Some other unique issues on wildlife conservation measures

The State of Manipur also brought out some unique concerns of the State⁷⁰², pursuant to order dated 07.07.1997 and order dated 22.08.1997 as follows:

Storage of Water in National Park

The Wildlife Wing is constantly in touch with the apparent changes taking place in the thickness of Phumdi (floating biomass) of Keibul Lamjao NP due to storage of water at constant level for generation of power by Lokak Hydro Electric Project. A proposal has been sent to the Government of India for a project with Central assistance.

⁶⁹⁷ Affidavit dated 16.07.1998

⁶⁹⁸ Affidavit dated 04.12.1998

⁶⁹⁹ Affidavit dated 16.07.1998

⁷⁰⁰ Affidavit dated 04.12.1998

⁷⁰¹ Written reply affidavit dated 30.09.1997

⁷⁰² Written reply affidavit dated 30.09.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Plantations in buffer zone

Joint Forest Management action has been taken up by planting fuel wood, fodder and fruit trees in the buffer zone of NP/WS. Ecodevelopment programs have been started under Central assistance.

Encroachment

Due to the law and order situation, it has not been possible to take up matters relating to activities involving enforcement agencies. For protection of Sangai in Keibul Lamjao NP, the wildlife wing used to get full support from the younger groups of the surrounding areas. In case of WSs there is heavy pressure of encroachment from the people involved in the ethnic clash.

Poaching

As such poaching with the support of armed militants is not ruled out. Thus, it has not been possible to do much regarding enforcement strategy. However, in Manipur Valley surprise checks and raids are regularly carried out to seize wildlife and related products. Public Notice as recommended by the Subramanian Committee is widely issued with the highlights of illegality in the possession of wildlife products.

Allocation of funds

Due to poor allocation of funds, reward schemes could not be introduced. Models from other States are also being invited for examination. Through intelligence network organized with help of local clubs and other NGOs, cases of trapping and hunting of animals and birds are intercepted.

For proper coordination with various enforcement agencies for curbing illegal trade in wildlife products action is being taken up to constitute State Level Inter Departmental Surveillance Cell with forest, police, customs, excise and other paramilitary force operating in the States in the pattern of West Bengal.

Field staff

All field staff is issued uniforms, boots raincoats on regular basis. They are provided with hundred percent accommodation. Following could not be provided due to the poor allocation of funds: free ration, medical service and educational facilities to children of the staff including self employment opportunities to the families of the staff.

3.17.10. Other issues

Pursuant to order dated 20.04.2000 in WP. No. 1474/1998, and in response to an affidavit filed by the Union of India, the State of Manipur also elaborated on other concerns of wildlife conservation as follows:

Shortage of resources at State level

Proposal for State's requirement are submitted and is sanctioned as per the directions from MoEF. As regards emoluments, forest officers of the State are regularly paid.

Delay in release of Central Government assistance

For management of one NP and one Sanctuary, the State Government released funds sanctioned by the Central Government timely for implementation of the program for improvement of habitat and infrastructure development.

Release of funds

State Government releases the Central funds so as to enable to implement works in the field. There is no diversion as yet of Central fund for other purposes.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Reorganizing field formations

Regarding providing of arms and modern communication network facilities, the State Government has filed an application before the Court in WP(C) No. 337/1995 for purchase of sophisticated arms to the State Government due to law and order problem. It further stated that the idea of creation of the task force will be considered only after disposal of the application.

Compensation for livestock killed by predators

As there is no big cat which causes death to livestock and human being there is no scope for making compensation to the aggrieved persons.

Lack of deterrents for poaching

Cases of poaching of scheduled animals have been dealt with effectively as per law.

Filing of the vacant posts

The department has not been able to fill up the vacancies due to the ban on recruitment of staff. There are vacancies of three Range Officers, nine Deputy Rangers and thirteen Forest Guards.

Legal powers of confiscation

For empowering to confiscate arms and other articles including vehicles used in committing wildlife offences, amendment to the wildlife act 1972 is considered very necessary. This is a clear lack of understanding of Section 39 of the WLPA regarding what constitutes Government property under the WLPA. The WLPA has a provision which goes beyond the confiscation powers. Infact any vehicle, tool trap used in commission of a wildlife crime, which is seized, automatically becomes Government property.

Settlement rights

State Government cannot take up the matter as land is not available.

Intelligence networking

No threat of wildlife crime of the type relating to tiger, elephant etc. No coordinating committee has been formed in the State. However Wildlife Protection Committees have already been constituted for all the districts as per the decision taken in the last State Wildlife Advisory Board meeting to help in protection and conservation of wildlife outside Protected Areas.

Staff for wildlife

No separate cadre for wildlife in the Forest Department. Posting of wildlife staff is made from amongst the existing staff of the Department. Requirement at the lower level are not fulfilled at present due to shortage of staff as under: Range Officers requirement is of four and there is only one; Deputy Ranger/Foresters requirement is eleven positions, current is two; Forest Guards requirement is twenty seven and at present there are fourteen. Requirement cannot be filled up due to ban on recruitment of staff at present.

Incentives

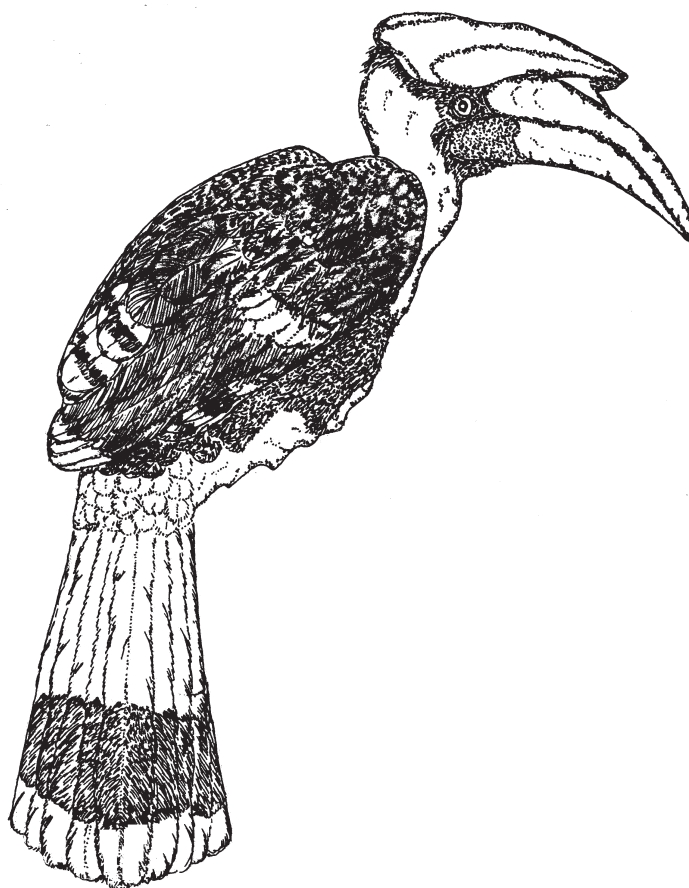
Minimum outfit like snake proof boots, torch light etc have been provided to the staff working at NP and WS.

Training of field staff

There is no tiger in the State. State Government has declared all the territorial Divisional Forests Officers as Wildlife Wardens and all territorial staff as wildlife staff for purpose of handling wildlife cases. However, they are not kept under administrative control of the CWLW.

3.17.11. Exemption of the order dated 22.07.1998 relating to issuance of arms to Forest Guards

An I.A. No. 13 was filed by the State for exemption of the order dated 22.07.1998 relating to issuance of arms to Forest Guards by the State of Manipur due to internal disturbances of law and order. The Indian Board for Wildlife was asked to submit its report⁷⁰³. After perusing the affidavit of the Additional Principal Chief Conservator of Forests (Wildlife), Manipur, dated 06.02.2004 the Court adjourned the application for a period of six months⁷⁰⁴. The said application was conclusively heard on 18.07.2006 and the Court ordered: **"This application is being adjourned from time to time considering the special conditions prevailing in the State of Manipur in relation to it being a disturbed area. Because of the special conditions, the State Government was granted exemption from complying with the orders of this Court for supply of firearms to foresters. The exemption granted will continue until further orders till the situation improves in the State of Manipur whereupon the State will supply firearms to the foresters and inform this Court accordingly by filing an affidavit. The interlocutory application is disposed of accordingly"**.



⁷⁰³ See order dated 09.08.2002

⁷⁰⁴ See order dated 09.02.2004

3.18. The State of Meghalaya

3.18.1. Introduction

The State of Meghalaya, as per the responses filed on various dates to the orders of the Court, has two National Parks and three Wildlife Sanctuaries. It has formulated Wildlife Protection (Meghalaya) rules under the Wildlife Protection Act 1972.

3.18.2. Wildlife Advisory Board

In compliance to the orders of the Court⁷⁰⁵, the State Government submitted⁷⁰⁶ that it had reconstituted Wildlife Advisory Board vide notification dated 09.12.1996

3.18.3. Appointment of Honorary Wildlife Wardens

The State of Meghalaya was directed to appoint Wildlife Wardens and Honorary Wildlife Wardens⁷⁰⁷. However, like other States, the Meghalaya Government failed to appoint Wildlife Wardens. The State submitted⁷⁰⁸ that the Wildlife Advisory Board could not decide in its meeting held on 23.04.1997 on the appointment issue, since the Board was not satisfied with the recommended names. New recommendations were called for to be reviewed in the next meeting. Thereafter, recurring orders⁷⁰⁹ were passed by the Court for appointing Honorary Wildlife Wardens. Eventually, the State informed⁷¹⁰ that it had appointed Honorary Wildlife Wardens vide order dated 05.12.1997.

3.18.4. Implementation of the provisions of Wildlife Protection Act

The State in its response to the order dated 07.07.1997 stated⁷¹¹ that it was discharging its obligation under the Wildlife Protection Act, 1972.

3.18.5. Status of Protected Areas

The State of Meghalaya provided status report of the Protected Areas⁷¹²:

1. **Balphakram National Park:** Final notification was issued on 15.02.1986.
2. **Nongkhyllem Wildlife Sanctuary:** Final notification was issued on 25.03.1981.



⁷⁰⁵ Order dated 25.03.1997 and 07.07.1997

⁷⁰⁶ Affidavit dated 29.07.1997, I.A. 2

⁷⁰⁷ Vide order dated 07.07.1997

⁷⁰⁸ Affidavit dated 29.07.1997, I.A. 2

⁷⁰⁹ See order dated 22.08.1997, 07.11.1997 and 16.01.1998

⁷¹⁰ Affidavit dated 06.12.1997 in response to the order dated 20.03.1998

⁷¹¹ Affidavit dated 29.07.1997, I.A. 2

⁷¹² Affidavit dated 06.12.1997

3. ***Siju Wildlife Sanctuary***: Final notification was issued on 30.03.1979.
4. ***Baghmara Pitcher Plant Sanctuary***: Final notification was issued on 24.05.1984.
5. ***Nokrek National Park***: Final notification was issued on 23.12.1997.

3.18.6. Settlement of rights including issuance of proclamation notification

Significant orders⁷¹³ were passed by the Supreme Court with regard to settlement of rights. The Court directed all the respondent States including the State of Meghalaya to provide requisite details regarding the settlement procedure in its Protected Areas. Further, it stipulated to issue proclamation as required under Section 21 with regard to National Parks and Wildlife Sanctuaries. Finally the State on 06.12.1997 submitted that Protected Areas were constituted in Meghalaya. The procedure with regard to settlement of rights was fully complied with in accordance to the provisions of Act. Also, proclamation was issued in all the Wildlife Sanctuaries and National Parks⁷¹⁴. It was further submitted by the State⁷¹⁵ that there were no pending notifications for issuance of proclamation under Section 21 in respect of all the existing National Parks and Wildlife Sanctuaries. It further stated that the directions passed by the Court on 23.11.2005 were complied by the State Government⁷¹⁶.

3.18.7. Immunization of livestock

The Wildlife Protection Act mandated for immunization of livestock in and around the Protected Areas. On 20.03.1998 the Court issued directions to the State to undertake steps to implement the provisions under Section 33A of the Act with regard to immunization of livestock. The State submitted that it had carried out the directions of the Court and accordingly immunized all domestic cattle with necessary certificates issued by concerned officers⁷¹⁷. The State also informed⁷¹⁸ that appropriate steps were taken to establish Veterinary Centers in all districts that were in the vicinity of the National Parks and Wildlife Sanctuaries to undertake the immunization of livestock. It stated that the Forest Department had its own Veterinary and Animal Husbandry officers, Assistant Veterinary Surgeon based at Balpakram National Park.

3.18.8. Registration of arms and issuances of new license

On 20.03.1998, the Court issued directions to the State Government to comply with the provision of Section 34 of the Wildlife Protection Act which relates to registration of firearms within ten km radius of Protected Areas. The State informed that registration of all firearms within ten km radius from the boundary of the Sanctuary/National Park was done. These arms were registered in the concerned District Deputy Commissioner's office. Further, no fresh arms licenses were issued by the Commissioner without the prior approval of the Chief Wildlife Warden. The certificates to this effect were also issued⁷¹⁹. The State also submitted⁷²⁰ that it had framed Wildlife Protection (Meghalaya) rules under the Wildlife Protection Act for the purpose of registration of person in possession of arms. These rules were enforced in the entire State.

⁷¹³ Vide order dated 22.08.1997, 17.10.1997 and 07.11.1997

⁷¹⁴ Affidavit dated 06.12.1997

⁷¹⁵ Affidavit dated 19.04.2006

⁷¹⁶ Affidavit dated 19.04.2006

⁷¹⁷ Affidavit dated 06.12.1997

⁷¹⁸ Affidavit dated 24.08.1998 in response to the order dated 17.07.1998

⁷¹⁹ Affidavit dated 06.12.1997

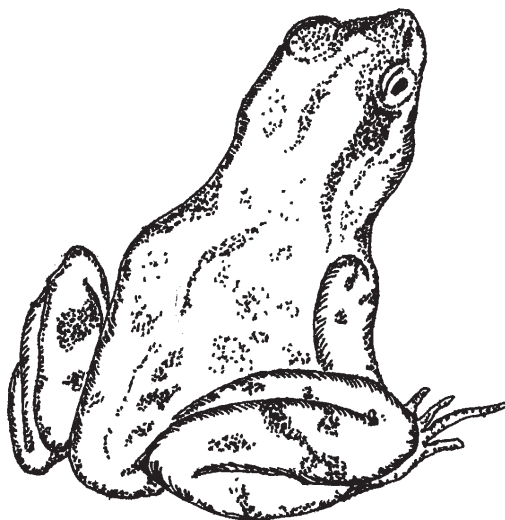
⁷²⁰ Affidavit dated 24.08.1998 in response to the order dated 17.07.1998

3.18.9. Control of poaching: Equipments, arms and ammunition, communication and wireless sets

Orders were passed by the Court on 22.08.1997 and 17.07.1998 directing the State of Meghalaya to initiate steps against poaching activities inside Protected Areas by providing arms, ammunitions and other facilities to the Forest Guards. Accordingly, the State submitted⁷²¹ that it had provided twenty nine sets of very high frequency with accessories which were installed in Balphakram National Park, Nokrek National Park and Nong Rhylllem Wildlife Sanctuary. HP wireless sets costing Rupees twenty to fifty lakhs were proposed to be procured in the financial year of 1998 for mobile patrolling. Further, firearms were provided to Forest Guards to control poaching. The State also informed that three hundred fifteen rifles, 0.475 bore rifles, 12 bore SBBL and 12 bore DBBL guns were provided. The State intended to place on record the reports of Chief Conservator of Forests cum Chief Wildlife Warden of Meghalaya, Shillong district with regard to position of arms under the wildlife circle and the action taken to upgrade wireless communication facilities and firearms for wildlife wing in Meghalaya.

3.18.10. Dereservation of Protected Areas

The State Government informed⁷²² the Court that there were no proposals with the Forest Department for dereservation of any Reserved Forest, Protected Forest, Sanctuary and National Park.



⁷²¹ Affidavit dated 24.08.1998

⁷²² Affidavit dated 22.03.2001

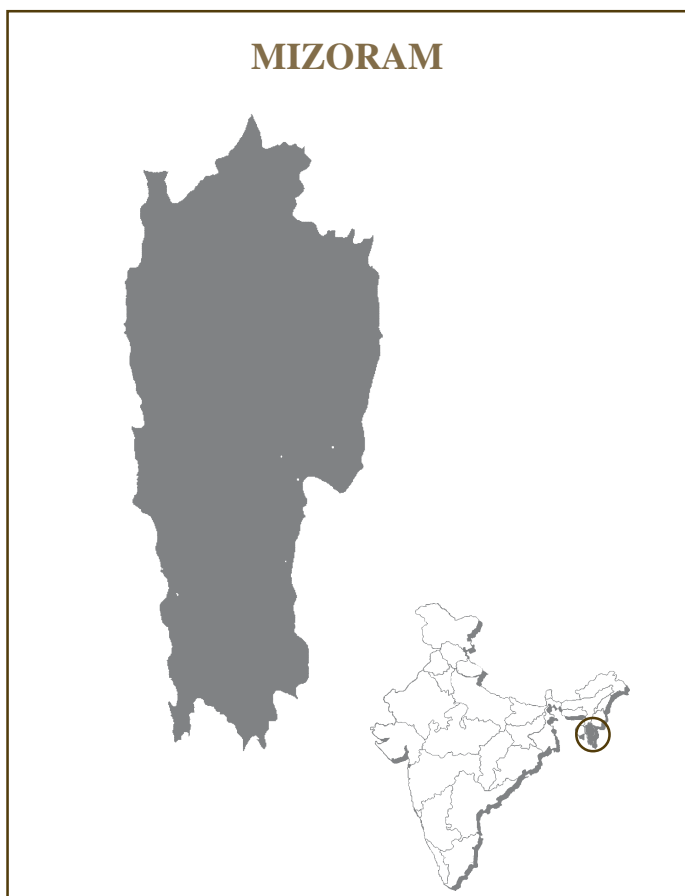
3.19. The State of Mizoram

3.19.1. Introduction

The State of Mizoram enforced the Wildlife Protection Act on 01.10.1974. Timely responses were filed with regard to constitution of Wildlife Advisory Board, appointment of Wildlife Wardens including Honorary Wildlife Wardens, issues relating to settlement of rights including rehabilitation process, immunization of livestock, registration of arms and distinct measures for conserving the wildlife.

3.19.2. Wildlife Advisory Board

The respondent States including the State of Mizoram was directed to inform the Court steps taken with regard to constitution of the Wildlife Advisory Board. The State vide affidavit⁷²³ stated that it had constituted the Board in 1976 and since then it was reconstituted five times. It informed the Court that the term of the fifth Board ended on 12.04.1997 and that the sixth Board was reconstituted⁷²⁴. On 02.02.2001 the State informed⁷²⁵ the Court that it had constituted the seventh State Wildlife Advisory Board.



3.19.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

On 25.03.1997, the Court had directed the State Government to appoint Wildlife Wardens including Honorary Wildlife Wardens within a period of one month. The State submitted⁷²⁶ that the Chief Wildlife Warden and Wildlife Wardens were appointed⁷²⁷. Later, the State also informed⁷²⁸ that eleven Wildlife Wardens were appointed in Aizwal district, Lunglei district and Chhimtuipui district in 1994. It also informed⁷²⁹ that it had recommended⁷³⁰ appointment of eight Honorary Wildlife Wardens for eight districts of Mizoram.

3.19.4. Settlement of rights including issuance of proclamation notification

The Mizoram Government was quick to respond on the issue of settlement of rights. It informed⁷³¹ that the District Collectors of each district were taking necessary follow up action as per Sections 19-25 of the Act.

⁷²³ Affidavit dated 30.07.1997

⁷²⁴ Vide Government notification dated 22.07.1997

⁷²⁵ Affidavit dated 02.02.2001

⁷²⁶ Affidavit dated 30.07.1997

⁷²⁷ Vide notification dated 18.11.1986

⁷²⁸ Affidavit dated 15.11.1997

⁷²⁹ Affidavit dated 02.02.2001

⁷³⁰ In its meeting dated 05.12.2000

⁷³¹ Affidavit dated 30.07.1997

3.19.5. Status of Protected Areas in Mizoram

1. **Dampa Tiger Reserve:** The Government stated⁷³² that about five hundred ten families within the limits of the Park were relocated outside the limits in Dampa Tiger Reserve. Notification was issued in 1994⁷³³ for constituting Tiger Reserve under the Centrally Sponsored Scheme⁷³⁴. It was submitted that the Deputy Commissioner of Aizwal district inquired into the existence, nature and the extent of rights of persons in or over the land comprised within the limits of the Sanctuary and submitted a report on 30.11.1988⁷³⁵. It recommended exclusion of some portions of land inhabited by people from the Sanctuary. Final notification was issued on 11.09.2006⁷³⁶.
2. **Murlen National Park:** It covers an area of 200 sq. km. It was constituted in 1991⁷³⁷. The State informed that after issuance of preliminary notification in 1991⁷³⁸ progress could not be achieved due to incorrect procedure followed by the Officers and therefore follow up action was required to be initiated after fresh proclamation was issued by Collector of Aizwal district⁷³⁹. It also stated that claims were not submitted till April, 1997. However, after receiving the claims they were verified by the Collector and draft award was under progress. Further progress in this regard was awaited from the Collector, Aizwal⁷⁴⁰. The State informed that forty seven families in the village of Murlen were to be relocated. However, on receiving objection from villagers, it was finally decided to carve out Murlen Village and redraw the boundary accordingly. Thereafter, a notification was issued by the State Government in 2003 for an area of 100 sq. km⁷⁴¹.
3. **Phawngpui National Park:** It covers an area measuring 50 sq. km. It was constituted in 1991⁷⁴². Proclamation was issued⁷⁴³ by the Collector under Section 21 of the Wildlife Protection Act. The Collector, for completing the inquiry process and to recommend compensation to the claimants, appointed a team of officers⁷⁴⁴. On basis of the inquiry report, compensation was paid to the deserving claimants. Families within the limits of the park were relocated⁷⁴⁵. Final notification was issued for in year 1997⁷⁴⁶.
4. **Nengpui Wildlife Sanctuary:** It covers an area of about 150 sq. km. It was constituted in 1991⁷⁴⁷. Proclamation under Section 21 was issued⁷⁴⁸. The State submitted that the settlement of rights could not be pursued due to certain defects in the preliminary notification, such as corrigendum. Thus fresh notification was issued under Section 21 by the Collector in 1986 and follow up action was taken. The Collector had submitted the final inquiry report indicating the boundary description along with map of the proposed Wildlife Sanctuary. Final notification was issued in the year 1997⁷⁴⁹. The State informed⁷⁵⁰ that there were no human settlements inside the Protected Area.

⁷³² Affidavit dated 30.07.1997

⁷³³ Vide notification dated 14.12.2004

⁷³⁴ Affidavit dated 30.07.1997 and 29.10.1997

⁷³⁵ Affidavit dated 02.02.2001 in response to the affidavit filed by the Central Government on 26.08.2000

⁷³⁶ Affidavit dated 07.02.2007 in compliance to the order dated 23.11.2005, 29.08.2006 and 17.10.2006

⁷³⁷ Vide notification dated 08.07.1991

⁷³⁸ Affidavit dated 29.10.1997

⁷³⁹ Dated 13.06.1995

⁷⁴⁰ Affidavit dated 30.07.1997

⁷⁴¹ Affidavit dated 07.02.2007 in compliance to the order dated 23.11.2005, 29.08.2006 and 17.10.2006

⁷⁴² Vide notification dated 02.08.1991

⁷⁴³ Vide notification dated 29.08.1991

⁷⁴⁴ Through notification issued on 12.07.1994

⁷⁴⁵ Affidavit dated 30.07.1997

⁷⁴⁶ Affidavit dated 29.10.1997

⁷⁴⁷ Vide notification dated 08.07.1991

⁷⁴⁸ Vide notification dated 11.08.1994

⁷⁴⁹ Vide letter dated 02.06.1997

⁷⁵⁰ Affidavit dated 30.07.1997

5. **Khwanglung Wildlife Sanctuary:** It covers an area of about 35 sq. km. It was constituted in 1991⁷⁵¹. The State informed⁷⁵² that the Collector had pointed out certain defects in the preliminary notification⁷⁵³. Thus, there was a delay in completing the formalities as required under Section 19-25 of the Act. The defects in the notification were rectified and an additional notification was issued by the Collector⁷⁵⁴. No claims were received within the stipulated time and hence another notice was issued⁷⁵⁵ to the surrounding village to prefer their claims. The Collector submitted⁷⁵⁶ the final inquiry report showing the boundary of the proposed Wildlife Sanctuary with slight adjustment of certain portion as per the claims of people, along with his recommendations for payment of compensation. Action for providing payment of compensation to villagers was initiated and on completion of payment to the claimants, final notification under Section 26A of the Act will be issued by the State Government. The State also informed that there were no human settlements inside the Protected Area. Additional six months time was sought to complete the required formalities with regard to settlement considering the remoteness, administrative difficulties and financial constraints of the State⁷⁵⁷. Final notification was issued for an area of 35 sq. km. Four claims were received against this final notification. Claims were assessed and compensation was awarded.⁷⁵⁸
6. **Tawipui Wildlife Sanctuary:** Preliminary notification was issued in 1978 and process of determination of rights and acquisition of land was still under consideration by the District Collector of Aizwal⁷⁵⁹. No claim/objection was received. Final notification was issued in 2001 for an area of 35.75 sq. km⁷⁶⁰.

3.19.6. Proposed Protected Area

The State Government further informed⁷⁶¹ that the total geographical area of the Protected Areas was 941 sq. km. which was about 4.4 percent of the total geographical area of the State. The State had proposed following areas to be included as Protected Areas in future:

1. **Lengteng Wildlife Sanctuary:** It covered an area measuring about 118 sq. km.
2. **Tawi Wildlife Sanctuary:** It covered an area measuring about 18 sq. km.
3. **Tuirial Hydel Project under Mara District Council:** It covered an area measuring about 1861 sq. km.
4. **Sirte Wildlife Sanctuary:** It covered an area measuring about 200 sq. km.
5. **One Wildlife Sanctuary under Mera District Council:** It covered an area measuring about 200 sq. km.
6. **One Wildlife Sanctuary under Chakma District Council:** It covered an area measuring about 200 sq. km.

3.19.7. Rehabilitation status

The State of Mizoram provided the status of rehabilitation process undertaken in its Protected Areas.

⁷⁵¹ Vide notification dated 08.07.1991

⁷⁵² Affidavit dated 30.07.1997

⁷⁵³ Vide letter dated 31.03.1995

⁷⁵⁴ Vide notification dated 29.03.1996 and 17.04.1996

⁷⁵⁵ Vide notification dated 19.04.1996

⁷⁵⁶ Vide letter dated 03.07.1997

⁷⁵⁷ Affidavit dated 28.08.1998

⁷⁵⁸ Affidavit dated 07.02.2007 in compliance to the order dated 23.11.2005, 29.08.2006 and 17.10.2006

⁷⁵⁹ Affidavit dated 27.08.1998

⁷⁶⁰ Affidavit dated 07.02.2007 in compliance to the order dated 23.11.2005, 29.08.2006 and 17.10.2006

⁷⁶¹ Affidavit dated 30.07.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

- 1. Murlen National Park:** The relocation of Murlen village, which was inside the proposed National Park, could not materialize due to demand of want of heavy compensation of Rupees ninety two lakhs and that the State was facing financial crunch. Also, number of the families had increased over the years and thus as per the revised boundary proposal of excluding the Murlen village was submitted to the Government of Mizoram for its approval⁷⁶².
- 2. Tawi Wildlife Sanctuary:** The area of the proposed wildlife Sanctuary was 103 sq. km. Settlement of rights and enquiry was under process. However, it was proposed to exclude the villages inside the Sanctuary on demand of the villagers residing within the proposed area of the Sanctuary. Approval from the Government was awaited and final settlement would be completed after approval from the Government was obtained⁷⁶³.
- 3. Lengteng Wildlife Sanctuary:** During the process of settlement of rights some fringe villages were proposed to be excluded for which Government approval was awaited for revised boundaries. The State submitted that on the receipt of the same, process for final notification would be taken up through Deputy Commissioner after settlement of rights and final enquiry report⁷⁶⁴.

3.19.8. Immunization of livestock

Specific directions⁷⁶⁵ were issued by the Court to immunize all livestock in and around the Protected Areas. The State submitted⁷⁶⁶ that in order to safeguard wildlife against possible communicable diseases from the livestock existing in the periphery of villages of Protected Areas, the Director Animal Husbandry and Veterinary Department was requested⁷⁶⁷ to take suitable action for immunization of livestock within five km of radius of Protected Areas by the Chief Wildlife Wardens. A list of villages in the vicinity of Sanctuaries, Parks and Project Tiger was circulated to this Department for the purpose. The matter was perused from time to time by the State Government for effective measures⁷⁶⁸. Further, it was also stated⁷⁶⁹ that the Director Animal Husbandry and Veterinary Department was directed⁷⁷⁰ to take due precautions to vaccinate cattle against various communicable diseases.

3.19.9. Control of poaching: Equipments, arms and ammunition and wireless sets

The State submitted vide affidavit⁷⁷¹ that in order to control poaching activities in NPs, Protected Areas the Forest Department had procured fifteen of three hundred fifteen sporting rifles in 1996 with Central Government's assistance. In Project Tiger area, Government had sanctioned special Strike Force with one Range Forest Officer, two Foresters and eight Forest Guards. Further, the State Government was requested to create posts for this purpose. Three Protected Areas were provided with wireless sets. With regard to other Protected Areas, Government of India was requested⁷⁷² to provide assistance for purchasing wireless communication facilities. The State Government also stated⁷⁷³ that Forest Guards were provided wireless sets in the same financial year.

⁷⁶² Affidavit dated 02.02.2001 in response to the affidavit filed by the Central Government on 26.08.2000

⁷⁶³ Affidavit dated 02.02.2001 in response to the affidavit filed by the Central Government on 26.08.2000

⁷⁶⁴ Affidavit dated 02.02.2001 in response to the affidavit filed by the Central Government on 26.08.2000

⁷⁶⁵ See order dated 20.03.1998 and 17.07.1998

⁷⁶⁶ Affidavit dated 27.08.1998

⁷⁶⁷ Vide letter dated 06.08.1998

⁷⁶⁸ Affidavit dated 28.08.1998

⁷⁶⁹ Affidavit dated 11.05.1999

⁷⁷⁰ Vide GO dated 27.11.1998

⁷⁷¹ Affidavit dated 28.08.1998 in response to the order dated 17.07.1998

⁷⁷² Vide letter dated 31.08.1998

⁷⁷³ Affidavit dated 11.05.1999

3.19.10. Registration of Firearms

The State was required to register all the firearms within ten km of radius of Protected Areas in accordance with the directions of the Court⁷⁷⁴. The State thus submitted⁷⁷⁵ that details were collected from arms license holders in the vicinity of Protected Areas by the Park Managers. Action was taken to register the names of such persons holding arms. Necessary advice was tendered⁷⁷⁶ to the Home Department and all District Magistrates regarding prohibition of issuance of fresh arms licenses with prior concurrence of Chief Wildlife Warden. Registration was done by Divisional Forest Officers⁷⁷⁷.

3.19. 11. Larger measures by the State on wildlife conservation

The Government of Meghalaya has undertaken some unique measures towards wildlife protection. These are:

Control over illegal activities in Protected Areas

The State Government informed⁷⁷⁸ that effective patrolling and vigil was kept to minimize the prohibited activities. Wildlife offences were dealt firmly and offenders were prosecuted for violation of provisions of the Wildlife Protection Act and Rules.

Ban on hunting

The State informed⁷⁷⁹ that after the amendment of the Wildlife Protection Act, 1972 hunting was totally banned in the State and hence the provision Mizoram Wildlife Protection Rules, 1990 have become redundant.

Possession of animal article

It was stated⁷⁸⁰ that keeping in view tribal sentiments and in order to regulate possession of trophy, animal articles etc. information was collected with regard to such possession.

Conversion of forestland

No land in the Protected Area was converted for non forestry purposes like residential/commercial uses, agriculture and grazing purposes. Roads/paths were constructed inside the Protected Area where it was necessary for wildlife management⁷⁸¹.

Creation of Strike Force

The Government had created Strike Force⁷⁸² for its Sanctuaries and National Parks⁷⁸³.

⁷⁷⁴ See order dated 20.03.1998 and 17.07.1998

⁷⁷⁵ Affidavit dated 27.08.1998

⁷⁷⁶ Vide notification dated 20.08.1998

⁷⁷⁷ Affidavit dated 11.05.1999

⁷⁷⁸ Affidavit dated 28.08.1998

⁷⁷⁹ Affidavit dated 30.07.1997

⁷⁸⁰ Affidavit dated 30.07.1997

⁷⁸¹ Affidavit dated 30.07.1997

⁷⁸² Vide order No A. 11016/5/91FST dated 01.09.2000.

⁷⁸³ Affidavit dated 02.02.2001

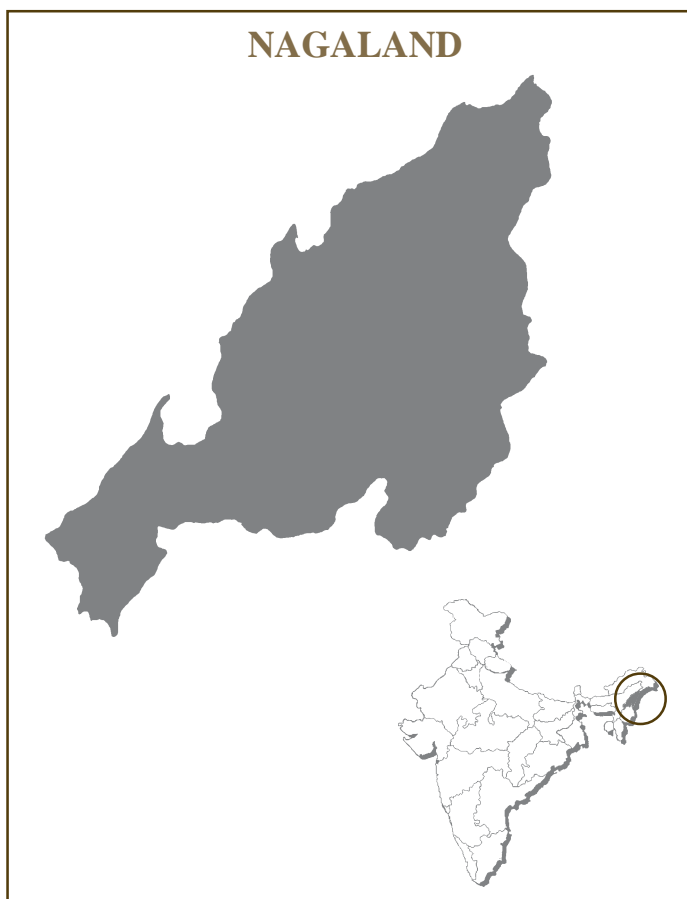
3.20. The State of Nagaland

3.20.1. Introduction

The State of Nagaland has one National Park and two Wildlife Sanctuaries. The Court has recorded that the State Government has initiated the process of settlement of rights in these Protected Areas. As regards the other queries raised by the Supreme Court, the State has responded in the following manner:

3.20.2. Wildlife Advisory Board

In compliance with the order dated 22.08.1997 and an earlier order dated 25.03.1997 which among other things sought to know the status of the authorities such as the then Wildlife Advisory Board, the State informed⁷⁸⁴ that the Board was constituted vide notification dated 24.03.1983 after the Wildlife Protection Act, 1972 was adopted in the State of Nagaland in 1981. Prior to that the State Government had formed the Board vide notification dated 20.10.1975. The same was last reconstituted vide notification dated 15.07.1994.



3.20.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

In compliance with the order dated 22.08.1997 along with a earlier order dated 25.03.1997, the State informed that it had first appointed a Chief Wildlife Warden vide notification dated 21.11.1984. The latest appointment was made vide notification dated 11.10.1996. The State has also appointed Honorary Wildlife Wardens⁷⁸⁵.

3.20.4. Status of Protected Areas

The order dated 16.01.1998 noted that in the State of Nagaland there is one National Park and two Sanctuaries. In the affidavit filed on behalf of the State no information has been given as regards the issuance of a proclamation or the final notification in respect of the same.

3.20.5. Settlement of rights including issuance of proclamation notification

However, in compliance with the order dated 22.08.1997 along with an earlier order dated 25.03.1997, the State informed⁷⁸⁶ about the status of settlement of rights in the State as follows:

⁷⁸⁴ Affidavit dated 18.09.1997

⁷⁸⁵ Affidavit dated 18.09.1997

⁷⁸⁶ Affidavit dated 18.09.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

National Park

The Intanki NP was notified under Section 35 of the WLPA vide Notification dated 03.03.1993. In compliance to show cause notice issued by Court on 20.03.1998⁷⁸⁷, the State further informed that Intanki NP is situated in forest land which is totally Government land i.e. reserved Forest. Thus on 13-14.05.1998 the required proclamation Under Section 21 of WLPA, 1972 has been issued, if any claims made, shall be dealt in accordance with law.

The State also brought out the special circumstances surrounding the Intanki NP⁷⁸⁸ and its implications on settlement of rights. It stated that the area around and including the area of the said NP are areas of extensive activity of insurgent and undergrounds elements often leading to armed ambushes between armed forces and insurgents elements. This fact is in knowledge of the Government, so it has been difficult to fully and completely implement the provisions of the Act in relation to this park, but all efforts are made to comply with the directions of this Court.

Sanctuaries

1. **Fakim Wildlife Sanctuary:** Was notified under Section 18 of the WLPA on 16.01.1984.
2. **Rangapahar Wildlife Sanctuary:** Was notified under Section 18 of the WLPA on 20.06.1986

3.20.6. Registration of arms

In compliance to show cause notice issued by Court on 20.03.1998 regarding registration of arms and issuances of fresh licence, the State informed⁷⁸⁹ that due to insurgency problem it is not possible to get correct and complete information of the persons possessing arms and weapons within the area of ten km of WSS/NPs.

3.20.7. Larger measures on wildlife conservation as per information sought by the Central Government

In response to the larger measures that the Union of India suggested⁷⁹⁰ in compliance to Court's direction⁷⁹¹, the State responded⁷⁹² regarding strategy of conservation of tiger in the country based on the collated data in the following manner:

Implementation of WLPA

Already stated in affidavit dated 18.09.1997 and affidavit dated 19.06.1998.

Wildlife Wardens

Steps have been taken to appoint Honorary Wildlife Wardens, notify Wildlife Sanctuaries and National Parks and initiate proceedings for prosecution those who violate the provisions of the Act.

Tiger Reserves

No tiger reserves have been declared in the State. The State will take the census of tiger population which was last taken in 1990.

Illicit trade

No report of illicit trade in case of tiger bones, skin etc. has been brought to the notice.

⁷⁸⁷ Affidavit dated 19.06.1998

⁷⁸⁸ Affidavit dated 19.06.1998

⁷⁸⁹ Affidavit dated 19.06.1998

⁷⁹⁰ Affidavit dated 26.08.2000

⁷⁹¹ dated 20.04.2000 in SLA No. 1474/1998

⁷⁹² Affidavit dated 26.03.2001

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Financial assistances

Due to limited financial resources implementation of provision of Act are inadequate. Under the Centrally Sponsored Schemes including those under the Preservation of Wildlife are seldom released on time.

Training, vacancies, reorganization of field staff

Procedural appointments are made and the State Government seeks to increase its strength for the purposes of wildlife preservation plus the assistances and services of local population is also taken in preservation. Due to law and order problem sophisticated equipments and arms are not issued to field staff of WSS/NPs. Senior officers, CWLW, WW etc. are well conversant with legal procedure in cases of breaches. There is shortage of staff to implement the provisions of Act.

Intelligence network

Wildlife crime cell should be set up. State levels committees to convene meetings with the heads of different enforcement agencies in controlling illegal trade in wildlife and its products are necessary.

Compensation for livestock

No provision for such in the Act. As and when the claims come they are amicably settled by the Forest Department.

Anti poaching

No sentences of imprisonment awarded, only fines are imposed. No reports of big cats killed.

Confiscation powers

An amendment is made in Act, giving such powers to enforcement authorities.

Release of fund

Release and reach of Central assistances fund to the field agencies has been major constraint in implementing schemes for development of wildlife. It is further stated that the Central funds may directly be released to State CWLW.

Vacant post/timely compensation

The Government of India willfully has strived to develop various schemes under ecodevelopment for solving the issue of man animal conflict persisting in the Intanki NP. For effective implementation of these schemes, important posts like the Director in charge of the NP and other related staff and posts at the level of the Foresters and Forest Guards are required to be created by the GOI. All the work needs to be carried out with a management plan. However, so far no Director or whole time officer in charge of the NP has been appointed. The State Government has been requested to evolve a mechanism for payment of ex-gratia expeditiously otherwise the villagers resort to killing of predators by means of poisoning or shooting.

Field formation, training of forest officers

Forest Stations are to be established by Government. Forest staff posted in Protected Areas required training on use of firearms and unarmed combat which is compulsory training course on recruitment.

Settlement of rights

Settlements of rights and relocation of people in respect of Intanki NP is under process.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Intelligence networking, incentives

No Intelligence Networking in the State. The information is obtained from the local residents of area. No incentives are provided to personnel deployed in Forest Department for implementation of the WLPA.

Conservation outside Protected Area network

About 88.3 percent of the land is owned by villagers/communities/clans where pockets of virgin forests are found which can be converted into village wildlife reserves without transferring the ownership of land but management may be put under Chief Wildlife Warden.

Legal powers

Necessary amendments may be made in the WLPA.

3.20.8. Other issues

- a. The State also elaborated⁷⁹³ on some other concerns in response to the order dated 22.08.1997 along with an earlier order dated 25.03.1997 where it explained that in the State no protected land has been converted for residential/commercial/agricultural/grazing purposes. No paths/road have been constructed within the Protected Area.
- b. It was stated⁷⁹⁴ that Nagaland is a disturbed area within the definition as given in Armed Forces (Special Powers) Act 1958. The Intanki NP is largely under the surveillance of the Indian Armed Forces which have been taking extensive steps to clear the insurgents.

⁷⁹³ Affidavit dated 18.09.1997

⁷⁹⁴ Affidavit dated 19.06.1998

3.21. The State of Orissa

3.21.1. Introduction

The Government of Orissa has been prompt in responding to the orders of the Court. The State has provided information on constitution of Wildlife Advisory Board, appointment of Wildlife Wardens including Honorary Wildlife Wardens, status of the settlement process in Protected Areas, measures for controlling poaching activities, registration of arms and immunization of livestock. The State has also sought Court's permission for diversion of Protected Areas for constructing of an earthen dam. The details are as follows:

3.21.2. Constitution of Wildlife Advisory Board

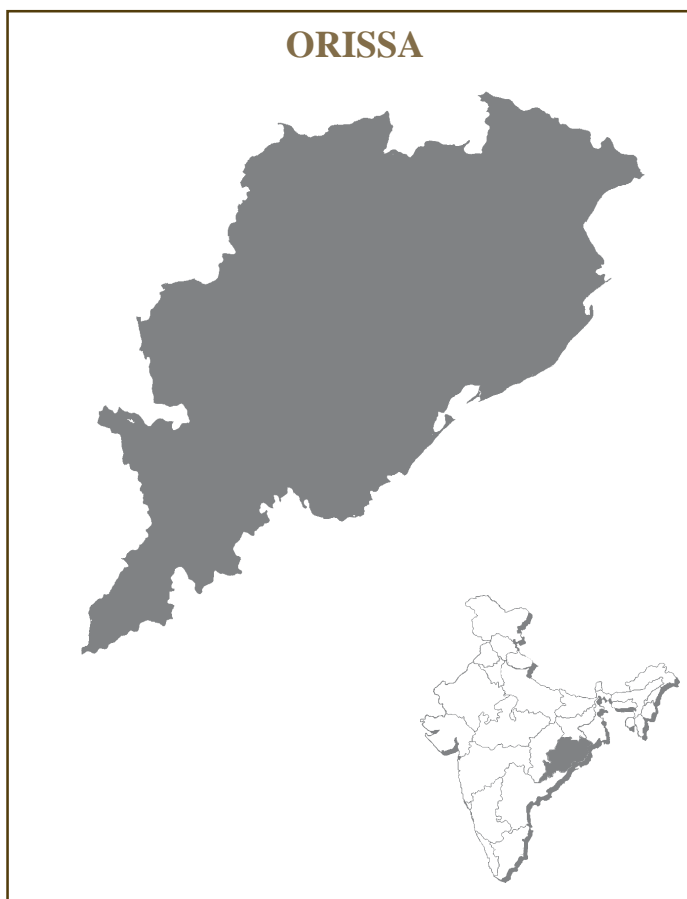
The State informed⁷⁹⁵ in compliance with the order dated 25.03.1997 that it has constituted the Board under Section 6(1) of the Act. Another affidavit⁷⁹⁶ informed that the State Wildlife Advisory Board has been reconstituted. A subsequent affidavit⁷⁹⁷ clarified that the Board has been reconstituted in pursuance of Section 6 of the Wildlife Act by the Government: notification dated 22.10.1997.

3.21.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

In compliance with the order dated 25.03.1997, the State informed ⁷⁹⁸ that the State has appointed the Chief Wildlife Warden and the Wildlife Wardens. Notifications in this regard will be produced at the time of hearing of the Writ Petition. In a subsequent affidavit⁷⁹⁹ and in compliance to the order dated 22.08.1997 the State informed that all Deputy Conservators of Forests (T), all Conservators of Forests (T), Director Nandankanan, Field Director and Assistant Field Director (STR) have been appointed at different points of time and these appointments cover all the areas of the State. Further, steps are being taken to appoint Honorary Wildlife Wardens for each district. Another affidavit⁸⁰⁰ settled the issue and stated that the Wildlife Wardens has been appointed in all areas of State vide notification dated 12.11.1997 in exercise of the powers conferred by Section 4 of the Wildlife Protection Act plus Honorary Wildlife Wardens has also being appointed in all the districts vide dated 12.11.1997.

3.21.4. Status of Protected Areas in Orissa

At present there are two National Parks and seventeen Wildlife Sanctuaries in Orissa. The forest settlement operations in different districts are in progress. The concerned Collectors have been requested to complete the process under



⁷⁹⁵ Affidavit dated 23.07.1997

⁷⁹⁶ Affidavit dated 05.11.1997

⁷⁹⁷ Affidavit filed on December, 1997

⁷⁹⁸ Affidavit dated 23.07.1997

⁷⁹⁹ Affidavit dated 05.11.1997

⁸⁰⁰ Affidavit filed on December, 1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Section 19-25 within the stipulated one year vide department letter dated 16.10.1997 and a subsequent reminder has been sent by the Forest and Environment Department in a wireless message dated 20.10.1997⁸⁰¹.

An area wise status was provided⁸⁰² in compliance to Courts order dated 17.07.1998 and 22.08.1997 regarding the status of PAs in Orissa which is as follows:

National Parks

1. **Bhitarakanika NP:** under the jurisdiction of Bhadrak - Final notification dated 16.09.1998 has been issued by Forest and Environment Department of the State Government.

Sanctuaries

1. **Chilika Sanctuary:** Enquiry under Section 19-25 completed. Proposal under Section 26A sent to Government for consideration vide office memorandum dated: 29.04.1997. Subsequently, the Law Department opined that notification declaring the Nalaban Island in the Chilika lake as a Sanctuary in year 1987 is final and Notification under Section 26A is not needed.
2. **Baisipalli WS:** Enquiry under Section 19 to 25 completed. The Collector has reported that boundary of the WS coincide with reserve forest. As such the procedure prescribed under section is deemed to have been completed while declaring the area as reserved forest.
3. **Balukhand Konark WS:** Enquiry under Section 19 to 25 completed. Final notification is awaited.
4. **Nandankanan Sanctuary:** Enquiry under Section 19 to 25 is completed. Acquisition of rights under the WS has not yet been completed and land owners have gone to the Court. The matter has been subsequently disposed of. Final notification will be issued after the acquisition of rights.
5. **Chandaka-Dampara WS:** under jurisdiction of Khurda and Cuttack - Proclamation notice under Section 21 issued by Collector Khurda on 19.11.1997 and the Collector, Cuttack on 20.11.1997. Further procedure is being followed.
6. **Khalasuni WS:** Proclamation notice under Section 21 issued on 10.03.1983 by Collector. Further procedure is being followed. It was further noted that the Sanctuary falls in the category which comprises exclusively of Reserve Forest area and is notified under Section 18 before 1991 amendment of the Act. In such a case final notification under Section 26A would be redundant⁸⁰³.
7. **Similipal Sanctuary:** The Collector Mayurbhanj received one thousand six hundred eighty objections. About six hundred twenty five objections have been disposed of after verification of the Resident of Permits (ROPs). Further, enquiry is under process. The Collector Mayurbhanj has requested the Court for one year time to complete the statutory process.
8. **Bhitarakanika Sanctuary:** Proclamation notice was issued on 25.01.1997 by Collector Kendrapara district. There are revenue villages inside the Sanctuary. Four hundred objections were received from seventeen villages. The enquiry has been completed. For the acquisition of rights about Rupees thirty crore thirty eight lakhs is required for thirty four villages that has to be shifted outside the Sanctuary. Time is needed for allocation of fund and to complete the legal proceedings.
9. **Lakhari Valley Sanctuary:** Proclamation was done by Collector Gajapati district on 20.10.1997. About twenty objection petitions were received from twenty eight revenue villages. Enquiry to the petitions has been completed. Acquisition of rights has to be taken up, which will take some time before the final notification. Funds are also allocated for this.

⁸⁰¹ Affidavit dated 05.11.1997

⁸⁰² Affidavit dated September, 1998

⁸⁰³ Affidavit dated 07.11.2006

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

10. **Karlapat Sanctuary:** The Collector Kalahandi reported existence of seventeen villages surveyed and unsurveyed where people are cultivating about 1071.58 acres of land. A Writ petition⁸⁰⁴ is pending in the High Court of Orissa to settle the claims of Tentulipadar village within the Sanctuary. Six months time extension is sought by the Collector for completion of process under WLPA 1972.
11. **Sunabeda Sanctuary:** under Nuapada jurisdiction – The Collector issued proclamation on 15.11.1997. Two thousand three hundred eighty nine were objections received and they were all disposed of. There are thirty revenue villages and thirteen non revenue villages inside. The Collector has suggested retaining twenty seven revenue villages and six non revenue villages inside Sanctuary. Further, three revenue villages and seven non revenue villages are required to be shifted as they are located in core area of the Sanctuary. The decision of CWLW is to be taken on this matter. Funds have been located to relocate and acquire the rights of people. The matter is likely to take some time.
12. **Kotgarh Sanctuary:** Collector Kandhamal has issued proclamation on 29.10.1996. Enquiry is completed. There are sixty five revenue villages existing inside the Sanctuary. The Collector has proposed to relocate seven revenue villages under Gumma Reserve Forest and allocate land for cultivation in Jhiripani Proposed Reserve Forest for their rehabilitation. Time will be required for acquisition of rights.
13. **Hadgarh Sanctuary:** The Collector Mayurbhanj has received two hundred sixty eight objections which are pending for disposal. One year time is requested to complete the process. The Collector Keonjhar has received no objections and he has proposed to issue the final notification under Section 26A. This is only possible after the acquisition and determination of rights is complete in Mayurbhanj portion.
14. **Badrama Sanctuary:** The Forest Settlement Officer (FSO), Sambalpur reported existences of twenty five revenue villages and seven hamlets inside the Sanctuary. Enquiry to all petition received has been completed. 34 acres of Sanctuary area has been encroached by the villagers of Guljigudi, Arjunpalli and Uchhabpalli. These villages are situated outside Sanctuary. Grant of some customary rights has been suggested to the existing inhabitants of village inside the Sanctuary area. The enquiry is completed. It was further noted that Sanctuary falls in the category which comprises exclusively of Reserve Forest area and is notified under Section 18 before 1991 amendment of the Act in such a case final notification under Section 26A would be redundant⁸⁰⁵.
15. **Satkosia Gorge Sanctuary under Angul jurisdiction:** The Collector Angul has received two thousand two hundred petitions from villages. He has completed the enquiry and suggested to retain rights of twenty three villages and shift Raigoda and rehabilitate it. He has proposed to delete nine villages under Athamallik Sub Division from Sanctuary area. Enquiry by the Collector Boudh, Nayagarh, and Cuttack has not been completed, it is deemed to be after the completion of acquisition of rights. The acquisition will take some time.
16. **Gahiramatha (Marine) WS:** Notification under Section 26A has been issued⁸⁰⁶.
17. **Debrigarh Sanctuary:** Falls in the category which comprises exclusively of Reserve Forest area and is notified under Section 18 before 1991 amendment of the Act in such a case final notification under Section 26A would be redundant⁸⁰⁷.

⁸⁰⁴ Vide OJC No. 395 of 1995

⁸⁰⁵ Affidavit dated 07.11.2006

⁸⁰⁶ Affidavit dated 05.11.1997

⁸⁰⁷ Affidavit dated 07.11.2006

3.21.5. Immunization of livestock

In compliance to order dated 20.03.1998, which among other things sought information regarding immunization of livestock in and around PAs, the State informed⁸⁰⁸ that effective steps have been taken to comply with the direction as under:

- **Similipal Sanctuary and NP:** Two thousand four hundred ninety numbers of cattle in thirteen villages have been immunized in Baripada and Karanjia Forest divisions during 1997-98. The matter has also been taken up with the Chief District Veterinary Officer, Mayurbhanj for continuance of the process.
- **Dobrigarh Sanctuary:** Thirty three thousand six hundred seventy five numbers of vaccinations have been made in July 1997 for Haemorrhagic septicemia, Black Gyester and Foot and Mouth disease. The matter has been taken up with the Veterinary Department for continuance of the immunization program.
- **Sunabeda Sanctuary:** One thousand nine hundred numbers of cattle have been immunized as on 25.06.1998 and the immunization program is still in progress.
- **Satkosia Sanctuary:** Nine thousand two hundred forty seven numbers of cattle have been immunized between 1988 and 1997. Action has been taken for continuance of the immunization program.
- **Kotgarh Sanctuary:** Nineteen thousand five hundred forty six numbers of cattle vaccinated against HSV and six thousand eight hundred sixty four numbers vaccinated against BDV within five km of Sanctuary⁸⁰⁹.
- **Hadgarh Sanctuary:** Six thousand two hundred forty nine numbers of cattle vaccinated by August 1998⁸¹⁰.

The work is in progress in other Ws/NPs for effective implementation of immunization program. For the same purpose eight months are required.

The State further informed⁸¹¹ in compliance to Courts order dated 17.07.1998 and 22.08.1997 that a list of immunization officers and immunization centers has been declared by the Director of Animal Husbandry and Veterinary Services⁸¹². It also updated the position of some Sanctuaries which is updated above.

3.21.6. Registration of arms licence and issuance of new licences

In compliance to order dated 20.03.1998 which among other things sought information on registration of firearms license and issuance of new licences, the State gave information⁸¹³ Sanctuary wise as follows:

- **Similipal Sanctuary/NP:** The Additional District Magistrate Mayurbhanj, Baripada has furnished a list of persons possessing arms licence of Mayurbhanj district under Baripada Forest Division. Steps have been taken to identify the persons within ten km of the Sanctuary so that they can be registered. Similarly, Additional District Magistrate Mayurbhanj has also sent a list of persons possessing arms within the district under Karanjia Forest division. Fifteen persons have been identified to possess arms within ten km of Sanctuary/NP. Necessary steps have been taken to register their names shortly.

⁸⁰⁸ Affidavit dated 14.07.1998

⁸⁰⁹ Affidavit dated September, 1998

⁸¹⁰ Affidavit dated September, 1998

⁸¹¹ Affidavit dated September, 1998

⁸¹² Vide order dated 05.09.1998

⁸¹³ Affidavit dated 14.07.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

- **Debrigarh Sanctuary:** Thirty persons (as per report received) are in possession of firearms within ten km of Debrigarh Sanctuary. Necessary steps have been taken to register their names. Six persons have deposited registration fee for registration of their names and four persons have registered their names. The Collector Bargarh, Jharsuguda and Sambalpur have been requested not to issue fresh licences without prior concurrence of CWLW, Orissa.
- **Satkosia Sanctuary:** Fifty one persons have registered their firearms under Satkosia Wildlife Division.
- **Bhitarkanika Sanctuary:** Four persons have registered their firearms under Mangrove Forest Division, Rajnagar.

For effective implementation a notice for awareness regarding provision of Section 34 of WLPA has also been broadcasted, telecasted and published through media i.e. All India Radio, Doordarshan and Newspapers. Similar efforts have been made with regard to other Sanctuaries and NPs and works are in progress for registration of names and eight months time is required for doing the needful.

A subsequent affidavit⁸¹⁴ filed in compliance to Courts order dated 17.07.1998 and 22.08.1997 further informed that the Collectors are seeking permission of CWLW before the licensing new arms and renewing the old licence with the radius of ten km of Protected Areas. Further, Wildlife (Protection) Orissa Rules 1974 are also framed.

3.21.7. Control over poaching: Guns, ammunition etc

The Court had also enquired⁸¹⁵ about the steps being taken by the State Government for controlling poaching and preventing prohibited activities under the Wildlife Protection Act. In response to the above orders the State informed⁸¹⁶ that the Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden, Orissa in his memo dated 11.10.1997 addressed to the Deputy Inspector General (Wildlife), GOI, has communicated that some arms and telecommunication facilities have already been provided to the Forest Guards in the PAs and action has already been taken to expedite the provision of the same to the rest of the Forest Guards in the State. Further in another affidavit⁸¹⁷ it stated that the prohibited activities are regulated by enforcing the provisions of WLPA and Sanctuary regulation. However, Sanctuary wise review is being made to further strengthen the enforcement if so necessary. As regards supply of arms and ammunitions to the field functionaries, the State informed⁸¹⁸ that one hundred fifty four numbers of firearms and two hundred twenty eight numbers of Very High Frequency (VHF) Sets have been provided in the WS and NP. Action has been taken to provide the same to all the staff in the Protected Areas. Providing facilities like supplying arms, ammunitions and communication facilities etc. require further financial provisions.

3.21.8. Larger measures on wildlife conservation as per information sought by the Central Government

The order dated 31.08.2000 noted that an affidavit suggesting larger measures on wildlife conservation shall be filed by the Union of India by 01.09.2000. Subsequently, the States shall respond to the same within four weeks. The State of Orissa in response to that affidavit stated⁸¹⁹ as follows:

Shortage of resources at the State level

There are resources constraints of the State and thus adequate provision could not be made for the management and protection of the wildlife.

⁸¹⁴ Affidavit dated September, 1998

⁸¹⁵ Vide orders dated 22.08.1997 and order dated 20.03.1998

⁸¹⁶ Affidavit dated 05.11.1997

⁸¹⁷ Affidavit dated 14.07.1998

⁸¹⁸ Affidavit dated nil September, 1998

⁸¹⁹ Affidavit dated 31.10.2000

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Delay in release of the financial assistance sanctioned by the Central Government

It is a fact that sometimes the Central funds are not available in time to field agencies. Usually the funds released take some time to be credited to State Government. There are also procedural delays. There is further delay in issuance of the letter of credit to the State finance department.

Vacancies of field staff

High Powered Committee of the State Government has already cleared six hundred posts of Forest Guards to be filled up in a phased manner in two years.

Training of the field staff

It is a fact that the training is not adequate in the use of the arms.

Conservation outside Protected Area network

The State agreed with the view of the Central Government that the conservation outside Protected Area network is inadequate and this is under consideration of the State Government.

Inadequate staff in cities and towns

Some of the officers are in cities and towns; however their main sphere is outside the cities and towns. Sufficient staff is not there for keeping surveillance over clandestine activities relating to wildlife offences.

Timely compensation for livestock killed

The quantum of the compensation being paid is quite low and inadequate for human kill, cattle kill and for crop damage.

Lack for deterrence for the poaching

There is hardly any forest case that ends in conviction mainly due to lacuna in investigation.

Power of confiscation of vehicles, weapons, tools

There is a provision for such confiscation under Section 56 of Orissa Forest Act, 1972.

Release of funds

Introduction of new mechanism for quick availability of Central assistance to the field agencies is under active consideration of the State Government.

Training of the forest staff

Range officers, foresters and forester guards are being trained before their postings in the divisions.

Settlement of rights

The process of the settlement of rights under provisions of the Wildlife Protection Act 1972 for NPs and Sanctuaries by the Collectors is being expedited. The requirement of funds for the resettlement of people to be relocated outside the Sanctuary areas is being worked out. The final settlement of rights etc is getting delayed due to paucity of funds.

Incentives

Adequate incentives to forest staff would be a desirable step. Some of the forest staffs are getting special pay but some staff posted in most inhospitable areas deep inside forests of Similipal is deprived of special pay due to paucity of funds.

Intelligence and networking

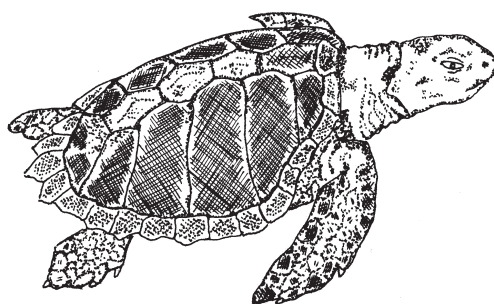
There should be co-ordination between the police and forest officials in the matter. Regular meeting and sharing information between adjoining States will be the right step in this regard.

3.21.9. Diversion of Protected Areas

a) *Diversion of land in Sunabeda Sanctuary for a bi State Upper Jonk Irrigation Project for construction of an earthen dam*⁸²⁰.

This application is regarding construction of an earthen dam for Upper Jonk Irrigation Project at village Patora over river Jonk in order to provide water for irrigation in the district of Nuapada in Orissa and Mahasamund district in Chhattisgarh State. The State requires permission of diversion of 129.707 ha of forest area which is coming within the Sunabeda Wildlife Sanctuary. The proposed area falls within the buffer zone of the Sanctuary. The Sunabeda Wildlife Sanctuary was notified in 1968. However, final notification has not been issued. It was stated that the project work had been started prior to the Forest Conservation Act 1980 and the additional proposal for Sanctuary area processed during 1991. Hence it was pleaded by the State to treat the matter as pre-80 and pre-88 to accord forest clearance. The Court referred the matter to the Standing Committee of IBWL for its consideration⁸²¹. In this regard the MoEF submitted⁸²² that Sunabeda Sanctuary was notified in May, 1988. The State Government increased the height of the dam in September, 1993 in anticipation of approval of Central Government for diversion of additional forest area required for this purpose. Another fresh proposal was moved to the Central Government for clearance of additional forest land in 2000. However, it was rejected due to the interim orders being passed in the Supreme Court. Another affidavit by the MoEF⁸²³ stated that the Chief Wildlife Warden in its letter stated that statutory violations have been committed by the user agency during the project. The Standing Committee rejected the proposal and accepted the report of Chief Wildlife Warden and the Conservator of Forests.

The order dated 30.11.2007 also notes that the MoEF had written a letter on 21.05.2007 to the State Government to initiate action against concerned officials, for violation of FCA, by raising the height of existing dam in Sunabeda WS, without approval of the Central Government. The State was directed to file its response. So far, no response has been filed. Further another affidavit of the MoEF⁸²⁴, among other things stated that the Director General of Forests and Special Secretary has requested the Chief Secretary, Government of Orissa to inform the action taken against violation of the Act for enabling the Ministry to file an affidavit before the Court. Later, it was submitted in the Court that the land was made available to the Forest Department for afforestation purpose after due payment of compensation in lieu of the submerged land and further that the State Government had decided to raise the height of the dam through some officers of the Irrigation Department and who have retired in due course of time. Hence, the Court directed⁸²⁵ Ministry of Environment and Forest to verify the status of afforestation activities to be carried out by the State Government and to take appropriate action for lapse of aforesaid activity. The application was thus disposed of.



⁸²⁰ I.A. No. 27

⁸²¹ Vide order dated 24.02.2003

⁸²² In its affidavit dated 10.03.2004 filed by UOI

⁸²³ Affidavit dated 03.12.2004 filed by UOI

⁸²⁴ Affidavit filed by MoEF in November, 2007

⁸²⁵ In its order dated 06.02.2008

3.22. The State of Punjab

3.22.1. Introduction

The State of Punjab has been diligent to respond as one of the early States on the notice that issued to all States on 24.02.1997. The first thing it brought to the notice of the Court is the status of the Settlement of rights status in the State⁸²⁶.

3.22.2. Constitution of the Wildlife Advisory Board

In response to the order dated 25.03.1997, the State of Punjab informed⁸²⁷ that the Board has been constituted on 24.04.1997⁸²⁸. It was informed through another affidavit that the Wildlife Advisory Board has been reconstituted vide Government order dated 29.08.2000⁸²⁹.

3.22.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

As regards appointments of Wildlife Wardens, it misconstrued the order of the Court and informed like many other States about the appointment of Honorary Wildlife Wardens. It stated in the affidavit that seven Honorary Wildlife Wardens are working at present and the appointment of the remaining Honorary Wildlife Wardens is under active consideration and will be finalized shortly. Pursuant to order dated 07.11.1997, the State informed⁸³⁰ that seventeen Honorary Wildlife Wardens have been appointed in all the seventeen districts of the State vide notification dated 06.01.1998.

3.22.4. Settlement of rights including issuance of proclamation notification

Settlement of rights in the following Wildlife Sanctuaries:

The State of Punjab has ten Wildlife Sanctuaries. There is no National Park. Settlement of rights in the following Wildlife Sanctuaries-

1. **Bir Bunerheri Wildlife Sanctuary:** It was established on 28.02.1952 covering an area of 6.5 sq. km. It was a Government Protected Forests before notifying as a Sanctuary in 1994. No rights exist in this Sanctuary.
2. **Bir Motibagh Wildlife Sanctuary:** It was established on 28.02.1952 covering an area of 6.4 sq. km. It was a Government Protected Forests before notifying as a Sanctuary in 1994. No rights exist in this Sanctuary.



⁸²⁶ Affidavit dated 19.03.1997

⁸²⁷ Affidavit dated 25.04.1997

⁸²⁸ Vide Punjab Government Notification No. 34/12/95-ft-IV/6122 dated 24.04.1997

⁸²⁹ Affidavit dated 14.02.2002

⁸³⁰ Affidavit dated 14.01.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

3. **Bir Mehas Wildlife Sanctuary:** It was established on 28.02.1952 covering an area of 1.234 sq. km. It was a Government Protected Forests before notifying as a Sanctuary in 1994. No rights exist in this Sanctuary.
4. **Bir Bhadson Wildlife Sanctuary:** It was established on 28.02.1952 covering an area of 10.226 sq. km. It was a Government Protected Forests before notifying as a Sanctuary in 1994. No rights exist in this Sanctuary.
5. **Bir Aishban Wildlife Sanctuary:** It was established on 28.02.1952 covering an area of 4.674 sq. km. It was a Government Protected Forests before notifying as a Sanctuary in 1994. No rights exist in this Sanctuary.
6. **Bir Dosanjh Wildlife Sanctuary:** It was established on 28.02.1952 covering an area of 5.176 sq. km. It was a Government Protected Forests before notifying as a Sanctuary in 1994. No rights exist in this Sanctuary.
7. **Bir Gurdialpura Wildlife Sanctuary:** It was notified as a Sanctuary on 19.09.1977 and covers an area of 6.1 sq. km. It was a Government Protected Forests before notifying as a Sanctuary. No rights exist in this Sanctuary.
8. **Takhni and Rehampur Wildlife Sanctuary:** These were notified as a Sanctuary on 16.02.1993 and cover an area of 3.820 sq. km. No rights exist in this Sanctuary. Notification under Section 26A was issued on 08.06.1999.
9. **Harike Lake Wildlife Sanctuary:** It was notified as a Sanctuary on 08.09.1992 and covers an area of 86 sq. km. It was a Government Protected Forests before notifying as a Sanctuary. No rights exist in this Sanctuary. Notification under Section 26A was issued on 18.11.1999.
10. **Abohar Area Wildlife Sanctuary:** It was notified on 01.06.1993 and covers an area of 186 sq. km. It was a Government Protected Forests before notifying as a Sanctuary. No rights exist in this Sanctuary. Notification under Section 26A was issued on 07.09.2000.

No rights/claims of local population have been affected consequent to these notifications. There are no outstanding claims/disputes between Government and local persons. One of the assumptions of the State of Punjab Government was that the said lands which were declared as Sanctuaries were protected forests prior to notification as Sanctuaries and "as such there are no rights at all of any persons in any of these Sanctuaries". *Legally speaking this is a wrong assumption. Infact the protected forest under the IFA is the most right burdened category and assuming that such areas do not have rights raises a valid presumption of error in declaring Sanctuaries in the State of Punjab which needs to be clarified urgently.*

It also gave some specific Sanctuary related example such as those of Harike lake Wildlife Sanctuary and Abohar Area Wildlife Sanctuary where it has claimed that there were no rights of any person in these protected forests even prior to notification as Sanctuaries. These are matters that need to be ground truthed in the light of the above assumptions. Further it averred that there are no claims of persons pending in respect of rights in any of the 10 notified Wildlife Sanctuaries in Punjab State. Incidentally there are no National Parks in the State of Punjab.

3.22.5. Immunization of livestock

Under Section 34 A of WLPA as amended up to 1993 necessary directions were issued vide order dated 07.05.1998 by the State for immunization of live stock within five km of the Sanctuary⁸³¹.

⁸³¹ Affidavit dated 11.05.1998

3.22.6. Registration of arms

Pursuant to the order dated 20.03.1998, the State informed⁸³² that directions as per the Section 34(3) of WLPA have been issued for prohibition of grant of arms licenses within the radius of ten kms of a Sanctuary without the prior approval of Chief Wildlife Warden vide Punjab Government dated 07.05.1998. Further pursuant to order dated 09.02.1999, the State also informed⁸³³ that necessary rules are being framed for the registration of person in possession of arms. Registration of arms is in progress. New licences under Arms Act 1959 of persons residing within radius of ten km are now been issued with prior concurrence of CWLW of the State. Further, pursuant to an order dated 31.03.1999 the State informed⁸³⁴ that it had framed necessary rules regarding registration and issuances of fresh licences. The registration work is in progress.

3.22.7. Control over poaching: Guns, ammunition etc

In compliance to the order dated 22.08.1997, where the Court had asked about the actions taken in respect of controlling poaching and implementing the Wildlife Act, the State informed⁸³⁵ that action in respect of providing modern arms, communications facilities viz. wireless sets and other necessary equipments to Forest Guards in Sanctuaries and National Parks is in progress which may take some time. Further wireless network has been completed in all Ws of the State. The State further informed⁸³⁶ that the wireless sets were working in following five places i.e. Bir Moti Bagh, Abohar and Harike WS. For remaining location in Sanctuary the action for getting permission from Government of India, installation and other formalities is likely to take some time. Also to provide the modern arms to Guards are under active consideration is likely to take some time.

Further pursuant to order dated 17.07.1998, the State elaborated⁸³⁷ that wireless sets have been installed in Bir Moti Bagh, Abohar, Harike WS, Bir Bhunerheri, Bir Gurdialpura, Takhni and Rehampur. Action for remaining for the following Ws is initiated in Bir Bhadson, Bir Asihvan and Bir Dosanjh. Bir Mehas is very small Sanctuary which covers only 123.43 ha and therefore does not requires any wireless. Supply of modern arms to Wildlife Guards/ Incharge of Ws has been initiated and is under active consideration. Another affidavit⁸³⁸ gave the latest position and informed that wireless sets are working at five locations in Bir Moti Bagh, Abohar and Harike Sanctuaries at present. For remaining locations the requisite frequency for installation has been obtain from Ministry of Communication, ancillary activities will soon be completed in these areas. Department of Justice and Home Affairs have sanctioned DBBL guns and 32 bore revolver to department from confiscated and seized firearms and ammunition. Finally the affidavit⁸³⁹ in August, 2001 it was confirmed that wireless network has been completed in all Ws of the State.

⁸³² Affidavit dated 11.05.1998

⁸³³ Affidavit dated 17.02.1999

⁸³⁴ Affidavit dated 13.08.1999

⁸³⁵ Affidavit dated 16.02.2001

⁸³⁶ Affidavit dated 20.02.1998

⁸³⁷ Affidavit dated 20.08.1998

⁸³⁸ Affidavit dated 17.02.1999

⁸³⁹ Affidavit dated 20.08.2001

3.23. The State of Rajasthan

3.23.1. Introduction

The Rajasthan Government has diligently responded to the orders of the Court. In compliance to the provision of the Wildlife Protection Act, the State constituted Wildlife Advisory Board, appointed Wildlife Wardens and Honorary Wildlife Wardens, set up veterinary centres in the vicinity of Protected Areas, instructions were issued to Chief Wildlife Warden to register arms and issue fresh licenses. With regard to settlement process, the State informs that necessary action has been taken in completing the process and issuing final notification. The details are as follows:

3.23.2. Constitution of the Wildlife Advisory Board

In compliance with the order dated 07.07.1997 the State informed⁸⁴⁰ that the State Wildlife Board has been constituted vide notification dated 26.05.1995. The last two meetings of the Board were held on 13.10.1995 and 09.12.1996 and the next meeting are scheduled on 09.07.1997 which has been postponed due to unavoidable reasons. Another affidavit⁸⁴¹ stated that three meetings have been held since then.

3.23.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

In compliance with the order dated 07.07.1997, the State Government responded⁸⁴² that seventeen Honorary Wildlife Wardens are working at present and the appointment of remaining Honorary Wildlife Wardens is under active consideration by the Government and will be finalized shortly. *Rajasthan too could not distinguish the Warden and Honorary Wildlife Warden distinction in law.* This was corrected in another affidavit⁸⁴³ where the State informed that all the districts of the State have Deputy Conservator of Forests posted, who is ex-officio Wildlife Wardens. Honorary Wildlife Wardens have been appointed for twenty four districts out of thirty districts while three names are pending before the Government for approval which will be appointed soon. Proposals are being obtained for the remaining five districts and orders are likely to be issued by 15.11.1997 for all.

3.23.4. Settlement of rights including issuance of proclamation notification

The State of Rajasthan informed its status of settlement of rights⁸⁴⁴ and stated that there are twenty seven PAs in the State out of which Proclamations have been issued for fourteen by the respective District Collectors under



⁸⁴⁰ Affidavit dated 21.07.1997

⁸⁴¹ Affidavit dated 17.10.1997

⁸⁴² Affidavit dated 21.07.1997

⁸⁴³ Affidavit dated 17.10.1997

⁸⁴⁴ Affidavit dated 17.10.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Section 21. Further, efforts are being made to have the proclamations issued for the remaining thirteen PAs within one month. Accordingly, it was informed⁸⁴⁵ that proclamation for determination of rights has been issued by respective District Collectors under Section 21 of WLPA for all.

3.23.5. Status of Protected Areas in Rajasthan

The process of determination of rights etc. is complete for one PA (Keoladeo NP, Bharatpur). Efforts are being made to complete the process for the remaining PAs within the time limit granted (one year). The process is not required for parts of PAs which have Reserved Forest Areas with settled rights⁸⁴⁶. Where relocation and acquisition is necessary it will have to be done in a phased manner depending on availability of funds, for which demands will be posed before Government of India. It was further informed⁸⁴⁷ that Chief Wildlife Warden has written to concerned Collectors vide letter dated 18.02.1998, 18.06.1998 and fax message dated 06.08.1998 for determination of rights as per WLPA within one year from 22.08.1997. The State further informed⁸⁴⁸ in compliance to Court order dated 17.07.1998 that in twenty five Protected Areas, the determination of rights and acquisition of rights is completed. Settlement of rights is partially completed in remaining two. The concerned Collectors have been issued orders under Section 24 of WLPA.

3.23.6. Status of settlement proceedings

In response to order dated 29.08.2006 the State informed⁸⁴⁹ that as on 01.11.2005 there were two NPs, twenty five WSs and two proposed NPs in the State. Provisions of the WLPA under Section 24 have been completed with regard to twenty four WSs by 01.11.2005 except for Mount Abu WS.

Mount Abu WS: The District Collector, Sirohi issued the proclamation in respect of Mount Abu WS under Section 21 of the WLPA on 03.04.1997. This Sanctuary was declared as 'Reserved Area' under Rajasthan Wild Animals and Birds Protection Act, 1951. A clarification was sought by him on 17.10.1997 regarding the area included in the Sanctuary, which was given to him by the CWLW on 24.10.1997. Thereafter another clarification was sought by him on 23.02.2004 regarding validity of the above notification under the present WLPA, 1972, which was furnished to him vide letter dated 26.06.2004 stating that the above reserve is deemed to be a Sanctuary under the present Act. Thereafter the process of determination of rights was reinitiated and proclamation under Section 21 has been completed by the District Collector on 04.10.06.

Keoladeo NP: Process of determination of rights and acquisition of land and rights has been completed under Section 24 and 25 and final notification under Section 35(4) has been issued on 27.08.1981. (Status of NPs as on 01.11.2005).

Ranthambore NP: Process of determination of rights has been completed on 21.08.1998. The process of relocation of the village Indala was initiated in 1997. In 1999 proposal for diversion of forest land for relocation of village Indala was sanctioned by the Government of India in November 2000. The relocation could not be done due to the absence of consent of the villagers. The process was reinitiated in 2005. Four alternative sites for relocation have been identified in Sawai Madhopur and Tonk districts and consultation with villagers is under process. After relocation of Indala, acquisition of rights will be completed.

⁸⁴⁵ Affidavit dated 12.08.1998

⁸⁴⁶ Also those under Section 66(4) i.e. deemed Sanctuaries under WLPA and as noted in Affidavit dated 12.08.1998

⁸⁴⁷ Affidavit dated 12.08.1998

⁸⁴⁸ Affidavit dated 13.07.1999

⁸⁴⁹ Affidavit dated October, 2006

Proposed Desert NP: Process of determination of rights under Section 24 has been completed on 07.07.1999. Process of acquisition of land or rights involves relocation of around forty eight villages and acquisition of land measuring 1529 sq. km. Due to financial constraints and the interests of large number of villages involved in the process of relocation, not much progress could be achieved.

Sariska NP: Process of determination of rights under Section 24 has been completed on 22.10.1999. A total compensation of Rupees two lakhs sixty eight thousand to the eight claimants was paid. There are eleven settlements having no rights as determined by the Collector having around eight hundred fifty families inside the proposed NP. Efforts are being made to relocate them. Once the settlements are relocated, the process under Section 35(4) will be completed.

3.23.7. Immunization of livestock

In compliance to Court order dated 20.03.1998 with regard to immunization of livestock among other things the State responded⁸⁵⁰ that the Chief Wildlife Warden has issued instruction vide letter dated 01.05.1998 to all Conservators of Forests, Soil Conservator with copy to all Deputy Conservator of Forest, Divisional Forest Officers for the compliances of Section 33A and 34 of the WLPA. In the letter dated 01.05.1998 the CWLW has instructed to get the all the livestock present within the radius of five km of WSs/NPs vaccinated on top priority. Further, the Director Animal Husbandry Department issued instructions to all District Animal Husbandry officers⁸⁵¹ for identifying the villages within ten km radius of WSs/NPs and carry out immunization of livestock within eight weeks from 20.03.1998 order passed by the Honorable Court. Later he also instructed⁸⁵² all District Animal Husbandry officers for identifying the villages within five km radius and carry out the immunization programme. As immunization of livestock is colossal, the concerning officers will require sufficient time, resources and manpower. Therefore it will be done in a phased manner.

3.23.8. Setting up of Veterinary Centres

The State further informed⁸⁵³ in compliance to Court order dated 17.07.1998 that about one hundred sixty two veterinary centers and sub centers exist in the immediate vicinity of WSs/NPs. One hundred eight veterinary centers are proposed to be established, immunization of cattle has taken place against the communicable diseases by the Animal Husbandry Department. A total number of four lakh seventy five thousand four hundred sixteen immunization of livestock against the communicable diseases has been done by the Animal Husbandry Department. Another data submitted⁸⁵⁴ gave a different figure and informed that one hundred seven veterinary centers and sub centers already exist in the vicinity of WSs/NPs. Twenty six more veterinary centers are proposed, to carry out the immunization of livestock within five km radius of WSs/ NPs against the communicable diseases. The Animal Husbandry Department has already immunized many livestock against communicable diseases. Officer on Special Duty has requested to all District Collectors⁸⁵⁵ to send the required information to CWLW regarding compliances report of Section 33A.

3.23.9. Registration of arms and issuances of fresh license

In compliance to Court order dated 20.03.1998 with regard to registration of firearms and issuances of fresh license among other things the State informed⁸⁵⁶ that the CWLW has instructed to all person residing within the

⁸⁵⁰ Affidavit dated 12.08.1998

⁸⁵¹ Vide letter dated 21.05.1998

⁸⁵² Vide its letter dated 09.06.1998

⁸⁵³ Affidavit dated 13.07.1999

⁸⁵⁴ Affidavit dated 24.09.1998

⁸⁵⁵ Vide letter dated 7.05.1998

⁸⁵⁶ Affidavit dated 12.08.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

radius of ten km of any Protected Area and in possession of firearm to register with the authorized officer as mentioned in Rajasthan WLPAs Rules 1977 on top priority. The information has been passed through News papers. Officer on Special Duty has requested to all District Collectors⁸⁵⁷ to send the required information to CWLW regarding compliances report of 34 of WLPAs. Another affidavit informed⁸⁵⁸ that the process is on and total of four thousand thirty one registrations have been done with the respective wildlife officers. A total of two thousand one hundred twenty two registrations have been done with the respective wildlife officers so far⁸⁵⁹.

3.23.10. Control over poaching: Wireless sets, arms, ammunition and equipment

To control poaching in the Protected Areas, the State informed⁸⁶⁰ that proposals for providing arms, wireless sets, vehicles, etc. are being drawn up and would be submitted to the Government of India and Government of Rajasthan as soon as possible. Further, it was informed⁸⁶¹ in compliance to Court order dated 20.03.1998, that patrolling and checking is regularly done with regards to NP/WS done by field staff. Flying Squad prohibits the activities which are prohibited in WS/NP under the provisions of WLPAs 1972. Inspection by senior officers from time to time of the Protected Areas. It is stated that wherever there is a provision for any special permission it is granted by the competent authority after due precaution.

Another affidavit⁸⁶² elaborated the measures for control of poaching and stated that a total of sixty nine weapons (thirteen revolvers, fifty six 12 bore guns), two hundred sixty nine wireless sets are available in various Protected Areas. nine Flying Squads already exist, five more have been created and in the process of being equipped. To strengthen the infrastructure, a plan has been prepared and sent to Additional IGF (Wildlife) Government of India. Provisions in Annual Plan of Operations of various WSs/NPs funds are kept in this regard and depending on funds it will be able to achieve the progress in phased manner.

3.23.11. Larger measures on wildlife conservation as per information sought by the Central Government

In response to the Central Government Affidavit and in compliance to the order dated 31.01.2001 relating to larger measures on wildlife conservation, the State of Rajasthan elaborated⁸⁶³ as follows:

Release of funds by the Centre

All efforts are being made to see that the funds released by Government of India reach the implementing agencies, within six weeks from the time of receipt by the State Government.

Vacancy of posts

All posts of Forest Guards and forester in both the tiger reserves of the State viz. Ranthambore and Sariska Tiger Reserves have been filled up.

Reorganization of field formations

Proposal regarding constitution of strike forces at Ranthambore and Sariska Tiger Reserve along with funds requires for pay and allowances, equipment, vehicles, buildings, etc. have been sent to Director, Project Tiger. The strike forces will be created as soon as the funds are received from Government of India.

⁸⁵⁷ Vide letter dated 7.05.1998

⁸⁵⁸ Affidavit dated 13.07.1999

⁸⁵⁹ Affidavit dated 24.09.1998

⁸⁶⁰ Affidavit dated 17.10.1997

⁸⁶¹ Affidavit dated 12.08.1998

⁸⁶² Affidavit dated 12.08.1998

⁸⁶³ Affidavit filed dated 19.02.2001

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Problem of poaching

There is no insurgency problem in Rajasthan. The main problem is of illegal grazing and stray cases of illegal cutting and poaching in Protected Areas. The field staff is being trained to tackle these problems. To prevent poaching a new Award Scheme has been started with the contribution from WWF Tiger Conservation Project. It provides for giving cash awards to persons helping/ informing, leading to successful prosecution about poaching of Tiger, Panther and their prey base. In case of offences related to Tiger Rupees ten thousand, leopard Rupees seven thousand and for prey base and other large mammals Rupees three thousand will be provided. WWF TCP has provided Rupees fifty thousand to the Forest Department Ranthambhore Tiger Reserve for disbursing such awards.

Protection of outside Protected Area network

The presence of tiger outside Protected Area is nil. Besides twenty seven PAs there are thirty two Closed Areas (*note that this category no longer remains as a legal category after 1991 amendment to the Wildlife Protection Act*) in the State in which wildlife is found. Out of these, fifteen closed areas are being managed by territorial DCFs and the rest by officers in wildlife wing of the Department and as per Government of Rajasthan order dated 02.03.2000 by CWLW. In respect of DCFs and Conservator of Forests under whom control of Sanctuaries/closed areas/ zoos has been vested but otherwise not directly under the control of CWLW, comments of CWLW shall be sought by PCCF while reviewing/ accepting their ACRs.

Compensation

Compensation is being carried out and an example of one Shri. Lalu Meena was given where he received Rupees fifteen thousand as compensation for his son who was killed by panther. Additionally WWF Tiger Conservation Program (TCP) has also started cattle compensation scheme in Ranthambhore tiger reserve to ensure prompt compensation cattle damage. Enhancement in amount of compensation is under active consideration of State Government.

Legal powers

It was submitted that the conviction rate is quite low in the State and only in two cases of poaching at Kota and Jaisalmer: the Court has awarded Rupees five thousand fine and one year simple imprisonment. Proposal for enhancement of punishment has been sent to Government of India. Instructions have already been issued to the field officer to plead before the concerned authorities that seized vehicles should not be released to the offenders.

Allocation of funds by the Central Government

All efforts are being made to see that the funds released by the Government of India reach the implementing agencies within six weeks from the time receipt by the State Government Utilization of funds released by GOI at the end of the financial year becomes difficult but these funds are not lapsed and are revalidated and utilized in the next financial year.

Settlement of rights

It was submitted that the proceeding of settlement of right of determination in all the National Parks and Sanctuaries has been completed. As a first step, relocation of four villages in Ranthambhore National Parks that is Padra, Khatauli, Mordungry and Indala have been forwarded to Government of India. Similarly out of eleven villages in Sariska National Parks, proposal of four villages i.e. Umri, Kiraska, Kankwadi and Bhagani for Rupees four hundred twenty nine lakhs ninety three thousand is forwarded to Government of India.

Payment to employees

Timely payment of salary and allowances to the staff is already being done.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Intelligence networking

A State Level Coordination Committee consisting the Secretary of Forest, Secretary Mines, IG BSF Jodhpur, Commissioner of Customs and Central Excise, Divisional Railway Manager, Commissioner Transport, Commissioner State Excise, Security Officer, Sanganer Airport and Chief Wildlife Warden has been constituted by the State Government on 25.07.2000 to monitor wildlife crime and to ensure intelligence networking. Proposal for constituting a District Level Committee to monitor wildlife offences is under active consideration of the State Government. A Wildlife Crime Cell has been created in the Police Department under IG Crime Branch to monitor wildlife offences cases registered in the Police Department.

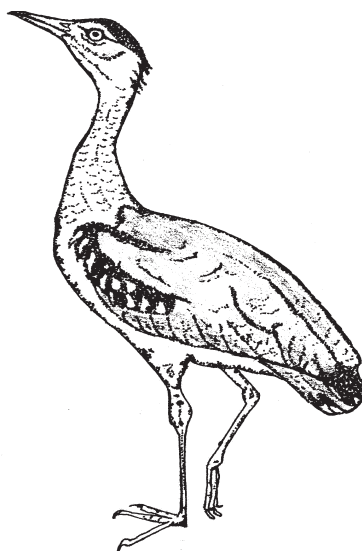
3.23.12. Diversion of Protected Areas

3.23.12.1. Exploration survey by Oil and Natural Gas Corporation in Desert National Park

IAs 22 and 23 was filed by ONGC to carry out exploration survey in Desert NP Rajasthan. The team visited the site i.e. Desert National Park in Rajasthan on 06-08.10.2002. A Report has been submitted to the Ministry. This report will be placed before the committee for its consideration on 08.11.2002⁸⁶⁴.

3.23.12.2. Laying of pipeline in the Gharial Wildlife Sanctuary for drawing water from Chambal River

The applicant, Agarwal Pigments Private Limited a manufacturer of Titanium Dioxide, has sought permission to draw water from the Chambal River by laying a pipeline through Gharial Wildlife Sanctuary⁸⁶⁵. Due consent was taken from the Rajasthan Pollution Control Board and an application under the Forest Conservation Act was submitted to the Deputy Conservator of Forest (Wildlife, Kota). However, with the dereservation order of the Court⁸⁶⁶, prior permission was required for use of forestland within a Sanctuary. The Court directed the matter to the Standing Committee of the National Board for Wildlife for its recommendations⁸⁶⁷. This proposal was rejected by the Standing Committee on the ground that the used waste water would be discharged back into the River Chambal thereby affecting the quality of water⁸⁶⁸. In response to this, the applicant submitted⁸⁶⁹ that they had applied for withdrawal of water from the River Chambal and not for discharging of waste water. The applicant also stated that due consent of the Irrigation Department and Rajasthan State Pollution Control Board was taken. Yet, the Court disposed of these applications since these were rejected by the National Board for Wildlife⁸⁷⁰. Challenging the above order, I.A. 109 was filed by the applicant. The Court allowed the application and has redirected the matter to the National Board for Wildlife⁸⁷¹ for its recommendations. The application is pending before the Board for its decision.



⁸⁶⁴ Affidavit dated 25.10.2002

⁸⁶⁵ In I.A. No. 78-79

⁸⁶⁶ Dated 13.11.2000

⁸⁶⁷ Vide order dated 23.11.2005

⁸⁶⁸ As stated in the affidavit filed by MoEF on 18.11.2006

⁸⁶⁹ Through its affidavit dated 30.11.2007

⁸⁷⁰ Vide order dated 06.02.2008

⁸⁷¹ Vide order dated 17.09.2008

3.24. The State of Sikkim

The State of Sikkim has one National Park and seven Wildlife Sanctuaries. The State has provided information with regard to constitution of Wildlife Advisory Board, appointment of Honorary Wildlife Wardens and Wildlife Warden's immunization of livestock, registration of arms, and other larger measures towards wildlife protection. A case of cultivation of cardamom within a Sanctuary is pending before the Sikkim High Court.

3.24.1. Constitution of Wildlife Advisory Board

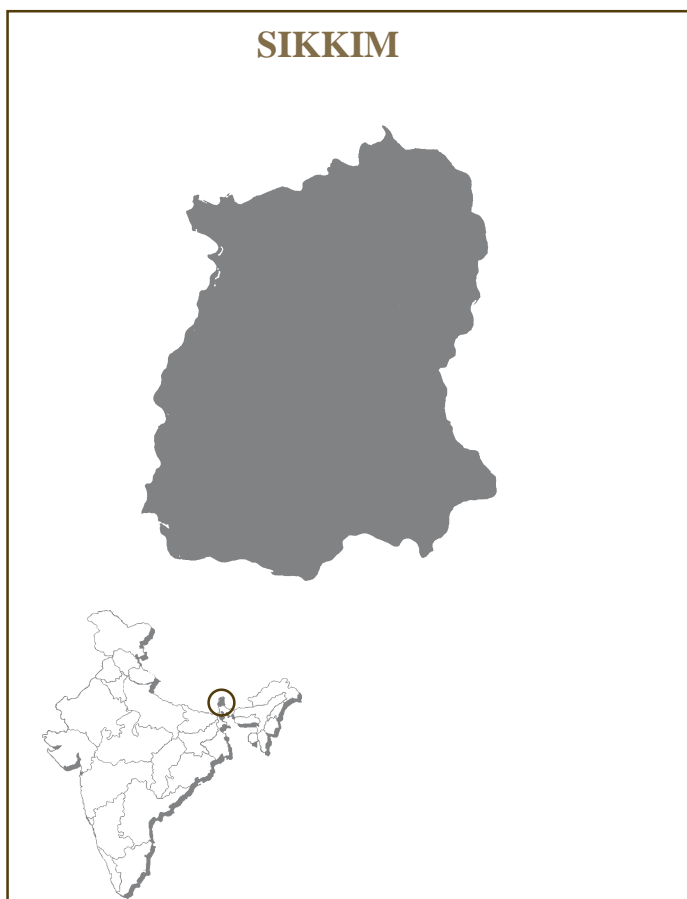
The State of Sikkim, in compliance with the order dated 25.03.1997, informed⁸⁷² the Court that the Wildlife Circle of Forest Department had constituted the Board vide notification dated 07.09.1979. It has also been reconstituted as and when needed, last being in July, 1995⁸⁷³. The Board has held ten meetings so far, the last being on 14.04.1997.

3.24.2. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

The initial response to the order dated 25.03.1997 where the Court sought the status of the appointment of Wildlife Wardens, the State responded⁸⁷⁴ with information on appointment of Honorary Wildlife Wardens. It stated that three Honorary Wildlife Wardens were selected from the North, East and West districts of the State and appointment for South district is under progress and will be completed within a month. Subsequently, an affidavit was filed⁸⁷⁵ in compliance with another order dated 22.08.1997 where it also gave information regarding the statutory Wildlife Wardens. It informed that the Chief Wildlife Warden (CWLW) heads the Wildlife Wing under the State Forest Department. He is assisted by Conservator of Forests, Field Director, DFOs, Assistant Conservator of Forests, Senior Research Officer, Veterinary Doctor, Wildlife Wardens, Assistant Wildlife Wardens and Wildlife Guards. Field officers have also been delegated with certain powers of the WLPA, 1972 as amended up to 1993 vide notification dated 15.07.1996. The State Government has accorded its approval to the appointment of the Honorary Wildlife Wardens. People are being selected for their honorary Service for a meager honorarium. The four HWWs were finally appointed vide notification dated 12.03.1998⁸⁷⁶.

3.24.3. Status of Protected Areas in Sikkim

In pursuance to order dated 29.08.2006 and 17.10.2006, the State gave a final picture of the status of PAs vide an affidavit⁸⁷⁷:



⁸⁷² Affidavit dated 19.06.1997

⁸⁷³ Vide notification dated 03.07.1995; See Affidavit dated 13.10.1997

⁸⁷⁴ Affidavit dated 19.06.1997

⁸⁷⁵ Affidavit dated 13.10.1997

⁸⁷⁶ Affidavit dated 01.05.1998

⁸⁷⁷ Affidavit dated 06.11.2006

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

National Parks

There is only one NP: Kanchunjunga NP: Area 1784 sq. km., Notification dated 19.05.1997.

Sanctuaries

1. **Fambong Lho WS:** Area 51.76 sq. km. Notification dated 02.04.1984; Final notification has been done dated 08.07.1996⁸⁷⁸.
2. **Kyongnosla Alpine WS:** Area 31 sq. km. Notification dated 29.08.1984; Final notification has been issued dated 08.07.1996⁸⁷⁹.
3. **Pangolakha WS:** Area 128 sq. km, Notification dated 05.09.2002.
4. **Shingba Rhododendron WS:** Area 43 sq. km., Notification dated 29.08.1984.; Final notification has been issued dated 08.07.1996⁸⁸⁰.
5. **Maenam WS:** Area 35.34 sq. km., Notification dated 19.03.1987. Proclamation with regard to Maenam WS is yet to be done and a letter dated 01.02.1997 has been dispatched to the concerned authority in this regard. Finally notified on 10.03.1998⁸⁸¹.
6. **Barsey Rhododendron WS:** Area 104 sq. km., Final notification has been issued dated 08.07.1996⁸⁸².
7. **Kitam Bird WS:** Area 6 sq. km., Notification dated 17.06.2006.

The above stated WSs and NPs were declared so after duly following the procedures laid down under Section 18, 19 and 21 of the WLPA, 1972. Before the declaration a public meeting was held and proclamations inviting objections and claims with regard to the proposed WSs and NP were issued in the local Newspapers having daily circulation.

BOX 3

Land used for cultivation of Cardamom included in Sanctuary?

One Ramnath Shapkota filed Writ Petition (WP). No. 55 of 1996 before the Sikkim High Court at Gangtok alleging that 2.5 acres of land used for cultivating cardamom, by him with the permission of the State, was wrongly included in the forest land as notified in Fambanglho WS vide notification no. 38 dated 02.04.1984. Pursuant to the HC order a proclamation was issued in daily local newspaper inviting objections and claims within two months from the affected persons, but none including Ramnath Shapkota came forward to file any objections or to claim ownership and by order dated 25.08.1998, the said W.P. was disposed of as not pressed.

In the State, a Cadastral Survey was carried in 1950-1952 and a new survey was carried out in 1980-1982 and entire forest land and private holding were demarcated by pillars and as such the Sanctuaries were declared and proclamation issued in terms of above surveys. In declaring the Sanctuaries and National Parks in the State, the rights of public at large, are not affected as no private lands are involved, and thus provisions of Section 24 and 25 of WLPA, 1972 are not attracted. *Note that this is a narrow way of looking at the right regime and rights are not restricted to only land but also include usufructs from such Protected Areas. This fact has been ignored by both the State as well as the Court.*

⁸⁷⁸ Affidavit dated 23.02.1998

⁸⁷⁹ Affidavit dated 23.02.1998

⁸⁸⁰ Affidavit dated 23.02.1998

⁸⁸¹ Affidavit dated 01.05.1998

⁸⁸² Affidavit dated 23.02.1998

3.24.4. Settlement of rights including issuance of proclamation notification

The State has around thirty percent of the total forest area as National Park and Wildlife Sanctuaries in form of Protected Area network for protection and conservation of rare and endangered flora and fauna of the State⁸⁸³. The State further informed⁸⁸⁴ that the NP and WSs are within the limits of the Government reserved forests. Proceedings under Sections 21-25 of WLP, 1972 as amended up to 1993 with regard to Khangchendzonga (High Altitude) NP, which was expanded from 850 to 1784 sq. km. in 1996, have been completed and a notification dated 19.05.1997 has been issued.

3.24.5. Immunization of livestock

In compliance with the order 20.03.1998 with regard to immunization of livestock among other things, a proposal for this purpose around the following PAs were submitted to the Government.

1. Khangchendzonga NP- North/West
2. Fambong Lho WS-East
3. Shingba Rhododendron WS-North
4. Kyongnosla Alpine WS-East
5. Maenam WS-South
6. Barsey Rhododendron WS-West

Another affidavit filed⁸⁸⁵ in compliance of Courts orders dated 22.08.1997 and 17.07.1998 elaborated that for immunization of livestock, Immunization of Livestock Rules, 1998 have been notified in the gazette⁸⁸⁶. Adequate infrastructure facilities for veterinary hospitals, dispensaries and stockman center exist at the periphery of the Protected Areas. Immunization of livestock is a regular feature of the Animal Husbandry and Veterinary service.

3.24.6. Registration of arms

In compliance with the order 20.03.1998 regarding registration of firearms and issuances of fresh licences, the State of Sikkim gave a PA wise reply as follows:

Such persons within ten km of following PAs are being registered:

- Khangchendzonga NP- Twenty two persons have been registered.
- Fambong Lho WS- One hundred nine persons have been registered.
- Maenam WS- Twenty eight persons have been registered.

Another affidavit⁸⁸⁷ filed in compliance of Courts orders dated 22.08.1997 and 17.07.1998 stated that rule 14 of Sikkim Wildlife (Protection) Rules further amended dated 16.09.1998 speaks about registration of arms within ten km of the Protected Area in the State has been started and nearing completion.

⁸⁸³ Affidavit dated 19.06.1997 in compliance with the order dated 25.03.1997

⁸⁸⁴ Affidavit dated 13.10.1997

⁸⁸⁵ Affidavit dated 16.09.1998

⁸⁸⁶ Vide notification dated 16.09.1998

⁸⁸⁷ Affidavit dated 16.09.1998

3.24.7. Control over Poaching: Guns, ammunition etc

The States were asked to provide information regarding the steps taken for control over poaching in the State. In response to this order dated 22.08.1997, the State replied ⁸⁸⁸ that the NP and Ws are provided funds by the Government of India for their development under the hundred percent Centrally Sponsored Schemes. A wireless network has been reinforced under the scheme while in Ws the facility is lacking. Proposal is being prepared for approval of the Government. Further the Wildlife Guards in the NPs and Ws are provided with arms and ammunitions during their antipoaching programs such as patrolling, trap demolition operation and wildlife expedition which are conducted in season and out of season. In Kangchendzonga NP: seven wireless station at Yuksom, Sankalang, Beh Mangan, Phim, Phu Chungthang and Gangtok. Six numbers of double barrel shot guns for the rest of Protected Areas. The proposal to purchase the modern equipments as per the IXth Plan period is ordered of Rupees one hundred ten lakhs to combat poaching. This was informed through another affidavit⁸⁸⁹.

3.24.8. Larger measures on wildlife conservation as per information sought by the Central Government

The State of Sikkim responded⁸⁹⁰ to an order dated 31.08.2000 where the specific affidavit of the Central Government sought some specific information from the States as follows:

Allocation of funds

There is shortage of resources under the State Government for taking adequate protection of animals.

Funds provided by Central Government

Major concern is that Central Government funds are not available in time

Arms and ammunitions provided to field staff

The State Government has submitted a project proposal for the purchase of modern arms and communication networking system.

Training of Forest Guard

The training in sophisticated arms is imparted in the police training centers in the State.

Protection of area outside the NPs and WS

The area is protected by the wildlife personnel's under the provision of Wildlife Protection Act 1972. Further the forest officers are also authorized to take cognizance of such offence under Wildlife Protection Act, 1972 and the provision of the forest acts.

Poaching control

Poaching is generally controlled by the wildlife personnel in cities and urban areas.

Networking

The State has constituted a committee for having ground information on wildlife consisting of personnel from forest department, personnel from police force and personnel from defence located in the State. This way there is greater networking amongst concerned agencies.

⁸⁸⁸ Affidavit dated 13.10.1997

⁸⁸⁹ Affidavit dated 16.09.1998

⁸⁹⁰ Affidavit dated 13.12.2000

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Compensation

The State does not get any assistance from the centre for the exgratia payment for the kill of the cattle. The State has framed rules for the payment of exgratia payment on cattle depletion and it is paid immediately subject to the fulfillment of the conditions laid down in the rules which have been notified⁸⁹¹.

Power of confiscation of the vehicle

There has been no such offence where the use of vehicles has been reported and no seizure has been made by the wildlife officers. Other tools and weapons seized in a wildlife offence are not released back and are confiscated.

Central Government funds

In most cases the Central Government releases funds at the fag end of the year and timely work cannot be executed. Most of wildlife Protected Areas in Sikkim are at high altitude and the works cannot be executed during winter due to heavy snowfall

Vacancies in the forest department

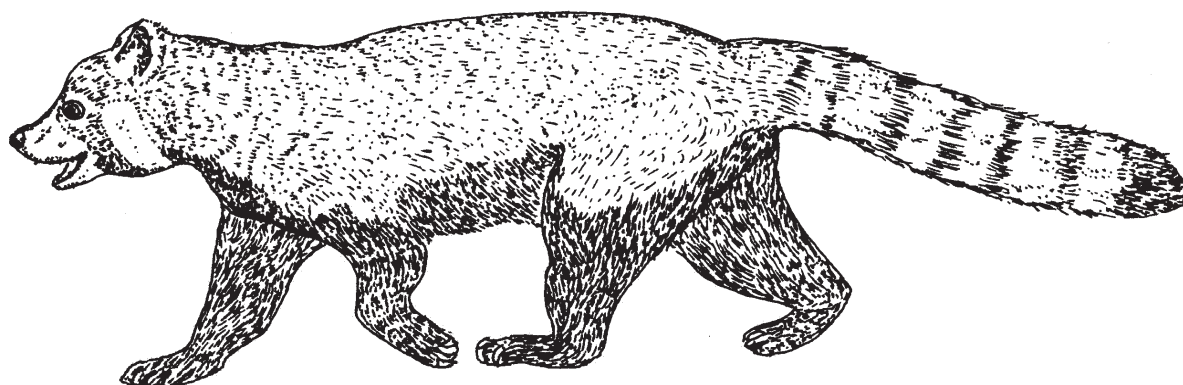
No vacant posts are available under the wildlife sector in the State, as all the manpower required on the posts created has been filled.

Settlement rights

A village called Tshoka having an area of 30 acres included as an integral part of Khangchendzonga NP during the time of extension and expansion of the NP in 1997 has been considered for relocation. The funds required for payment of compensation to those families occupying 30 acres of land is submitted to the Government of India, Ministry of Environment and Forest for consideration.

Intelligence network

The State Government is considering strengthening the intelligence network and has already started giving rewards to informers of wildlife offences.



⁸⁹¹ Vide No. 139/W/L/F/97/08

3.25. The State of Tamil Nadu

3.25.1. Introduction

The Tamil Nadu Government has provided information on various orders of the Court relating to constitution of Wildlife Advisory Boards, appointment of Wildlife Wardens, immunization of livestock, registration of arms, settlement of rights in Protected Areas, measures for controlling poaching activities and other unique steps undertaken to protect wildlife. The details are as follows:

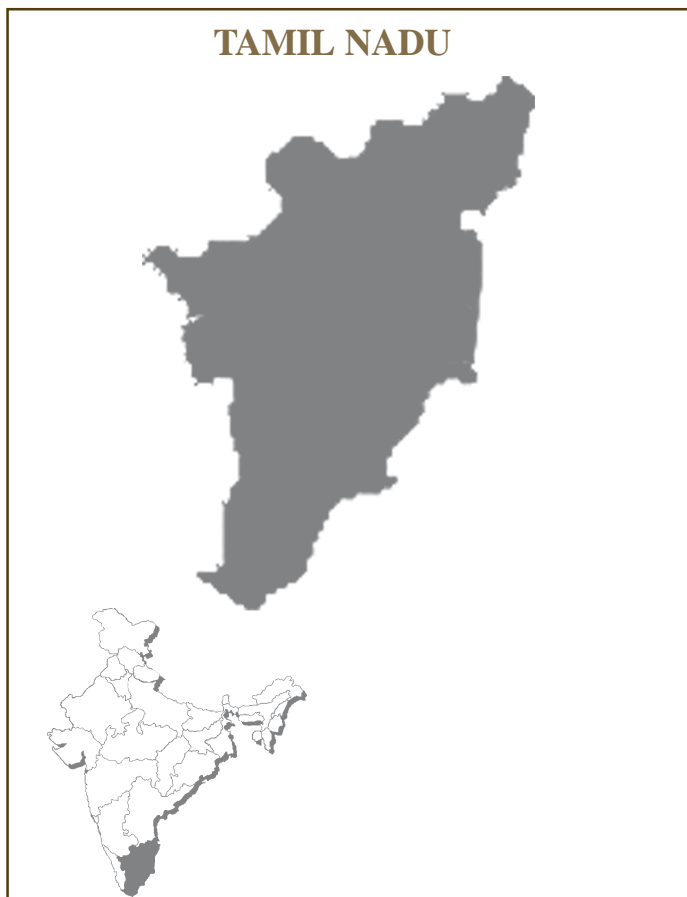
3.25.2. Constitution of the Wildlife Advisory Board

The State of Tamil Nadu informed⁸⁹² in compliance with the order dated 25.03.1997 that the Board was constituted by the State on 14.12.1995 and reconstituted on 24.02.1997.

3.25.3. Appointment of the Wildlife Wardens

Unlike many States, the State of Tamil Nadu correctly interpreted the order dated 25.03.1997 of the Supreme Court and informed the Court⁸⁹³ that there are ten Wildlife Wardens in position in the State to look into the effective implementation of the WLPA. It further informed⁸⁹⁴, pursuant to order dated 22.08.1997 that there are six Wildlife Wardens, one Deputy Director for Project Tiger. One District Forest Officer who looks after the protection aspect in their respective Sanctuaries and National Parks. In the case of appointment of Honorary Wardens for seven districts is under consideration and the Government orders will be shortly issued in this direction. For the remaining districts, action is being taken to obtain the names of suitable persons and their willingness. After getting the names, the Government orders will be issued shortly in the case of the remaining districts. Another affidavit⁸⁹⁵ filed pursuant to order dated 07.11.1997, stated that the State Government vide order dated 09.01.1998 has appointed Honorary Wildlife Wardens for the Sanctuaries and National Parks for the period of three years. In case of cancellation of the appointment or the person relinquishing his appointment before the expiry of his term than in both the case three months of the notice in writing has to be given and either of the party can do that.

The affidavit filed in March, 1998⁸⁹⁶ pursuant to order dated 16.01.1998 informed that the HWW are been appointed in twenty two districts vide order dated 09.03.1998 by the State Government.



⁸⁹² Affidavit dated 30.04.1997

⁸⁹³ Affidavit dated 30.04.1997

⁸⁹⁴ Affidavit dated 30.12.1997

⁸⁹⁵ Affidavit dated 13.01.1998

⁸⁹⁶ Affidavit dated 09.03.1998

3.25.4. Status of Protected Areas

The order dated 16.01.1998 noted that the State of Tamil Nadu has five National Parks and seventeen Sanctuaries. However, proclamation has not been issued in respect of any of them. Pursuant to the above order the State informed⁸⁹⁷ about the status of the PAs.

National Parks

1. **Mudumalai NP:** Notified under Section 16 of Tamil Nadu Forest Act 1882.
2. **Indira Gandhi NP:** Notified under Section 16 of Tamil Nadu Forest Act 1882.
3. **Mukurthi NP:** Notified under Section 16 of Tamil Nadu Forest Act 1882.
4. **Guindy NP:** Notified under Section 16 of Tamil Nadu Forest Act 1882.
5. **Gulf of Mannar Marine NP:** non reserve Forest Areas, proclamation under Section 21 of WLPA has been issued.

Sanctuaries

1. **Mudumalai WS:** Notified under Section 16 of Tamil Nadu Forest Act 1882.
2. **Indira Gandhi WS:** Notified under Section 16 of Tamil Nadu Forest Act 1882.
3. **Grizzled Giant squirrel WS:** Notified under Section 16 of Tamil Nadu Forest Act 1882.
4. **Point Calimere WS:** Notified under Section 16 of Tamil Nadu Forest Act 1882.
5. **Kalakad Mundanthurai Tiger Reserve:** Notified under Section 16 of Tamil Nadu Forest Act 1882.
6. **Vallanad Black Buck WS:** Notified under Section 16 of Tamil Nadu Forest Act 1882.
7. **Karaivetti Bird Sanctuary (BS):** Non Reserve Forest Areas, proclamation under Section 21 of WLPA has been issued.
8. **Kanjeerankulam BS:** Non Reserve Forest Areas, proclamation under Section 21 of WLPA has been issued.
9. **Chitrangudi BS:** Non Reserve Forest Areas, proclamation under Section 21 of WLPA has been issued.
10. **Veduvloor BS:** Non Reserve Forest Areas, proclamation under Section 21 of WLPA has been issued; Final draft notification is under Government consideration⁸⁹⁸.
11. **Koothangulam Kadankulam BS:** Non Reserve Forest Areas, proclamation under Section 21 of WLPA has been issued.
12. **Vedanthangal BS:** Non Reserve Forest Areas, proclamation under Section 21 of WLPA has been issued; Another affidavit⁸⁹⁹ filed in compliance with the order dated 17.07.1998 stated that final notification has been issued.
13. **Karikili BS:** Kancheepuram district - proclamation are awaited under Section 21 from the Collector; Proclamation under Section 21 was eventually issued⁹⁰⁰ and in compliance with the order dated 17.07.1998.
14. **Pulicat BS:** Thiruvallur district - Proclamation under Section 21 was eventually issued⁹⁰¹ and in compliance with the order dated 17.07.1998.

⁸⁹⁷ Affidavit dated 09.03.1998

⁸⁹⁸ Affidavit dated 14.09.1998

⁸⁹⁹ Affidavit dated 14.09.1998

⁹⁰⁰ Affidavit dated 14.09.1998

⁹⁰¹ Affidavit dated 14.09.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

15. **Vettangudi BS:** Sivaganga district- As per affidavit⁹⁰² and in compliance to the order dated 20.03.1998; it was informed that proclamation under Section 21 has been issued.
16. **Udayamarthandapuram BS:** Thiruvarur district - Proclamation under Section 21 was issued⁹⁰³ and in compliance with the order dated 17.07.1998. Final draft notification is under Government consideration⁹⁰⁴.
17. **Vellode BS:** Erode district - As per affidavit⁹⁰⁵ and in compliance to the order dated 20.03.1998; it was informed that proclamation under Section 21 has been issued.

Further with regard to the issue of reserved forest area in the State, it is stated that the areas declared under T. N. Forest Act 1888 in status is equivalent to the one which is notified under Section 26A or 21 of the WLPA, 1972 since claims and rights have been already been settled for these areas and notification under Section 21 will amount to repeating the process.

The order dated 20.03.1998 also clarified the status in Tamil Nadu where it stated that in the State out of five National Parks, four are in the Reserved Forest Area for which no proclamation is required and proclamation has been issued in respect of one National Park. There are seventeen Sanctuaries out of which six are in Reserved Forest Area, proclamation has been issued in respect of six Sanctuaries. The State sought time to issue proclamation in respect of the remaining Sanctuaries. The State further responded⁹⁰⁶ pursuant to order dated 22.08.1997 that the final notification can only be issued by the Government after finalizing the steps. This procedure will take at least six months to one year time and the concerned Collectors are already been directed in this direction.

Another affidavit⁹⁰⁷ filed in compliance with the order dated 17.07.1998 stated that the final notification under Section 26 A 1(b) could not be issued to all Protected Areas within reserved forest.

3.25.5. Immunization of livestock

In compliance to the order dated 20.03.1998 which among other things sought the status of immunization of livestock the State responded⁹⁰⁸ that the State Director of Animal Husbandry has been requested to issue immediate instructions that all the wildlife in and around NPs/Ws should be immunized. The Director Animal Husbandry, reported⁹⁰⁹ that instructions to Regional Directors of Animal Husbandry has been issued to contact District Forest Officers concerned to work out continuation of vaccination within five km radius of Protected Areas through the staff of veterinary centers.

3.25.6. Registration of arms

In compliance to the order dated 20.03.1998 regarding registration of firearms and issuance of new licences among other things, the State responded⁹¹⁰ that the State Director General of Police has been requested to issue suitable instructions to comply with the provision of the WLPA in this regard. It was further stated in an affidavit⁹¹¹ that the Wildlife (Protection) (Tamil Nadu) Rules 1975 have been framed. Rule 33 of the said rules talks about registration of person holding arms in around the vicinity of Ws/NPs. The CWLW and DGP have been requested to take action in case of non compliances of rules.

⁹⁰² Affidavit dated 12.05.1998

⁹⁰³ Affidavit dated 14.09.1998

⁹⁰⁴ Affidavit dated 14.09.1998

⁹⁰⁵ Affidavit dated 12.05.1998

⁹⁰⁶ Affidavit dated 30.12.1997

⁹⁰⁷ Affidavit dated 14.09.1998

⁹⁰⁸ Affidavit dated 12.05.1998

⁹⁰⁹ Affidavit dated 14.09.1998

⁹¹⁰ Affidavit dated 12.05.1998

⁹¹¹ Affidavit dated 14.09.1998

3.25.7. Control over poaching: Guns, ammunition etc

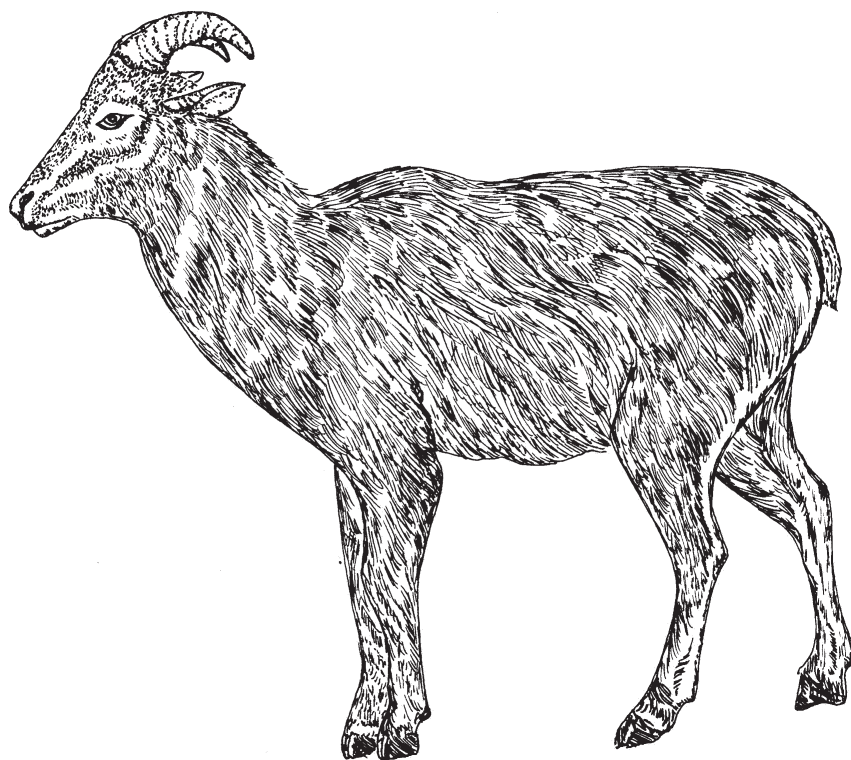
A very generic response⁹¹² was first given, pursuant to the order dated 22.08.1997 regarding arms and communication facilities. It was said that such facilities are provided in the Sanctuaries and National Parks. Further, in compliance to the order dated 20.03.1998, the stated informed⁹¹³ that the CWLW is taking all measures to prohibit the activities in NPs/WSs as provided under WLPA. The CWLW further submitted statistics as regards firearms in the Wildlife Circles of the Wildlife Wing are concerned in an affidavit⁹¹⁴.

3.25.8. Larger measures on wildlife conservation as per information sought by the Central Government

By the order dated 13.11.2000 the Honorable Court directed all the States to respond to the affidavits filed by the UOI on 26.08.2000. The State Government, who has filed the affidavit along with Government of India, has taken following action⁹¹⁵.

Reorganization of staff

- a. Three hundred sixteen posts have been filled up of Forest Guards and all vacancies in the cadre of foresters have also been filled up.
- b. Reorganization of staff done to ensure more accountability in the field.
- c. On issue of flow of funds to field levels, frequent discussions with concerned officials are being held and free flow of funds is ensured.



⁹¹² Affidavit dated 30.12.1997

⁹¹³ Affidavit dated 12.05.1998

⁹¹⁴ Affidavit dated 14.09.1998

⁹¹⁵ Affidavit dated 16.02.2001

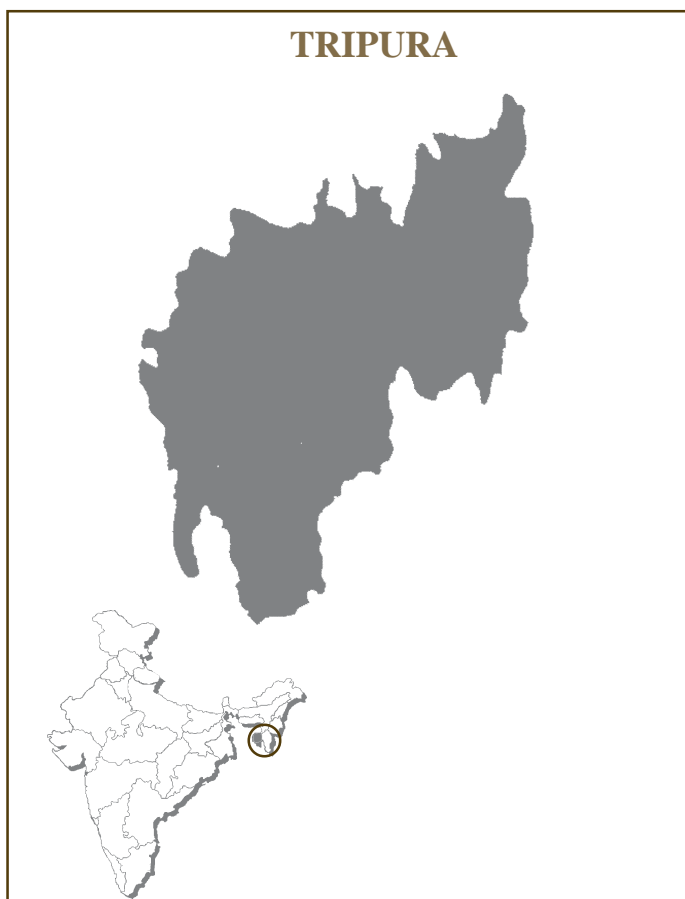
3.26. The State of Tripura

3.26.1. Introduction

The Government of Tripura has provided information on constitution of Wildlife Advisory Board, appointment of Wildlife Wardens, registration of arms, settlement process, immunization of livestock and other measures for wildlife conservation. Firewatchers are appointed by the State especially during dry season to protect wildlife. The Government is considering the proposal of deploying Special Border Battalions called "Tripura Environment Protection Force" in few Protected Areas.

3.26.2. Constitution of Wildlife Advisory Board

In its response to the question of constituting Wildlife Advisory Board among other things, the State of Tripura responded to the order dated 25.03.1997 vide an affidavit⁹¹⁶ and stated that in compliance of Section 6(1) of the Act, the State of Tripura has been constituting the Wildlife Advisory Board since 1990 with *inter alia* the following members, the Minister of Forests Tripura, the Chief Secretary Government of Tripura and the Principal Chief Conservator of Forests. The existent Board was reconstituted vide notification dated 12.09.1996 for a period of three years.



3.26.3. Appointment of Wildlife Wardens and Honorary Wildlife Warden: The confusion remains

It also informed that the State has vide notification dated 20.04.1997 has appointed four Honorary Wildlife Wardens, one for each of the four districts of Tripura each with a tenure of one year in compliance with Section 4 of the Act. *Note that the Court's order specifically spoke about the Wildlife Wardens which are different from Honorary Wildlife Warden which is a separate requirement for including voices from the public for wildlife conservation. Incidentally there was no information on the composition of Wildlife Wardens.* It finally gave information about the Wildlife Wardens through another affidavit⁹¹⁷ where it informed that the State has been divided into nien territorial divisions and four Wildlife Sanctuaries, vide notification dated 23.07.1987 where all the DFOs/Wildlife Wardens managing these divisions have been declared as Wildlife Wardens.

3.26.4. Settlement of rights including issuance of proclamation notification

An affidavit as late as November 2006⁹¹⁸ pursuant to order dated 29.08.2006, clarified that there are no National Parks in the State. However, there are four Wildlife Sanctuaries in the State:

⁹¹⁶ Affidavit dated May, 1997

⁹¹⁷ Additional affidavit dated 24.10.1997

⁹¹⁸ Affidavit dated 02.11.2006

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

- Trishna WS: Falls in two districts i.e. South and West.
- Gumti WS: Falls in three districts i.e. South, West and Dhalai.
- Sepahijhala WS: Falls in the West district.
- Roa WS: Falls in the North district.

These four Sanctuaries were notified in 1987-88⁹¹⁹ and the notifications were issued on the basis of Cadastral Survey (CS) Plot numbers⁹²⁰. The Cadastral Survey of all the land in the State was completed around two decades ago and the same is under revision. Records of forests are maintained by Directorate of Land Records. There are small holdings in proximity of these plots and the same may need to be acquired for consolidation of Sanctuaries and better management. The Government has recently issued a notification under Section 26 for the purposes of acquiring private land within the Sanctuaries. The designated Collectors have been informed of the directions issued by this Honorable Court and were asked to complete the process within the stipulated period of one year.

Subsequently, in compliance Court order dated 16.01.1998 the State informed⁹²¹ that it has issued the proclamation with regard to all the 4 Sanctuaries:

- Sepahijhala Sanctuary notification dated 20.02.1998.
- Trishna Sanctuary notification dated 20.02.1998
- Gumati Sanctuary notification dated 20.02.1998
- Roa Sanctuary notification dated 21.02.1998.

Some claims are referred to Land Acquisition Collector, pertaining the Sanctuaries which are not finally constituted as reserved forest. All Sanctuaries are notified covering forest land only. Only Roa Sanctuary does not have any reserved forest whereas the rest three Sanctuaries have reserved forest under Section 20 of IFA before they were notified as Sanctuary⁹²². It was further informed⁹²³ in compliance to Courts order dated 17.07.1998 that claims with regard to a reserved forest are settled. To notify finally under Section 26 A of WLPA the Land Acquisition Collector is to inquire the rights pertaining to area outside reserved forest under Section 24. Some claims are preferred under Section 21(b) of WLPA pertain to areas outside Reserved forest.

Pursuant to order dated 29.08.2006, the State gave the latest position on the status of settlement of rights in the four Sanctuaries⁹²⁴. It stated that proclamations under Section 21 was issued in respect of all the four Sanctuaries by the ADM and Collectors who were appointed by the State under Section 26 of the WLPA by notification dated 04.10.1997. The status as on 01.11.2005 as regards completion of proceedings and determination of rights and acquisition of land and rights was also submitted by the State in November, 2006.

3.26.5. Immunization of livestock

In compliance to the order dated 20.03.1998 which among other things required to get the details of immunization of livestock from the States, the State of Tripura informed⁹²⁵ that one out of the four Sanctuaries is fenced i.e. Roa Sanctuary (85.85 ha). According to 1992 census, Tripura has around eighteen lakh twenty seven thousand livestock, which is unusually high. As such routine immunization is not possible. However, efforts are being made to undertake mass immunization. Forest officials commonly keep a check on the communicable disease in the vicinity of the

⁹¹⁹ Additional Affidavit dated 24.10.1997

⁹²⁰ It is not clear why such a criterion was used for issuing notification specifically for these Sanctuaries.

⁹²¹ Additional affidavit dated 16.03.1998

⁹²² Affidavit dated 06.11.1998

⁹²³ Affidavit dated 06.11.1998

⁹²⁴ Affidavit dated 02.11.2006

⁹²⁵ Affidavit dated 09 June, 1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

forest and seek for immunization as soon as an outbreak is reported. It was done in 1993 around Sepahijala and Trishna Sanctuaries against anthrax and foot and mouth diseases. The Sanctuary Gumti and its neighbourhood are sparsely populated, the majority being tribals who seldom rear livestock except indigenous pigs which are relatively free from disease. It was further submitted⁹²⁶ that there are many veterinary centers in vicinity of NPs/WSs, which are affirmed by Director Animal Resources Development Department who are entrusted with immunization responsibility of the cattle.

3.26.6. Registration of arms

In compliance to the order dated 20.03.1998 where in the details regarding registration of firearms and issuance of license was being sought, the State Government informed⁹²⁷ that it has framed the Tripura Wildlife (Protection) Rules, 1976. Rule 31 provides for registration of such persons possessing firearms within ten km of WS/NP within three months of the declaration of an area as NP or WS to the Officer-in-charge of the Sanctuary or NP, which shall be forwarded to CWLW. Follow up action on this issue wasn't taken up vigorously and the District Magistrates issued licences for firearms which were largely unregistered by the CWLW. Vide circular dated 03.11.1997 the Central Government, through Ministry of Home Affairs, directed the States to follow the provisions of Section 34 of the WLP Act. The State Government accordingly instructed⁹²⁸ the District Magistrates and Collectors. The State Government also requested the District Magistrates and Collectors⁹²⁹ to submit an action taken report on this directive and inform the unregistered licence holders to comply with this directive. Twenty one persons around Roa WS have been notified by the District Magistrate and Collector, North District for Trishna and Sepahijala Sanctuaries, the respective DM and Collector have been asked for current details regarding the gun licence holders. Advertisements have been issued in the local language in the daily newspapers regarding the provisions of Section 34 asking the licence holders to renew /register themselves with the CWLW by 20.06.1998. Another affidavit⁹³⁰ in compliance to Courts order dated 17.07.1998, stated that District Magistrate and Collector, were requested to give a list of persons residing within ten km of the existing Sanctuary who have been issued the licence to possess arms. The list indicates issuances of licence and corresponding Sanctuaries between 1951-1990. After the receipt of information, steps were taken to notify each one to apply for registration under Rule 31 of rules, by CWLW dated 16.09.1998. On 10.08.1989, Ministry of Communication allocated specific frequency authorizing use of fixed and mobile wireless apparatus for Sanctuaries. The authority was issued in 1989. About one thousand nine hundred ninety wireless sets have been procured and are in network since 1991. Further, there has been expansion of wireless network which now covers Roa Sanctuary along with other forest areas.

3.26.7. Control over poaching: Modern arms and communication facilities to the Forest Guards

Forest patrols

In compliance to the order dated 25.03.1997⁹³¹, on specific steps to control poaching among other things, the State informed⁹³² that since the very beginning, forest patrols are being provided with firearms.

Wireless network

A wireless network was developed by the forest department in 1991. Quick modes of transportation have been provided to the guards patrolling the Sanctuaries.

⁹²⁶ Affidavit dated 06.11.1998

⁹²⁷ Affidavit dated 09 June, 1998

⁹²⁸ Vide circular dated 25.11.1997

⁹²⁹ Vide letter dated 30.04.1998

⁹³⁰ Affidavit dated 06.11.1998

⁹³¹ Also see order dated 22.08.1997

⁹³² Additional Affidavit dated 24.10.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

More protection staff

It is felt that the existing strength of protection staff is not adequate but there is a lack of financial resources for this purpose. A proposal for this has been sent to the Central Government, which is pending with the Central Government.

Prohibition in Sanctuaries: especially for non resident;

The State further informed⁹³³ in compliance to the order dated 20.03.1998 that there are several steps being taken to prohibit the activities, prohibited under WLPA. Thus, for example, Section 28 is being followed to regulate entry of non residents in any Sanctuary. Further, since the 1991 amendment of the Act, no person is allowed to destroy, exploit or remove any wildlife from any Sanctuary other than for purposes of medical treatment. *This is an interesting observation as the WLPA nowhere mentions an exemption for medical treatment but only such destruction which furthers the cause of wildlife conservation.*

No delegation of power to CWLW under Section 29

Rules do not delegate power to CWLW to destroy/damage the habitat, this power rests solely with the State Government.

Firewatchers in dry months

Sepahijala and Gumti are fire prone Sanctuaries during the dry months of February-April. To prevent the same, fire watchers are engaged during the dry months.

No weapons, no explosives

Pursuant to 1991 amendment, no person was allowed to enter the Sanctuary with weapons. In Trishna Sanctuary, a few santhal tribals are adept in use of bows and arrows, but a strict watch is kept on them. The use of explosives and other injurious substances are strictly prohibited within the Sanctuary. Use of explosives is done under licence by Government agencies like ONGC for purposes of seismological analysis and is a controlled activity.

Special Border Battalions: "Tripura Environment Protection Force"

In compliance to Courts order dated 17.07.1998 the State further informed⁹³⁴ that since the borders are porous, incursions are high, a proposal has been sent to Central Government to assist the State in raising a special battalion of protection force called "Tripura Environment Protection Force". It is under consideration.

3.26.8. Larger measures on wildlife conservation as per information sought by the Central Government

In compliance to the order dated 31.01.2001 the State also elaborated⁹³⁵ upon the larger measures as sought by the Central Government as follows:

Allocation of funds by State

There were no delays in release of funds sanctioned by Ministry of Environment and Forest under Wildlife Schemes by the State Government for making the same available to the implementing officers. At times, the delay is caused because the money released is not credited to the State Government through the Reserve Bank of India. State of Tripura has limited resources and depends primarily on Central assistance for specific project.

Vacancy of post

It is submitted that no post relating to wildlife work are lying vacant in Tripura.

⁹³³ Affidavit dated June, 1998

⁹³⁴ Affidavit dated 06.11.1998

⁹³⁵ Affidavit dated 19.02.2001

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Compensation

No funds have been received from the Government of India for the payment of compensation for death or injury caused by wild animals.

Training

With respect to handling of firearms training is imparted to the Forest Guards through Tripura police training college as and when required. Assistance of the para military forces and police is taken for patrolling in the interior areas to check the illicit felling of trees and poaching of wildlife.

Legal powers

Provisions of the Act should be amended, as proposed, to give power to forest officers for confiscation of vehicles involved in wildlife offences.

Settlement of rights

Proclamation under Section 21 of the Act with respect to all the four Sanctuaries in Tripura has already been issued by the concerned Land Acquisition Collectors. The settlement of rights and final constitution of Sanctuaries is under process. Progress is held up due to want of funds.

Illicit felling of trees: Cross border issues

The State Government submitted that it is in need of augmentation of machinery to check the illicit felling of trees and smuggling of forest produce across the international border with Bangladesh. A proposal for constitution of a Tripura Environmental Protection Force for effective management and protection of forest resources in the State was submitted to the Central Government in 1998 which is still pending consideration. There are no instances of harassment of forest officials for using force in self defence.

Issuance of circulars in vernacular language

For summary trial of cases relating to violation of the provisions of WLPA and IFA the relevant provisions are in the regional language.

3.26.9. Other issues

Tiger population

Tiger Population is in accordance with the information given, excepting for the year 1989 when there was no substantiated evidence of tiger sightings during the census period. In 1993, due to internal problems the entire area of the State could not be covered to complete the census of animals and birds, as the census reply was incomplete the figures submitted by the State were not accepted by the Government of India. The figures for this year do not show any tiger sightings.

3.27. The State of Uttar Pradesh

3.27.1. Introduction

The State of Uttar Pradesh has stated that there are seven National Parks and twenty nine Wildlife Sanctuaries wherein settlement process has been initiated. The Government has provided information on constitution of Wildlife Advisory Board, appointment of Wildlife Wardens, registration of arms, settlement process, immunization of livestock and other larger measures for wildlife conservation. The details are as follows:

3.27.2. Constitution of the Wildlife Advisory Board

The State of Uttar Pradesh in compliance with the order dated 25.03.1997 and 07.07.1997 informed⁹³⁶ the Court that in exercise of the power conferred under rules 3-7 of the Uttar Pradesh Wildlife (Conservation) Rules 1974, the Governor has constituted the Board vide G.O. dated 10.10.1996 and vide G.O. dated 07.02.1997 appointed the Vice President of the Board.



3.27.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

In compliance with the order dated 25.03.1997 and 07.07.1997 the State informed⁹³⁷ only about the appointment of Honorary Wildlife Warden. It stated that one Mr. Brijendra Singh was nominated for the post vide G.O. dated 08.02.1996. The appointment of the other Wardens is under consideration. List of current Wardens is attached. Further, an affidavit⁹³⁸ filed in compliance to the order dated 17.10.1997 stated that four Honorary Wildlife Wardens have been appointed for the districts of Nainital and Pauri Gharwal in which Corbett National Park is situated. (Note that this now relevant for State of Uttaranchal). The State further affirmed⁹³⁹ in response to the order dated 16.01.1998 that vide its notification dated 23.01.1998 and exercising the powers under Section 4 of the WLPA, it has appointed the Honorary Wildlife Wardens for all the districts for the period of one year.

3.27.4. Status of Protected Areas

The order dated 16.01.1998 notes that in the State of Uttar Pradesh, there are seven National Parks and twenty nine Sanctuaries. Final notification has been issued in respect of six National Parks. Proclamation has not been issued in respect of one National Park. Proclamation has not been issued in respect of any of the twenty nine Sanctuaries.

⁹³⁶ Affidavit 09.08.1997

⁹³⁷ Affidavit 09.08.1997

⁹³⁸ Short statement dated 06.11.1997

⁹³⁹ Affidavit dated 13.02.1998

3.27.5. Settlement of rights including issuance of proclamation notification

In compliance with the order dated 25.03.1997 and 07.07.1997, which among other things sought the status of settlement of rights, the State informed⁹⁴⁰ as follows:

National Parks (seven): Settlement proceedings are complete in six NPs. Another affidavit claimed that final notifications have been issued with regard to six NPs⁹⁴¹.

Wildlife Sanctuaries (seventeen) and Water Birds Sanctuaries (twelve): Settlement Proceedings have not been completed in these areas. Respective Collectors have been requested from time to time for the same. Vide G.O. dated 27.11.1996 the respective Divisional Forest Officers have been delegated the powers of Collectors under Section 19-25 of the Act, settlement proceedings are in progress. This move is contrary to the provisions of the Wildlife Protection Act and needs to be immediately corrected.

Detailed progress report on status of settlement of National Parks and Sanctuaries was submitted to the Court vide an affidavit⁹⁴² in response to the order dated 16.01.1998.

The State further informed⁹⁴³ in compliance of the order dated 17.07.1998 that the proclamation notification under Section 21 of WLPA has been issued with regard to all WSS/NPs. Further, it was of the view that it is mandatory to relocate villages from WSS/NPs as per provision of Section 24 (c) of WLPA. The District Collector may admit the claims and then permit the continuation of rights after consultation with the CWLW. It is not the policy of the State Government to evict the people forcibly from WSS or NPs. They have to be relocated only if they are willing to shift or they are persuaded to shift. This awareness program will take time. So it was prayed that the Court may grant some reasonable time to State Government to tackle the situation. The State Government should be permitted to plan the relocation and acquisition of rights in phased manner with financial assistance from Central Government

The progress of settlement in NPs and WSS situated within the State was further submitted in October, 2006⁹⁴⁴ in pursuant to the order passed on 23.11.2005.

3.27.6. Immunization of livestock

In compliance to the order dated 16.01.1998 along with 20.03.1998, where the States were asked to inform about the steps taken for immunization of livestock, the State of U.P. responded⁹⁴⁵ that the Principal Secretary (Forest), U.P. has issued the following directions to all the concerned DMs and to the Director, Department of Animal Husbandry, U.P., Lucknow, vide G.O. dated 25.05.1998:

“Immunization against communicable diseases within a periphery of five km of the NP/WS is mandatory under Section 33A of WLPA, 1972”.

⁹⁴⁰ Affidavit 09.08.1997

⁹⁴¹ Short statement dated 06.11.1997 in compliance to the order dated 17.10.1997

⁹⁴² Affidavit dated 13.02.1998

⁹⁴³ Affidavit dated 30.11.1998

⁹⁴⁴ Compliance affidavit dated 13.10.2006

⁹⁴⁵ Affidavit dated 13.07.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Further, in compliances of the Court's order dated 17.07.1998 a generic response⁹⁴⁶ on the status of immunization of livestock was given. It stated that immunization of cattle has started in the vicinity of NPs/WSs. However, another additional affidavit⁹⁴⁷ gave the details of immunization of cattle in and around the vicinity of WSs/NPs.

3.27.7. Registration of arms

In compliance to the order dated 16.01.1998 along with 20.03.1998, where the States were asked to inform about the steps taken for Registration of Arms, the State of U.P. responded⁹⁴⁸ that the Principal Secretary (Forest), U.P. has issued the following directions to all the concerned DMs, vide G.O. dated 25.05.1998: "Under Section 34 of WLPA, no new arms licences must be issued within a radius of ten km of NP/WS without the concurrence of CWLW". As regards, registration of arms and issuances of fresh licence in compliances of another Court's order dated 17.07.1998, the State informed⁹⁴⁹ that the U.P Wildlife (Protection) Rules 1974 have been notified in gazette dated 01.05.1974. All District Magistrates of U.P have been reminded to issue licence within ten km radius from the boundaries of NPs/WSs with concurrences of CWLW vide order dated 24.10.1998. In another affidavit⁹⁵⁰ the State reassured that the registration of old Arms within ten km periphery of NP and WS of U.P. the concurrence of Chief Wildlife Warden of U.P. is sought before the granting new arms licences to the residents living around ten km periphery of NP/WS.

3.27.8. Control over poaching: Guns, ammunition etc

With regard to steps taken for control of poaching as sought by the order dated 17.07.1998, the State informed⁹⁵¹ that State Wildlife Wing has provided six hundred eight firearms to staff of NPs and WSs. With additional funds for more arms will be purchased and issued to staff. To control the poaching, three hundred twenty seven wireless sets are provided to staff WSs and NPs. Further another affidavit⁹⁵² described in detail the amount allotted for purchase of arms, wireless sets and vehicles against total amount received from Government of India under Centrally Sponsored Scheme during 1996-97, 1997-98, and 1998-99. Details of subordinate staff posted for wildlife protection and vehicles issued to NPs and WSs for protection of wildlife were also submitted to the Court.

3.27.9. Larger measures on wildlife conservation as per information sought by the Central Government

Some larger measures on wildlife conservation and answers to queries of the Central Government affidavit, the State Government responded as follows:

Allocation of funds by the State Government

The State Government is facing a severe resource constraint. Efforts are made to allocate as such funds as possible for the wildlife sector within resource availability keeping in view the priorities of various schemes of forestry and wildlife.

Release of Central assistance by State

Field officers might be getting delayed sometimes due to inherent procedural formalities required to be completed by the finance department of the State Government. Sometimes Central assistance is received almost at the end of the financial year. This ultimately results in partial utilization of Central assistance.

⁹⁴⁶ Affidavit dated 30.11.1998

⁹⁴⁷ Additional affidavit dated 07.08.1999

⁹⁴⁸ Affidavit dated 13.07.1998

⁹⁴⁹ Affidavit dated 30.11.1998

⁹⁵⁰ Additional affidavit dated 07.08.1999

⁹⁵¹ Affidavit dated 30.11.1998

⁹⁵² Additional affidavit dated 07.08.1999

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Training and skills

Wildlife staff is lacking in adequate training and skills in handling arms and legal matters. Efforts are being made to overcome these shortcomings. State Government is making all possible efforts to provide the required training to the field staff.

Staff outside Protected Areas

Forest staff outside Protected Areas, have been authorized by the State Government to report and seek technical guidance from CWLW in matters of control of hunting and trade in wildlife produce including tiger.

Inadequate staff in cities and towns

Control of wildlife offences is more tedious in urban areas compared to rural areas, lack of wildlife staff in urban areas is one of the causes and help from police is taken to overcome this situation.

Networking problem

It is true that networking between different agencies is not up to the desirable level. However, efforts are being made to overcome this shortcoming.

Compensation

Central assistance received towards the payment of compensation is not to the level of actual requirement and there always remains a gap between the requirement and the availability of funds.

Power of confiscation of vehicles

The State Government will make use of the available legal recourse to confiscate vehicles used by offenders.

Settlement of rights

The State Government is making all possible efforts to complete the settlement proceedings in respect of NPs and Ws. The State Government has decided that the private land within the Sanctuaries will not be acquired and people will not be relocated from the Sanctuaries. However, in case of NPs relocation in accordance with the rules will be completed as soon as possible.

Tiger conservation

The Chief Wildlife Warden of U.P. periodically consults his counterparts in bordering States. There exists a close cooperation between Police Department and Forest Department of the State. A high level Committee under the Chairmanship of Governor with members from different enforcement agencies including the Central Command of Indian Army with headquarters at Lucknow is functioning for reviewing the status of tiger conservation. Other measures of State Level coordination are being formulated.

Vacant posts

The State Government is in process of formulating the requisite rules for filling upon the vacant posts of Forest Guards.

Punishment provisions

For punishment for offences in wildlife, the State Government is in agreement with the views of GOI. Necessary State amendments in IFA are in the process.

3.27.10. Diversion of Protected Areas

3.27.10.1. Diversion of land in Kaimur Wildlife Sanctuary for Ban Sagar Irrigation project⁹⁵³

Facts

Ban Sagar project is an irrigation project to bring water from Sone River by constructing a dam in M.P. to Adwa, Meja, Jirgo and Hussainpur reservoirs of U.P. through a canal system. It will provide additional irrigation facility in 150 and 132 hectares area of Mirzapur and Allahabad districts of U.P. and also increase the irrigation system in aforesaid districts of U.P.. The Government of U.P. entered into a Tripartite Agreement dated 16.09.1973 with the Government of Bihar and Madhya Pradesh for sharing of water of River Sone and for that purpose to share the cost of dam and common canals. The Ban Sagar Project U.P. was approved by the Advisory Committee on irrigation, flood control and multi -purpose projects of Central Water Commission on 27.01.1994 for Rupees three hundred thirty crores nineteen lakhs framed on price level of 1988-89 subject to environment and forest clearance and conveying of State Finance Department concurrence to updated cost. The forest land required for construction of canals of Ban Sagar Project is 591.07 hectares out of which 410.28 hectare is in the State of M.P. and 180.79 hectares is in the State of U.P.. The land required in the State of M.P. (410.28 hectares) has already been diverted and made available for the construction of canal by Ministry of Environment and Forest, Government of India vide its letter dated 17.04.1996. The proposal of diversion of remaining 180.79 hectare land which is in the State of U.P. and out of which 71.97 hectare land is of Kaimur Wildlife Sanctuary was sent before MoEF by the U.P. Government vide letter dated 22.12.1993. The Government of India examined the case and returned the case to State in 2000⁹⁵⁴ with the observation that because 71.97 hectares land falls under the Kaimur Wildlife Sanctuary so the approval of NBWL is necessary. The Government of U.P. sent the case to the MoEF to get the approval of NBWL⁹⁵⁵. The MoEF informed⁹⁵⁶ that in view of recent orders of the Supreme Court dated 13.11.2000 it is not possible for Ministry to consider even denotification/dereservation of wildlife area before NBWL. Government of India also stated in its aforesaid letter to realign the requirement of forest land avoiding any wildlife area. Only after State Government submits revised proposal arising any diversion of Protected Area, the proposal will be reopened and considered under FCA.

As the realignment of proposed canals is not possible therefore, for 180.79 hectares of forest land, which is required for the construction of canals, the permission was sought for in the said I.A. The permission is sought on the following amongst other grounds:

- a. That this project will provide additional irrigation facility in 1.50 ha area of draught prone area of distinct Mirzapur and Allahabad of U.P.
- b. That there is no adverse effect on environment by construction of this project as is evident from the letter of MoEF dated 02.07.2001 and site visit report of the sub group of the expert committee
- c. That there is no adverse effect on Fauna as it is evident from the letter of the Chief Conservator of Forest (Wildlife) U.P. Lucknow dated 29.06.2000.
- d. That the Zoological Survey of India and Botanical Survey of India has surveyed the project area in the year 1998 and 1999 and recommended construction of project.
- e. That there is no production of any timber in the proposed area. Only trees of fuel wood life *palas*, *kakor*, *kathar*, *kathmohalo*, *saja* etc. are there as it is evident from the report of the Chief Conservator of Forest (Eastern Zone) Allahabad, U.P..
- f. That the equivalent compensatory land for reforestation is available.

⁹⁵³ I.A. No. 15

⁹⁵⁴ Vide its letter dated 29.06.2000

⁹⁵⁵ Vide its letter dated 24.11.2000

⁹⁵⁶ Vide its letter dated 20.12.2000

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

- g. That EIA plan has been prepared by the department and adequate fund has been provided in the project estimate for environment management and wildlife welfare.
- h. The channel will cross Kaimur Wildlife Sanctuary and will utilize only 0.16 percent of forest area of the district of Mirzapur⁹⁵⁷.

Another affidavit⁹⁵⁸ States that the project has been examined in Central Design Organization with references to check list as per the guidelines for preparation of Detailed Project Report 1980. The Project has been accepted by the Advisory Committee on "Irrigation, Flood Control and Multipurpose Project". Forestry and Sanctuary land is required for construction of main canals.

The Zoological survey of India states that all mitigative measures are implemented, the loss may be recovered. Therefore the project is cleared on faunal aspects with the conditions of implementation of mitigating measures. The Botanical Survey of India also affirms that the construction of BIP will be more benefit to the local people whose life style and overall economy will be improved to have good irrigation facilities in remote parts of the district.

The conservation standpoint was elaborated in a description where it was stated that Kaimur Wildlife Sanctuary established on 10.08.1982 has an area of about 50,074.70 ha. The indicative fauna in the said Sanctuary include tiger, leopard, black buck, chinkara and many endangered species of birds. The Deputy Forest Conservator Kaimur WS, Mirzapur in its letter dated 09.02.1996 had observed that the Halyia range of Kaimur Wildlife Sanctuary would be adversely affected by the construction of fifteen meter wide and twenty five km long canal. The said canal would cause maximum adverse impact on the movement of wild animals separating approximately eighty five sq. km area of the Sanctuary from the rest of the Sanctuary. It was submitted that it will be fair and proper if the Honorable Court is pleased to refer the issue of diversion of Sanctuary/ forest land as sought by the applicant to the IBWL for its opinion.

The Standing Committee held its meeting dated 22.07.2002 and considered the Bansagar Irrigation Project of U.P. in which dereservation of reserved forest/Sanctuary is required .i.e. I.A. No. 15⁹⁵⁹.

It was also suggested that an action report on the said I.A. No. 15 should be submitted and a team will visit the site i.e. Kaimur WS and then submit the report to the committee, therein after committee will view after the site inspection report is received. The Standing committee eventually held the meeting on 17.02.2003 and recommended diversion of 180.79 ha of forest land subject to the pre conditions specified in the site inspection report⁹⁶⁰ :

1. Relocation of ten villages outside Kaimur WS.
2. Soil conservation, water harvesting, and pasture development work for the rest of the Sanctuary.
3. U.P. Forest Department will draw new management plan or improve on the existing plan.
4. Creating Kaimur WS trust fund.
5. Monitoring and control.
6. Water holes for wildlife etc.

⁹⁵⁷ I.A. 15 affidavit dated 09.08.2001

⁹⁵⁸ Affidavit dated 29.10.2001

⁹⁵⁹ Affidavit dated 24.08.2002

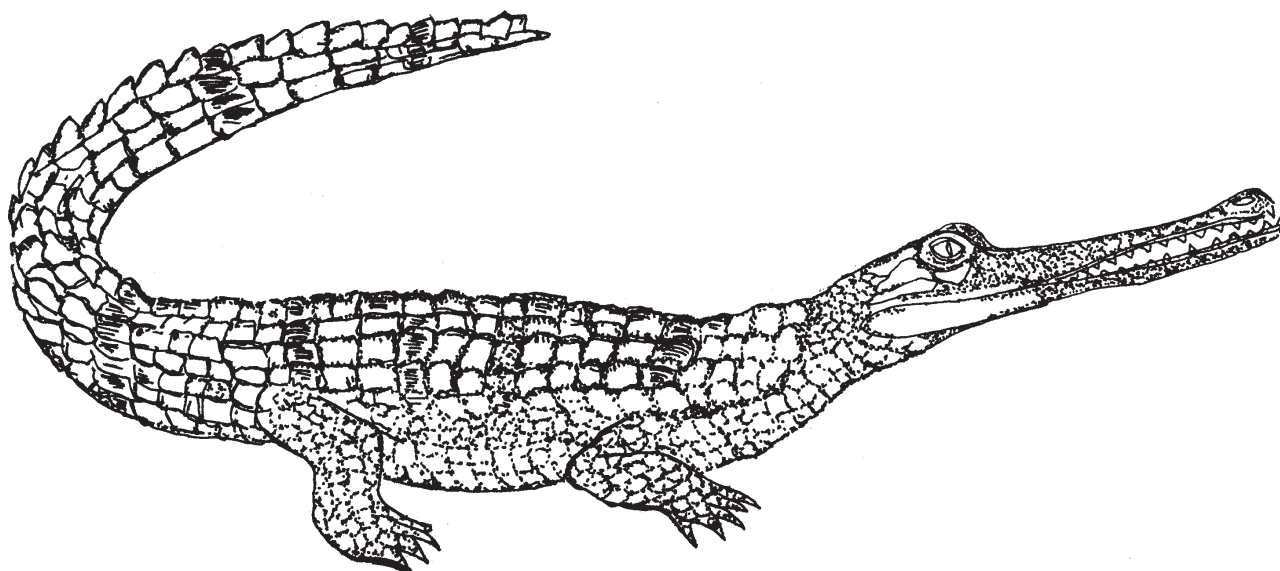
⁹⁶⁰ Affidavit dated nil in 2003

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

The Central Government also agreed to the diversion of the land alongwith the following conditions:

1. Transfer and mutation of equivalent non forest land shall be done by the user agency in favour of State Forest Department.
2. User Agency shall transfer the cost of compensatory afforestation and its maintenance over equivalent non forest land to the State Forest Department.
3. User Agency shall identify the sites in coordination with the State Forest (Wildlife) Department for the construction of canals, by cut and cover manner for the smooth movement of wildlife. User Agency shall allocate the funds in this regards etc.
4. The user agency shall prepare a plan for Canal Bank plantation and transfer the cost to the State Forest Department.
5. The user agency will have to follow the recommendations of NBWL in totality and will have to submit various proposals as recommended by the Board along with financial outlay.

After the receipt of compliances report on the fulfillment of the above conditions from the State Government, formal approval will be issued under Section 2 of Forest (Conservation) Act, 1980. The transfer to the user agency should not be effected by the State Government till order approving diversion of the forest land is issued by the Central Government⁹⁶¹. The State Government has agreed to the preconditions vide letter dated 15.02.2003.



⁹⁶¹ Refer central order dated 23.12.2002

3.28. The State of Uttaranchal

(The name of the State has been changed from Uttaranchal to Uttarakhand but for the chapter we retain its old name)

3.28.1. Introduction

The State of Uttaranchal was created in 2000 out of the State of erstwhile Uttar Pradesh. In this case the information on the Wildlife Advisory Board, Appointment of Wildlife Wardens and Honorary Wildlife Wardens Immunization of Livestock, Registration of Arms, Settlement of Rights including Issuance of Proclamation Notification has been dealt with in the context of Uttar Pradesh. The main concerns however, relates to the diversion of the Protected Areas for numerous activities. The role of the Centrally Empowered Committee, the Standing Committee of the National Board of Wildlife becomes crucial in this regard. The Court responded to numerous concerns ranging from laying of pipelines to resettlement and rehabilitation to religious beliefs and practices. The following paragraphs gets into the details of some of the interesting applications and the Court's response.



3.28.2. Hospital in Rajaji National Park

An application⁹⁶² was directed by the Court⁹⁶³ to be referred to Standing Committee for its recommendations⁹⁶⁴. The committee rejected the proposal on the grounds that it was not a site specific activity. It also stated that no proposals for non site specific activities should be entertained in future. Without being prejudiced by the order passed by the Standing Committee of IBWL, the proposal for construction of the hospital in Rajaji National Park be considered on its own merits by the Standing Committee constituted by the National Board under Section 5B of the Act.

3.28.3. Denotification of forest land in Corbett for resettlement and rehabilitation

The State of Uttaranchal through an application⁹⁶⁵ has sought the permission of the Court to dereserve 221.634 ha of land on Reserve Forest Area of Tarai (Forest) West Division, Ram Nagar wherein the villagers of villages Dhara, Jhirna and Kothirao of Paurigarhwal district have been relocated and resettled. The entire forest area surrounding these villages was declared as Tiger Reserve Forest known as Corbett Tiger Reserve. In 1990, a proposal under Section 2 of the FCA, for exchange of 221.634 ha of land for the purpose of relocating the villagers, was sent by the State Government to the Central Government for approval. The Central Government got the proposal examined by an Advisory Committee constituted by it under Section 3 of FCA. On the recommendations

⁹⁶² I.A. No. 20

⁹⁶³ See order dated 7.11.2003

⁹⁶⁴ Affidavit dated 10.3.2004

⁹⁶⁵ I.A. No. 25.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

of the Advisory Committee, the Government of India approved the proposal⁹⁶⁶ of the State Government for diversion of 221.634 ha of forestland for exchange of forest land with private land for settlement of villagers. On receiving the proposal from the Central Government, the State Government then issued instructions for taking necessary action for exchange of land⁹⁶⁷. The Forest Settlement Officer in compliance to this Government order directed the *Amin* to carry out survey for the purpose of plotting of the State forestland. Thus, in 1994 the villagers were shifted to new places as per the proposal. A notification under Section 4 of the Indian Forest Act was issued by the State Government declaring the said land as reserve forest. However, several complaints of irregularities in distribution of land for resettlement/relocation of the villagers were received by the Collector, Nainital who immediately cancelled the survey of plotting done by the *Amin*⁹⁶⁸.

Since the villagers were shifted to new location, the tenancy rights over the said land under the Land Revenue Act 1901 were required to be settled. Thus, the State Government decided to dereserve the land⁹⁶⁹.

It is submitted by the State in this application that the land of the villages was already vacated by the villagers and the same is now in possession of Corbett National Park. The area has since been notified under Section 4 of the Indian Forest Act but the villagers have not yet got tenancy rights over the land on which they have been resettled due to the reason that the said land has not yet been notified under Section 27 of the Forest Act. The proposed notification of the forestland could not be done on account of the restrain order passed by the Court on 13.11.2000 and thus deprived the villagers of their legal constitutional rights. The State thus prays for permission of the Court to denotify the 221.634 ha of reserve forestland of Tarai West Forest Division in Nainital. It was stated⁹⁷⁰ that the Standing Committee, in compliances to Court order dated 09.05.2002 recommended the deforestation of forest land in Tarai (West) Division that was given to villagers of Dhara, Jhirna and Kothirao during the resettlement from Corbett National Park. The recommendations were subject to the following two conditions:

- a. No transfer of land for next fifty years, except without succession.
- b. No change in pattern of land use.

3.28.4. Laying of pipeline and construction of clear water reservoir in Rajaji National Park

The applicant, Uttaranchal Pey Jal Nigam, through the applications⁹⁷¹ sought for approval for use of 0.275 ha of forest land within the Rajaji National Park in order to lay pipeline and construction of clear water reservoir under drinking water supply scheme for Swargashram Laxman Jhoola area. This matter was heard by Court on 05.09.2003 and was directed by the Court to refer the I.A. to Central Empowered Committee (CEC) for its recommendations. The I.A. was examined by the CEC and after conducting an inspection on 18.09.2003, a report was submitted for consideration to the Supreme Court along with its recommendations.

The report of the CEC stated that the Drinking Water Scheme as undertaken by the applicant, Uttaranchal Pey Jal Nigam, was in public interest for which no alternative non forest land is available. The Scheme required minimum use of forest land and no felling of trees is involved and that the Scheme was designed for meeting the urgent requirement of drinking water for the Ardh Kumbh Mela and also for the population residing near the Swargashram Laxman Jhoola area. The Court directed in its order dated 22.09.2003 to the Ministry of Environment and Forests to consider forthwith the question of grant of approval under the Forest Conservation Act as suggested in CEC Report. The CEC also put certain conditions which were endorsed by the Court. These include:

⁹⁶⁶ Vide its letter No. 8-38/91 FC dated 07.05.1992 and vide letter No. 8-39/91 FC dated 03.07.1992

⁹⁶⁷ By an order dated 28.11.1992 GO No. 264-Gha-9-14-3-92-918

⁹⁶⁸ Vide letter no. 2437/26 FO/93-94 dated 18.05.1995.

⁹⁶⁹ Under Section 27 of the Indian Forest Act

⁹⁷⁰ Affidavit dated 24.08.2002

⁹⁷¹ I.A. No. 30-32

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

- The legal status of the forest land will remain unchanged and will not be used for any other purpose.
- The administrative control over the land will continue to remain with the Forest Department.
- No felling of trees will be done while executing the scheme.
- That 2 acre forest land under the illegal occupation of Kailashanand Mission Trust within Rajaji National Park shall be physically taken over within a period of two months and the compliance be placed before the Honorable Court through an affidavit to be filed by the State of Uttaranchal. The affidavit shall provide all details wherein there is lease on forest land in the National Park has expired and the land continues to be in physical possession of the previous lessee's.

The response from the State is awaited. Application is still pending for orders by Supreme Court. The said report also brought out another violation of a particular trust which was subsequently noted⁹⁷² and taken up by the Court and is described later.

3.28.5. Permission to construct 132 KV single circuit line in Askot Wildlife Sanctuary⁹⁷³

The petitioner sought permission to construct 132 KV single circuit line from Pithoragarh to Darchula falling within the boundary of Askot Wildlife Sanctuary in Uttaranchal and for cutting and removal of trees evacuated by laying down of such transmission line for evacuation of power from Pithoragarh to Darchula. The petitioner mentioned that since the Court vide order dated 29.10.2002 in I.A. No. 634-635 and 697-698⁹⁷⁴ permitted the Power Grid Corporation of India to lay down the transmission line by cutting and removal of trees on certain terms and condition, the present application is bonafide and is in public interest and hence should be allowed.

The application was sought to be placed before the Standing Committee⁹⁷⁵ which has since been constituted. The State can place its view point before the Committee. An affidavit filed by MoEF⁹⁷⁶ noted that the proposal was recommended by the State Committee of National Board of Wildlife with certain conditions. The Court too observed⁹⁷⁷ that the Standing Committee of National Board for Wildlife as per the minutes dated 06.04.2005 has recommended the acceptance of the proposal subject to seven conditions. The Court noted in an order dated 18.07.2006 that those conditions are acceptable to the State Government. "In this view, we grant the permission on applicant's complying with the conditions".

It further noted that condition number one relating to deposit of five per cent of the project cost or Rupees one crore for conservation works within the Sanctuary is subject to the further orders that may be passed by this Court. It is acceptable to the applicant. Further, the seventh condition is that since, on observation, it has been found that Nigam had constructed a power house in Village Jumma, Tehsil Pithoragarh, after the order of this Court was passed in the year 2000, explanation may be called for as it may be in violation of the Wildlife (Protection) Act, and Forest (Conservation) Act. The Standing Committee would examine the matter and send its recommendation on this issue separately which could be examined despite the grant of permission of diversion, as prayed for.

It was noted in another order dated 14.11.2007 that while executing the work Uttaranchal Jal Vidyut Nigam has not complied with all the conditions. The Deputy Director General, Wildlife had inspected the site and noted the violations committed by the Vidyut Jal Nigam. MoEF shall make available a copy of the report of the Deputy Director General. National Board for Wildlife will consider the same and submit its views to this Court, for passing

⁹⁷² See order dated 22.09.2003

⁹⁷³ In I.A. No. 37 dated 17.10.2003

⁹⁷⁴ In the Godavarman matter

⁹⁷⁵ See order dated 07.11.2003

⁹⁷⁶ Affidavit by MoEF dated 03.12.2004

⁹⁷⁷ See order dated 26.07.2005

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

further orders in the matter. Subsequently, an affidavit was filed⁹⁷⁸ by the MoEF where it noted that the Court while granting permission to the applicant mentioned that there was a violation of Forest (Conservation) Act and Wildlife (Protection) Act and that the same may be reconsidered by the Standing Committee. As per the suggestion of the Standing Committee, the Deputy Inspector General (Wildlife) of the Ministry conducted the site inspection. The Committee informed the Court that Uttaranchal Jal Vidyut Nigam had violated the directions of the Court as well as the provisions of the WLPA and FCA by commissioning the Relaghat Hydro Power Project in Askot Wildlife Sanctuary without any approval. The Committee however considering all the facts and circumstances gave the following recommendations:

1. Responsibility in this case against all the concerned officers must be fixed by the State Government followed by appropriate action.
2. The State Government should submit proposal for post facto approval.

3.28.6. Renewal of lease of land in Rajaji National Park by Kailashanand Mission Trust⁹⁷⁹

The applicant stated that Kailashanand Mission Trust is a registered society working for the welfare of general public treating people by *nature cure*. It does not carry any non forestry activity inside the National Park and does not have any adverse impact on wildlife and its habitat. It is stated in the application that Trust was given 2 acre land⁹⁸⁰ through Lansdowne forest department for nature clinic, swimming pool and library. After formulation of the Rajaji National Park by the District Magistrate, Garhwal the area held by the Trust was assimilated in the park however the recommended letting the lease of the Trust as it is. Since 01.07.1960, no harm has been caused to the forest or to wildlife by the operation of the Trust. The Trust has agreed to all terms and conditions that were imposed and also has consented to the recommendations laid by the inspection report of the geologists along with other terms and conditions that were imposed by the Honorable Court for renewal of lease like no constructions to be made, leakage from the water pipelines to be checked, water tank to be repaired at regular intervals and extensive plantation to be done on the slopes of the leased land. The lease rent till 2001 was deposited with the Rajaji Park Authorities. In the letter sent by the Director of Rajaji National Park to the nodal officer for renewal of lease of Trust for next thirty years, it was stated that as ascertained by joint inspection of the proposed area apart from the land required for nature clinic no other alternative land is available and land required is as such is minimum.

Further another application⁹⁸¹ for stay was filed by Kailashanand Mission Trust against the important information printed in Dainik Jagran newspaper dated 05.10.2003 which was published by the Director of Rajaji National Park.

In response to the above applications, an Affidavit by MoEF was filed in November, 2007 where it was submitted by the Chief Wildlife Warden that the petitioner has violated the conditions of the lease by using forest land for the purpose other than stated in the lease document and has felled number of trees without any prior permission. Therefore the Standing Committee of the National Board of Wildlife has rejected the applications of M/S. Kailash Anand Mission Trust.

The Court rejected the application on 14.11.2007. As the Standing Committee of National Board of Wildlife has considered the application and recommended rejection. It was however made clear that if the State Government decides that the Trust is entitled for renewal, this order will not come in the way of State Government submitting a proposal to the Central Government along with the recommendation of Chief Wildlife Warden or other appropriate forest authority, as stated in the affidavit filed by the MoEF in July, 2007.

⁹⁷⁸ Affidavit filed by MoEF in November, 2007

⁹⁷⁹ I.A. No. 38

⁹⁸⁰ Vide Government. order on 29.07.1959

⁹⁸¹ I.A. No. 39

3.28.7. Other important issues raised in and around Rajaji National Park

The Chief Secretary of behalf of the State raised several issues in and around Rajaji National Park as follows⁹⁸²:

3.28.7.1. Formation of Rajaji National Park

Rajaji National Park is an important Protected Area of Uttaranchal created by consolidating three contiguous Sanctuaries namely Rajaji, Motichur and Chilla into one National Park. Historically, certain areas of Garhwal district were declared as reserved forests⁹⁸³. Similarly certain areas forming part of old Shivalik and Dehradun Divisions were declared as reserved forests⁹⁸⁴ which included forest areas within the jurisdiction of district Saharanpur and Dehradun. A part of forest areas notified form part of the present Rajaji National Park

3.28.7.2. Lease of forest land

All leases presently in the National Park are predated to the creation of the Rajaji NP. Except the lease granted for Ropeway and were given prior to the enactment of the Forest Conservation Act 1980.

3.28.7.3. Other establishments/groups in Rajaji National Park: Settlement of rights

Gujjars in NP: At the time of the first notification of the intention for creation of Rajaji NP in August 1983, five hundred twelve Gujjars families were identified living inside the Park with permits for grazing their cattle and lopping. The Government of U.P. granted permission⁹⁸⁵ to resettle these five hundred twelve families to Pathri Forest Block of present Haridwar district. Accordingly, five hundred twelve dwelling units were built for them. However, there are still eight hundred seventy eight families to be rehabilitated in Haridwar district. A writ petition challenging the process of rehabilitation was filed before this Honorable Court⁹⁸⁶ wherein the Court ordered implementation of a scheme. A complaint was filed by a local NGO before the National Human Rights Commission stating that the Park officials were violating the human rights of Gujjars. The observations of the Commission among other things were:

- i) Until appropriate action is taken to issue a final notification under Section 35 of WLPA, the concerned Gujjar families residing in the forest should not be forced out or settle in the new camp laid for their rehabilitation.
- ii) As regards grazing the forest authorities limit to the number of cattle in respect of which permits were issued during the last ten years. It is noticed that permits were issued for four thousand three hundred cattle, while the actual number estimated by the concerned authorities is eleven thousand. In these circumstances the Commission feels that the authorities should not deny the grazing rights in respect of the existing cattle and hence no coercive steps should be taken to remove any of the existing cattle from the forest area.

The State Government has taken steps in compliance to the order of this Honorable Court. However, the order dated 07.12.1990 has not been fully complied by the Gujjars and they are in illegal occupation of Rajaji NP.

⁹⁸² Affidavit filed by the Chief Secretary, Government of Uttaranchal on 02.11.2003 in compliance of order dated 22.09.2003

⁹⁸³ Vide notification no. 1285/XIV dated 05.12.1927

⁹⁸⁴ Vide notification no. 640/XIV-340-1939 dated 16.05.1940

⁹⁸⁵ Vide GO No. 1945/14-3-364/1975 dated 26.04.1987

⁹⁸⁶ Writ Petition(C) No. 79/1989

Gothias in Kunao Chaur

Thirty six families of Gothias had been allotted leases in Lansdowne Forest Division which is included in Rajaji NP at the time of its creation. During the settlement proceedings carried out by the District Magistrate, Garhwal these leases were cancelled. The Forest Department was asked to pay compensation to the District Magistrate⁹⁸⁷. However, the affected families refused the compensation and continue to be in possession of this land.

Chilla Power Channel - transfer of forest land

A proposal for transfer of forest land is pending for the Chilla Power Channels and Hydro Electric Project. The work of this project was completed before the Forest Conservation Act came into existence. However a formal order for transfer of land has not yet been issued.

Construction of Tourist Rest House, Garhwal Mandal Bikas Nigam on land allotted for Chilla Power Project-

The construction of this rest house was taken up in 1982. As per a Government order⁹⁸⁸, 0.571 ha land out of the land made available for the Chilla Power Project was to be made available for this purpose and the construction was done in 1982.

Taungya Village

The State Government is considering resettlement of these villages outside the Park boundary. The Director issued notice by way of publication in local newspaper directing that all leases has expired and further to vacate the forest land failing which the possession of the forest land shall be taken over by the Park management. Individual notices have been sent to concerned people by the Director.

3.28.8. Application against the demolition of leased portion⁹⁸⁹

An application was filed by Kailashanand Mission Trust seeks permission of the Court for grant of exparte adinterim stay against the demolition of leased portion. The facts of the case are as follows:

Lease was granted to the Trust prior to the enactment of the Forest Conservation Act 1980. In the affidavit dated 02.11.2003 of the Chief Secretary of Uttaranchal Government, a list of encroachers has been mentioned in which even the Trust name has been mentioned. The Trust is the only institution whose proposal for renewal of the lease has been shown to be under process. The Trust is a registered religious society serving the general public and primarily engaged in treating patient by application of the principle of nature cure and thereby not carrying any non forestry activity inside the National Parks In the letter dated 24.11.2003 sent by the Director, Rajaji National Park whereby it informed the Secretary of the Trust to remove possession from the 2 acre land the application for renewal of lease which is pending before the SC. The application thus seeks for grant of exparte adinterim stay against eviction, attachment and sealing of the land and property of the Trust.

According to Affidavit by the Government of Uttaranchal, through Director, Rajaji National Park, Dehradun (Uttaranchal) on 23.12.2003, it was stated that the Kailashanand Mission was accorded 2 acres of forest land along with one hundred forty trees of various species and sizes vide Government. order no. 4202/XIV-757/75. The said lease was granted with the following conditions:

- a. The land will be used only for the construction of building for treatment of patients, swimming pool and library and not for any other purpose.

⁹⁸⁷ Vide letter No. 64/23-11-2 dated 03.07.1986

⁹⁸⁸ GO dated 02.04.1981

⁹⁸⁹ I.A. No. 41

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

- b. The Mission will not remove any trees standing on the leased land or the tree which may grow on the leased land during the period of the lease without obtaining the prior written permission of the Divisional Forest Officer.

An inspection report was submitted by the Range Officer which stated that there are at present forty eight trees of various species. There are no records which indicate that permission was taken by the trust for removal of trees from the one hundred forty made available to it during the approval of the lease. At the time of inspection, it was found that the cultivation was being carried out by the Trust comprised mainly of common vegetables. One of the sheds at site was stacked with building materials and was presently being used as a store. Cultivation of vegetables and stacking of building material does not fall under the purposes for which the land was provided to the Trust and thus it indicates that the land is no more used for the purpose for which it was leased out. Since the lease of the said land has expired, the applicant Trust is in illegal possession of the forest land and hence unless and until the lease is renewed they are liable to be evicted from the forest land. Further, as per the recommendations of CEC in its report dated 19.09.2003 submitted to the Honorable Court, it is mandatory before any renewal proposal of a lease inside the National Parks be considered for approval of the MoEF. The lease was awarded to the applicant in 1969 for non forestry activities such as construction of buildings for treatment of patients, swimming pool and library etc. However, the applicant is not carrying out any non forestry activities.

The status of land which is leased to the Trust is reserved forest land and as such governed by the provisions of the Forest Conservation Act, 1980. It was submitted that the Trust had deposited lease rent till 2001. However, the due rent for 2002 and 2003 was paid in form of cash along with a covering letter dated 15.10.2003 to the Range Officer, Gohri with a copy endorsed to the Director, Rajaji National Park which is after the initiation of proceedings against them before the Honorable Court

In response to the above allegations the Kailashanand Mission Trust stated that there is neither any statutory prohibition nor any order of the Court which states that obtaining permission of the Court is mandatory before the proposal for renewal of lease can be considered for approval by MoEF. As regards the Trust's legal status, the Trust has deposited rent of all leases till 2001 with the Rajaji Park Authorities and the rent for the year 2002 and 2003 has been sent by post and therefore also the possession of the Trust is governed by Section 166 of the Transfer of Property Act and is completely legal. In case the lease is renewed the status and use of the land would remain unchanged. In case the land is taken over by the Government, not only the Trust will suffer monetary loss but also the patients would suffer. The Trust is functioning in public interest and hence renewal of the lease of the land is very necessary. It was also informed to the Court that the Trust till date has planted thousands of trees of different kind on the land adjoining the lease. The trees that fall in storm or had dried were removed only after seeking permission from the Forest Department and payment is made for eleven trees. Further, no new construction has been made by the Kailashanand Mission Trust. As regards use of forest land for agricultural purpose the use of lease land is only done for the treatment of patients. Vegetables grown are organic vegetables for consumption by the patients. The use of lease land is only done for the treatment of patients. Further, there were no objections raised at the time of combined inspection and subsequent recommendations made for the renewal of the lease by the Forest Department.

The Court granted limited protection to the lease portion. The State Government was directed to submit the proposal of renewing lease to the Central Government along with the recommendations of Chief Wildlife Warden.

3.28.9. Seeking access to the samadhi of Tat Wale Baba situated in Rajaji National Park⁹⁹⁰ (Bhoothnath Gufa)

There is a group of nine small natural caves collectively called Bhoothnath Gufa situated in the lime stone rock mountains adjoining the boundary of the Rajaji National Park, Uttaranchal. Since 1930, these caves have been used by a saint Swami Mahavir Dasji popularly known as Tat Wale Baba. One of the caves has the Samadhi of Tat Wale Baba built on 04.12.1974 by the applicant Swami Shankardas. There is no human habitation around the said caves. Spiritual and meditation activities were performed in these caves and devotees from all over the world go to the said caves. On 29.03.2003, the forest officer of Gohri Range handed a letter to the applicant to take steps for renewal of lease under the Forest Conservation Act, 1980 if the applicant wants to continue the possession of the said caves. However, since the continuous unhindered and open possession of the applicant for over forty years has not been based on lease, no action could be taken on the basis of the said letter. On 29.11.2003, the Forest Authorities sealed the caves and stopped the applicant from performing any meditation and spiritual activities in the said caves. Although, no orders have been shown by the Forest Authorities authorizing the said action, the applicant has been orally informed that the said action has been taken in pursuant to the Honorable Court order in the present case in respect of removal of encroachments from the Rajaji National Park. The applicant thus states that since he continued to live in the caves for past forty years he has a legitimate right to continue to live in these caves and thereby cannot be treated as encroachment in any sense. Further, application has also been filed for seeking permission for the applicant to have access to the Samadhi of Tat Wale Baba and to his other property which have been sealed by the Forest Authorities on 29.11.2003.

In reply to the above application, the State of Uttaranchal through Director of the Rajaji National Park stated that the Ashram and the temple of Tat Wale Baba figured as encroachment as there was *no lease* ever granted in his favour. The very existence within the boundaries of the NP without any valid lease amounts to illegal occupation and is an encroachment within the NP. According to the Indian Forest Act, no rights whatsoever can accrue on favour of a person after reservation of the forest. Thus in view of the said Act, the applicant cannot have any claim over the forest land which now forms part of Rajaji National Park. It is in violation of the Indian Forest Act and Wildlife Protection Act. A permit is required to be procured for any person who resides in a NP as per the provisions of the WLPA. If the applicant was interested in lawful stay of land then he should have applied for grant of lease of the land/caves inside the Rajaji NP

The Court directed⁹⁹¹ the applicant to make an application to the Chief Wildlife Warden under Section 27 of WLPA for admission of the rights and privileges claimed by him to enter the Sanctuary or to do or perform any act within the Sanctuary. The application was thus disposed of.

3.28.10. Application against demolition or damage to the temple and to perform regular puja⁹⁹²

An application was filed seeking stay order of demolition or damage to the temple Shri. Sureshwari Devi Mandir situated within territorial limits of Rajaji National Park at Hardiwar and also to permit the applicant to perform regular puja. Shri. Sureshwari Devi Mandir is situated within territorial limits of Rajaji National Park at Hardiwar. The applicant Samiti is a registered society formed prior to the formulation of the Rajaji National Park in the year 1986 with Government participation. The temple does not constitute an unauthorized encroachment and nor does it pose any threat to the wildlife or environment of the region. Requisite permission of the Government agencies including the Forest and Wildlife authorities and Geological Survey of India was taken for additions or alterations made in the temple. The applicant therefore prays for grant of stay order of demolition or damage to the temple and further to permit the applicant to perform regular pooja and other religious ceremonies.

⁹⁹⁰ I.A. No. 43-45

⁹⁹¹ See order dated 14.11. 2007

⁹⁹² I.A. 46 and 47

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

An Affidavit filed by the State of Uttaranchal through Director of Rajaji National park on 04.02.2004 states that in compliance to the order dated 22.09.2003, the Honorable Court directed the Chief Secretary of the State of Uttaranchal to file an affidavit with regard to illegal occupation or encroachment in the Rajaji National Park by several temples including Sureshwari Devi Temple. The Honorable Court by its order dated 07.11.2003 directed the State Government to file status of the further progress made with regard to removal of encroachments and lands where the lease has expired. In compliance to the above orders, the authorities at Rajaji National Park took the possession of the premises of the temple and sealed the temple. However, access of pilgrims to the temple was not prevented. Though the temple society was given permission only for repair work however they have encroached upon the larger area by making construction under the grab of repair work. The temple society was never granted permission for fresh construction. Due to illegal construction and encroachment notice was issued on 24.01.2003. The Standing Committee rejected the proposal. Application disposed of by order dated 11.03.2008 by directing the applicant to approach Chief Wildlife Warden seeking permission under Section 28 of the said Act. Till such time the application is decided, pujari may carry on the regular poojas from 6.00 a.m. to 8.00 p.m. Any devotees entering the temple to conduct their prayers would be allowed to enter the temple premises. It was made clear that there shall not be any unauthorised constructions in the area.

3.28.11. Renewal of leases granted for supply of water by the Kailashanand Mission Trust⁹⁹³

The Kailash Anand Mission Trust has also filed applications, seeking permission for grant of renewal of three leases of forest land relating to supply of water to the Nature Cure Clinic and to repair the water tank and also to repair the pipelines laid through Rajaji National Park. *“As the Trust’s prayer for renewal of lease of 2 acres of Forest Land has been rejected, the prayer for consequential permission for renewal of leases for water supply area and permission to repairing the water line etc., have become infructuous”*. Consequently, I.As. 48 to 50 were also rejected. The Court however, made clear that if the State Government decides that the Trust is entitled for renewal, this order will not come in the way of State Government submitting a proposal to the Central Government along with the recommendation of Chief Wildlife Warden or other appropriate forest authority, as stated in the affidavit filed by the MoEF in July, 2007.

3.28.12. Resettlement and relocation of Gujjars⁹⁹⁴

An application was filed by Wildlife Trust of India, New Delhi for seeking direction for resettlement and relocation of Gujjars residing in the Rajaji National Park. The application was dismissed due to non appearance of the applicant on 30.08.2004. Subsequently, the application was restored. The Court on 30.11.2007 directed CWLW Uttarakhand to file detailed report before the Standing Committee, NBWL. Response of NBWL is awaited.

3.28.13. Laying pipelines for drinking water for a group of villages⁹⁹⁵

An application was filed by State of Uttaranchal seeking permission for transfer of 0.1532 ha reserved forest land situated in Rajaji National Park on lease basis for the purpose of laying pipelines for drinking water for a group of villages situated in district Pauri, Garhwal. The Standing Committee rejected the proposal on 26.07.2005. It is pending before SC.

⁹⁹³ I.A. 48-50

⁹⁹⁴ I.A. 52

⁹⁹⁵ I.A. 53

3.28.14. Seeking permission to allow religious rituals in the Rajaji National Park⁹⁹⁶

An application was filed seeking permission to allow religious rituals in the Rajaji National Park. This application has been filed by the Manager, Maharashi Muni Yoga Ashram Sadhna Kutir to allow daily religious rituals at the Sadhna Kutir adjoining to the National Park. The Chief Wildlife Warden of Uttarakhand was requested to file a detailed report to the Committee and the same has not been filed. Hence, the matter is still pending with the Committee⁹⁹⁷.

3.28.15. To grant lease to the Mauni Baba Gufa and Anna Chhetra⁹⁹⁸

The applicant- Mauni Baba Gufa represented by Mahant Laxman Dass has filed this application in order to seek permission for grant of lease of forest land for thirty years, for managing the Mauni Baba Gufa and Anna Chhetra and further for development of spiritual knowledge and philanthropic activities in the Rajaji National Park. The Gufa was used by the applicant for performing certain spiritual and yogic activities. Care was taken for protecting wildlife and its natural habitat as the cave lies inside the National Park. Though initially the Forest Department without any prior notice sealed the caves and the Ashram premises, however after some days the Department itself distributed lease form and instructed the applicant to submit it for leasing out the Ashram premises. On one hand the Forest Department denies the rightful claim of the petitioner and on the other hand it distributes lease for shops for consideration near the Ashram. Another application⁹⁹⁹ was filed in order to seek interim relief by providing access to the Mauni Baba Gufa and Anna Chhetra in order to perform religious practices and further reopen the Ashram that was sealed by the Forest Authorities for organizing *langer* for the pilgrims. On basis of the Standing Committee's report, matter was dismissed on 23.11.2005.

3.28.16. Pipeline for village water supply in Binsar Wildlife Sanctuary¹⁰⁰⁰

The Uttaranchal Pey Jal Sansadhan Vikas Evam Nirman Nigam proposes to lay pipeline under the Jakhsaur Group of village water supply scheme along with seven kilometer and six hundred meter within the Bindsar Wildlife Sanctuary in Almora. The applicant required permission of the Court for transfer of 0.4604 ha of reserve forestland situated within the Sanctuary on lease basis. The application is referred to the National Board for Wildlife for its report¹⁰⁰¹. The MoEF submitted¹⁰⁰² that vide Court's order dated 06.12.2004 this matter was referred to NBWL for its report. The Deputy Inspector General of MoEF requested Chief Wildlife Warden of Uttaranchal to send its specific comments under the WLPA for consideration by the Standing Committee of NBWL. No comments have been received from the Chief Wildlife Warden and hence this matter could not be considered by the Committee.

3.28.17. To dereserve the forest land allotted to the Directorate for rehabilitation of displaced persons from the Tehri Dam project¹⁰⁰³

This application was filed on behalf of the Government of Uttaranchal, Directorate Rehabilitation, Tehri Dam Project for seeking directions of the Court to dereserve the forestland allotted to the Directorate for rehabilitation of displaced persons from the Tehri Dam Project. The construction of dams left one hundred twenty five villages affected and about twenty seven villages were fully included in the submergence area. The proposal for diversion

⁹⁹⁶ I.A. 58-60

⁹⁹⁷ Affidavit filed by MoEF in November, 2007

⁹⁹⁸ I.A. No. 69-70

⁹⁹⁹ I.A. No. 71

¹⁰⁰⁰ I.A. No. 73

¹⁰⁰¹ See order dated 06.12.2004

¹⁰⁰² Affidavit filed by MoEF on 18.11. 2006

¹⁰⁰³ I.A. No. 74

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

was approved by MoEF under Section 2 of the Forest Conservation Act with certain stipulated conditions. However, with the Court's order on 13.11.2000 by which dereservation of Forest and Sanctuaries was stayed till further orders. Hence the competent authorities were unable to dereserve the allotted forest land. The application is referred for consideration to the Standing Committee of the National Board for Wildlife¹⁰⁰⁴. The letter dated 10-11.06.2005 sent by the MoEF to the Government of Uttaranchal informing the State Government about the recommendation, agreeing in principle, for diversion of the land subject to the conditions stated therein has been filed in the Court¹⁰⁰⁵.

The Directorate of Rehabilitation of Tehri Hydro Electric Dam project stated¹⁰⁰⁶ that the Government of Uttaranchal has mainly divided the Rehabilitation Plan into categories and one of them is "Rural Rehabilitation" wherein it was decided that the fully affected families who have lost their agricultural land with Bhumidhari rights in the submerged area would be allotted land for agricultural purposes. Therefore a large area of the forest land in Veerbhadra Forest Block in Rishikesh and Pathari Forest Block in Dehradun was developed and allotted to the fully affected families. The Land allotted was a forest land. Six settlement forest villages were set up by the oustees of Tehri Dam project since persons rehabilitated in the forest village were having the land with Bhumidhari rights in submerged areas. There was constant demand of setting up of revenue villages and the Directorate of Rehabilitation has been pursuing this matter to MoEF for diversion of forest land into revenue land. MoEF vide letter dated 10.6.2005 agreed to divert 2527.6 ha of land for the purpose of setting up revenue villages subjected to certain conditions stated in the letter. The Court noted¹⁰⁰⁷ that the Standing Committee of the National Board for Wildlife has accepted the proposal of diversion of the land in question. The Court too accepted the recommendation and permitted diversion. It was submitted by MoEF¹⁰⁰⁸ that the Standing Committee considered the proposal of diversion of forest land for rehabilitating people displaced due to Tehri Dam Project in its meeting dated 20.01.2006. Further, that upon consideration of the report received from Chief Wildlife Warden of Uttaranchal giving NOC for dereservation of forest area and the fact that the said area does not fall in the Protected Area the committee unanimously recommended the project.

3.28.18. For laying drinking water pipelines benefiting the local population¹⁰⁰⁹

The Uttaranchal Pey Jal Nigam filed this application for seeking permission for transfer of 0.411 ha of reserve forestland in Rajaji National Park for laying drinking water pipelines benefiting the local population living in eight different hamlets. The application is referred to the Central Empowered Committee for consideration and recommendation¹⁰¹⁰. The petitioner was permitted to withdraw the application (seeking permission to lay a pipeline in Rajaji National Park), with liberty to move a fresh application with appropriate charges¹⁰¹¹. The Chief Wildlife Warden informed that it did not involve any felling of trees. The Committee advised the applicant to file the proposal for consideration of the Standing Committee for clearance¹⁰¹².

¹⁰⁰⁴ See order dated 26.07.2005

¹⁰⁰⁵ See order dated 23.11.2005

¹⁰⁰⁶ Additional affidavit on behalf of the applicant dated 05.12.2005

¹⁰⁰⁷ See order dated 29.08.2006

¹⁰⁰⁸ Affidavit on behalf of MoEF filed on 17.03.2006

¹⁰⁰⁹ I.A. No. 80

¹⁰¹⁰ See order dated 23.11.2005

¹⁰¹¹ See order dated 14.11.2007

¹⁰¹² Affidavit filed by MoEF in November, 2007

3.28.19. Access to the Samadhi of Tat Wala Baba to perform puja on the occasion of Nirwana Diwas¹⁰¹³

Application was filed by the disciple of Tat Wala Baba, Swami Mahavir Das Ji Maharaj seeking permission for having access to the Samadhi of Tat Wala Baba to perform puja on the occasion of Nirwana Diwas. The Court directed concerned authority (Chief Wildlife Warden) to consider the matter and disposed the said application by an order dated 14.11.2007. The Chief Wildlife Warden of Uttarakhand informed that the State Government has also filed an affidavit in the matter requesting to dismiss the application as it was a matter of encroachment on the forest land. The Committee after discussion endorsed the stand taken by the State Government¹⁰¹⁴.

3.28.20. Denotification and regularisation of land allotted in terms of earlier policy decision¹⁰¹⁵

The applicant is an agriculturist in occupation and possession of 3.125 acres of land in Tanda Block Forest, district Nainital. The present land was allotted to the applicant by the Forest Department in exchange of his land situated in Sultan Nagari Forest Block in terms of policy decision dated 01.11.1975 of Government of Uttar Pradesh. The Forest Department in 1978 demarcated the 3.125 acre site which is marked as plot number one hundred fifty between pillars in Tanda Forest Block and the land was given on a lease basis (Patta). In the year 2000 the applicant approached the Forest Department for transfer of land on a permanent basis and submitted all the relevant documents concerning the allotment. This proposal was sent to MoEF for seeking prior approval as provided under the Act. However, with the interim order passed by the Court on 13.11.2000, prior permission of the Honorable Court is required before the proposal can be considered by the MoEF. Thus, the applicant seeks permission of the Court for denotifying 3.125 acres of forestland in Nainital and issue directions to the Government of Uttaranchal to regularize and transfer the said land. These IAs were referred to the Central Empowered Committee for consideration and recommendation¹⁰¹⁶. The Court noted¹⁰¹⁷ that the CEC has reported that the allotment requires to be considered by the Forest Advisory Committee. The applicant is permitted to submit his application before the Forest Advisory Committee for regularization within four weeks. The Committee, after considering the application shall file a report before this Court within six weeks thereafter. Status quo as on today shall be maintained till the decision of the Advisory Committee.

3.28.21. Constructing power house in Askot Wildlife Sanctuary¹⁰¹⁸: Cannot wait for National Board for Wildlife endlessly

An application was filed by Uttaranchal Jal Vidyut Nigam Ltd. for seeking permission to construct Power House at Sobla falling within the Pithoragarh Range, Tehsil Dharchula in Uttaranchal. The entire land falls under the Askot Wildlife Sanctuary. The applicant has also agreed to pay for the compensatory afforestation. The applicant thus prayed for transfer of land situated within the Wildlife Sanctuary on lease basis for a period of thirty five years in order to construct the power house. The matter was directed to be examined by the Standing Committee of the National Board for Wildlife¹⁰¹⁹. The Court noted in a significant order¹⁰²⁰ that the matter was referred to the National Board for Wildlife for consideration and report/response as long back as 18.07.2006. NBWL has not so far filed any report or response. The work is stated to be crucial and any further delay will cause considerable hardship. As the land required is less than 1 acre and as NBWL has not submitted its report for a long time, the

¹⁰¹³ I.A. 81

¹⁰¹⁴ Affidavit filed by MoEF in November, 2007

¹⁰¹⁵ I.A. No. 83-84

¹⁰¹⁶ See order dated 23.11.2005

¹⁰¹⁷ Vide order dated 14.11.2007

¹⁰¹⁸ I.A. No. 91

¹⁰¹⁹ Vide order dated 18.07.2006

¹⁰²⁰ See order dated 06.02.2008

Court permitted the Uttaranchal Jal Vidyut Nigam Ltd. to proceed with the construction. The Vidyut Nigam and the State Government shall however, comply with any conditions that may be imposed by NBWL in due course, the Court observed. The I.A. was disposed of accordingly.

3.28.22 Transfer of reserve forest land in Kedarnath Wildlife Sanctuary for laying drinking water pipelines

An application¹⁰²¹ was filed by the Uttaranchal Pey Jal Sansadhan Vikas Evam Nirman Nigam for modification of order¹⁰²² which prohibited further dereservation of Protected Areas without prior approval of the Court. The applicant has sought permission for transfer of forestland within Kedarnath Wildlife Sanctuary for laying pipeline for supply of drinking water under the Sari Karokhi Punargathan Drinking Water Scheme. A proposal for lease of forestland for a period of twenty years was submitted to the Forest Department. A joint survey was carried out by the Deputy Forest Officer, Kedarnath Wildlife Sanctuary and Junior Engineer of the Uttaranchal Pey Jal Nigam and a report was prepared on 23.02.2006. The report stated that there would be no effect of the project on environment or wildlife of the area. Although, there was no objection from Forest Department of Uttaranchal for the proposed transfer of reserve forestland, prior approval from the Court was required. The Court allowed the application and directed the matter to the National Board for Wildlife for its recommendations¹⁰²³. In November 2007, the Ministry of Environment and Forest¹⁰²⁴ informed the Court that since no proposal was filed by the applicant before the Standing Committee, no recommendations were given. The Court thus issued directions to the applicant to furnish all project details to the Committee. It approved the project and directed the Board to look into the matter and pass appropriate orders. The application was thus disposed of¹⁰²⁵.

3.28.23. Bokang Bailing Hydro Electric Project in Askot Musk Deer Sanctuary

Tehri Hydro Development Corporation Ltd. (THDC) requires diversion of 750 ha of forest land falling under Askot Musk Deer Sanctuary for survey and investigation and implementation of Bokang Bailing Hydro Electric Project on river Dhauliganga in the State of Uttaranchal. THDC has filed an application¹⁰²⁶ for seeking the said diversion and modification of the Court's order on dereservation¹⁰²⁷. The Additional Principal Chief Conservator of Forest had informed¹⁰²⁸ that the proposal could be considered only after redemarcation of boundaries of Askot Musk Deer Sanctuary is undertaken. The Sanctuary is yet to be notified by the Government of Uttaranchal. Further, the Standing Committee of the National Board for Wildlife¹⁰²⁹ had cleared the Gauriganga stage III (A) and Dhauliganga intermediate stage power project involving diversion of forestland from Askot Musk Deer Sanctuary. However, the National Board for Wildlife had returned the case of redemarcation of boundaries of Askot Musk Deer Sanctuary to the Government of Uttaranchal with a remark, that prior permission of the Court was required. The Court allowed the application and directed the matter to the Board for its recommendations¹⁰³⁰. On 11.03.2008, the Court directed the matter to the Forest bench and explained that decision would be taken after receiving response of Central Empowered Committee (CEC) since, the application for demarcation of the Askot Sanctuary, is pending before it.

¹⁰²¹ I.A. No. 101

¹⁰²² Order dated 13.11.2000

¹⁰²³ Vide order dated 14.11.2007

¹⁰²⁴ In its affidavit dated nil in November 2007

¹⁰²⁵ Vide order dated 11.03.2008

¹⁰²⁶ I.A. No. 107

¹⁰²⁷ See order dated 13.11.2000

¹⁰²⁸ Vide letter dated 30.01.2006

¹⁰²⁹ In its meeting held on 08.06.2006

¹⁰³⁰ Vide order dated 14.11.2007

3.29. The State of West Bengal

3.29.1. Introduction

The Wildlife Protection Act, 1972 came into force in the State with effect from 01.05.1973¹⁰³¹.

3.29.2. Constitution of Wildlife Advisory Board

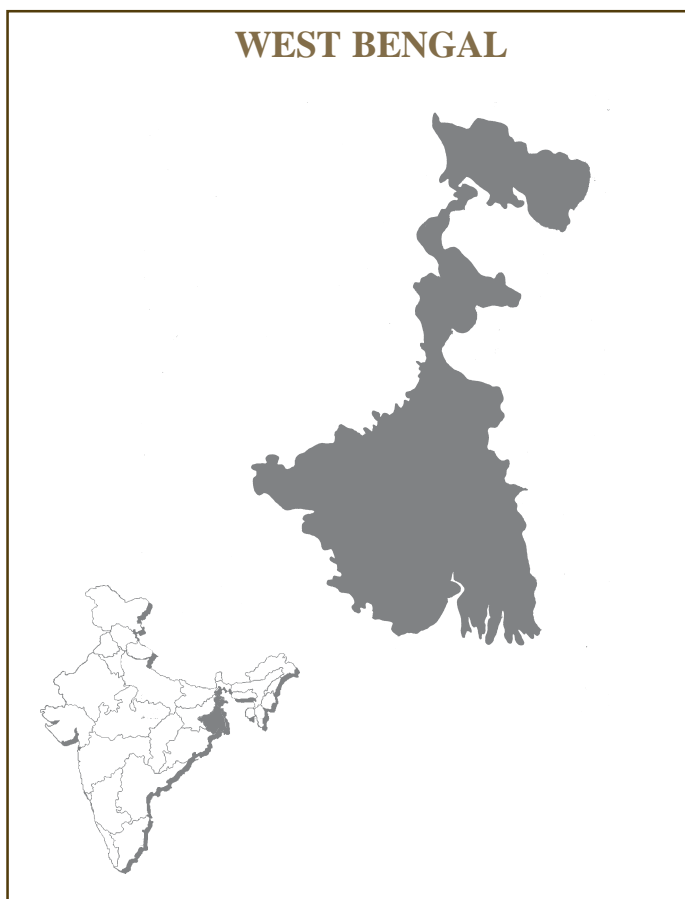
In compliance to the order dated 07.07.1997 which sought information regarding constitution of the Wildlife Advisory Board, among other things the State informed¹⁰³² that the Board was constituted in the year 1973 and was last reconstituted on 28.02.1997. The XIX meeting of the Board was held on 11.04.1997.

3.29.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

In compliance to the order dated 07.07.1997 seeking information on appointment of the Wildlife Wardens, the State responded¹⁰³³ that the first notification appointing Honorary Wildlife Wardens was issued in 1995. Notification appointing six Honorary Wildlife Wardens has been issued recently. The criteria were also elaborated in an affidavit¹⁰³⁴ stating that the HWWs were appointed in most of the districts having population of important wildlife species. Further, the CWLW has also been appointed.

3.29.4. Status of Protected Areas

In compliance to the order dated 07.07.1997, which required explaining the status of PAs in the State the State informed¹⁰³⁵ that there are five NPs except Buxa and Gorumara NPs in the district of Jalpaiguri situated on notified forest land. Final notification under Section 35 (4) in respect of all other three NPs have been issued. There are fifteen Wildlife Sanctuaries that have been declared in the State. Out of fifteen, thirteen Sanctuaries are situated in notified forest land and two of these Sanctuaries namely Jorepokhri Sanctuary and Narendrapur Sanctuary are located on non forest land. Notifications under Section 18 (1) of WLPA have been issued in respect of all these fifteen Sanctuaries and there is no problem with management of those Sanctuaries except in respect of Narendrapur Sanctuary in which a case is pending in the Honorable High Court of Calcutta.



¹⁰³¹ Brief note dated January, 1998

¹⁰³² Counter affidavit dated 18.08.1997

¹⁰³³ Counter affidavit dated 18.08.1997

¹⁰³⁴ Brief note dated January, 1998

¹⁰³⁵ Counter affidavit dated 18.08.1997

3.29.5. Settlement of rights including issuance of proclamation notification

In compliance to the order dated 07.07.1997, the State informed¹⁰³⁶ that out of the fifteen, thirteen Sanctuaries constituted comprising the areas of notified as Forests under the Indian Forest Act 1927. Forest department has full control of these thirteen Sanctuaries. In case of the Sanctuaries constituted out of the reserve forests, they shall be deemed to have been finally notified as Sanctuary under Section 26A as per provisions of Section 66 (4) of the amended Act. *This seems to be an erroneous interpretation of law but the Court seems to be silent on that.*

- Jorekhpur Wildlife Sanctuary (Jorepokhri Salamander Sanctuary) (0.04 sq. km.) in Darjeeling district - Completion of procedure under Section 19-25 of the Act is pending. Situated on non forest land and necessary proclamations under Section 21 of the WLPA, as amended, has been already published¹⁰³⁷ pursuant to order dated 16.01.1998.
- Narendrapur Wildlife Sanctuary (0.10 sq. km.) in 24 Parganas (south) district- Completion of procedure under Section 19-25 of the Act is pending. As stated earlier a case relating to the acquisition of land for Narendrapur Wildlife Sanctuary is pending in the Calcutta High Court. Another affidavit¹⁰³⁸ stated that the Sanctuary is situated on non forest land and necessary proclamation under Section 21 of the WLPA, as amended, has been already published.

No land of any of the Sanctuary has been encroached or diverted for other purposes except in case of these 2 Sanctuaries.

Further, in compliances to Courts order dated 17.07.1998 and 22.08.1997 especially with regard to settlement of rights, the State informed¹⁰³⁹ that the Divisional Forest Officer is delegated with the Collector's powers of as per provisions of WLPA 1972. Divisional Forest Officer has received a number of claims from individuals/organization with respect to the two Sanctuaries. The process of determination of rights and acquisition of rights is in progress. *This move maybe treated as poor in terms of law as the forest department itself is ordinarily treated as a claimant as this could be a fit case of being a judge on his own cause.*

- Gorumara National Park- in the district of Jalpaiguri. The area comprised of reserved forest land only, and final notification under Section 35(4) of the WLPA as amended has been published in the Calcutta Gazette, Extraordinary dated 07.01.1998¹⁰⁴⁰.
- Buxa National Park- in the district of Jalpaiguri. The area comprised of reserved forest land only, and final notification under Section 35(4) of the WLPA as amended has been published in the Calcutta Gazette, Extraordinary dated 07.01.1998¹⁰⁴¹.

3.29.6. Status of Protected Areas

In compliance to the order dated 07.07.1997, which required explaining the status of PAs in the State, the West Bengal Government informed¹⁰⁴² the Court the status of following Protected Areas:

¹⁰³⁶ Counter affidavit dated 18.08.1997

¹⁰³⁷ Affidavit dated 12.03.1998

¹⁰³⁸ Affidavit dated 12.03.1998

¹⁰³⁹ Supplementary affidavit dated 03.09.1998

¹⁰⁴⁰ Affidavit dated 12.03.1998

¹⁰⁴¹ Affidavit dated 12.03.1998

¹⁰⁴² Counter affidavit dated 18.08.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

National Parks

1. **Singhalila NP:** Final notification was issued on 02.12.1992 for an area of 78.50 sq. km. situated on notified forest land.
2. **Neora Valley NP:** Final notification was issued on 02.12.1992 for an area of 88 sq. km. situated on notified forest land.
3. **Sunderban NP:** Final notification was issued on 04.05.1984 for an area of 1330 sq. km. situated on notified forest land.
4. **Buxa NP:** Final notification was issued on 06.01.1992 for an area of 117.120 sq. km.
5. **Gorumara NP:** Final notification was issued on 31.01.1994 for an area of 79.45 sq. km.

Sanctuaries

1. **Jaldapara:** Intention notification was issued on 24.06.1976 for an area comprising of 216.51 sq. km.
2. **Chapramari:** Intention notification was issued on 31.08.1990 for an area comprising of 9.49 sq. km.
3. **Mahananda:** Intention notification was issued on 24.06.1976 for an area comprising of 127.22 sq. km.
4. **Senchal:** Intention notification was issued on 24.06.1976 for an area comprising of 38.88 sq. km.
5. **Jorepokhri:** It is located on a non forest land. Intention notification was issued on 11.03.1985 for an area comprising of 0.04 sq. km.
6. **Buxa:** Intention notification was issued on 06.10.1990 for an area comprising of 251.89 sq. km.
7. **Raiganj:** Intention notification was issued on 11.04.1985 for an area comprising of 1.30 sq. km.
8. **Ballavpur:** Intention notification was issued on 11.07.1977 for an area comprising of 2 sq. km.
9. **Bethuadahari:** Intention notification was issued on 29.10.1980 for an area comprising of 0.67 sq. km.
10. **Bibhuti Bhusan:** Intention notification was issued on 28.03.1985 for an area comprising of 0.64 sq. km.
11. **Ramnagar:** Intention notification was issued on 30.09.1981 for an area comprising of 0.14 sq. km.
12. **Narendrapur:** It is situated on non forest land. Intention notification was issued on 14.04.1982 for an area comprising of 10 sq. km. A case relating to the acquisition of land for Narendrapur Wildlife Sanctuary is pending in the Calcutta High Court.
13. **Sajnekhali:** Intention notification was issued on 24.06.1976 for an area comprising of 362.40 sq. km.
14. **Halliday Island:** Intention notification was issued on 24.06.1976 for an area comprising of 5.95 sq. km.
15. **Lothian Island:** Intention notification was issued on 24.06.1976 for an area comprising of 38 sq. km.

Note that all the above mentioned Sanctuaries have been created before 1991 where there was no provision of intention notification. It is surprising that the affidavits mentioned this notification as intention notification, a provision which only came in 1991 amendment to the Wildlife Protection Act.

3.29.7. Immunization of livestock

In compliance of Court order dated 20.03.1998 , which sought information with regard to immunization of livestock among other things the State responded¹⁰⁴³ that necessary action dated 24.04.1998 has been initiated to immunize the cattle living in the fringe areas around NPs and WSs against communicable diseases like Anthrax and FMD. Further, instructions were issued to the Director Veterinary Services and District Veterinary Officers, Officers in charge of NPs and WSs. In addition to these necessary budgetary provisions has been made in the

¹⁰⁴³ Supplementary affidavit dated 27.05.1998

budget of the National Parks in the current financial year. Supplementary affidavit will be submitted by the State Government stating actual position of immunization of cattle by the authorized officers. Accordingly, another affidavit¹⁰⁴⁴ in compliance to Court's order dated 17.07.1998 was filed and it stated that in five NPs and fifteen Ws grazing is not permitted in those areas under the provision of WLPA 1972. In cases of others also grazing is not possible due to fence boundaries. Veterinary centers exist in and around the vicinity of Protected Areas. In some other cases the immunization services are made available from nearest block veterinary center of Animal Husbandry Department. Regular immunization camps are held with the help of these veterinary centers. Steps are taken to immunize the cattle living in the fringes of these Protected Areas.

3.29.8. Registration of arms

In compliance Court order dated 20.03.1998 which sought information regarding registration of the firearms and the fresh issuances of licenses among other things, the State informed¹⁰⁴⁵ that the District Magistrates concerned have been advised to register all such license holders who are in possession of firearms within the ten km of NPs and Ws with the Park Managers. District Magistrates are also advised not to issue new license under the Arms Act within the radius of ten km without the prior concurrences of the Chief Wildlife Warden. The Park Managers have also been advised¹⁰⁴⁶ to peruse the cases with the concerned District Magistrate for taking necessary orders. Another affidavit¹⁰⁴⁷ filed in compliance to Court's order dated 17.07.1998 stated that the West Bengal Wildlife (Protection) Rules 1973 for registration of persons in possession of firearms have been framed and notified in Gazette extra dated 17.12.1973. Registration progress is satisfactory. Further, a letter by the CWLW and CCF dated 20.08.1998 also indicates guidelines for registration of firearms to Field Directors and the Divisional Forest Officers.

3.29.9. Control over poaching: Guns, ammunition etc

In compliance Court order dated 20.03.1998 which called for action report for protection of Ws and NPs, the State apprised¹⁰⁴⁸ that there are five NPs and thirteen Ws which are situated at forest land are been placed under the direct control of Divisional Forest Officers who are in charge for strict implementation of the provisions of the WLPA, 1972. Two specific orders dated 17.07.1998 and 22.08.1997 on steps to control illegal activities in Ws and NPs the State informed¹⁰⁴⁹ that the Forest Guards and Deputy Range Foresters in the NP and WS are provided with DBBL guns and firearms are distributed up to the Beat levels. The patrolling parties always carry firearms and walkie-talkie.

As regards communication facilities, the State responded¹⁰⁵⁰ that all five NPs and all major WS control stations for radio transmission system have been installed at headquarters of these NPs and Ws. In Range and Beat, the field staff is provided with fixed RT stations as well mobile RT units, Walkie-Talkie for effective communication with their control room. In Surdanban NP, Hailiday Island WS all the water crafts used for patrolling are provided with RT facilities and are designated as patrol stations. Further, a High Frequency Radio Transmission (HF-RT) network for the State has been commissioned with its control unit at Bikash Bhavan Salt Lake Calcutta for making direct communication with the field staff of all NPs and Ws.

¹⁰⁴⁴ Supplementary affidavit dated 23.09.1998

¹⁰⁴⁵ Supplementary affidavit dated 27.05.1998

¹⁰⁴⁶ Dated 26.04.1998)

¹⁰⁴⁷ Supplementary affidavit dated 23.09.1998

¹⁰⁴⁸ Supplementary affidavit dated 27.05.1998

¹⁰⁴⁹ Supplementary affidavit dated 03.09.1998

¹⁰⁵⁰ Supplementary affidavit dated 23.09.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

All major NPs and WSs and also the forest divisions which are adjacent to these NPs and WSs have been brought under the said large distance HF-RT network. In dense forest, patrolling is done with department elephants and walkie-talkie sets are used for communication to nearest Sub-station by armed guards. In other smaller WS no fixed RT stations have been reported. No incidents of poaching have so far been reported. These Sanctuaries are secured by boundary wall.

3.29.10. Larger measures on wildlife conservation as per information sought by the Central Government

On 13.11.2000, the States were given four weeks time to respond to the affidavit filed by the Union of India on 26.08.2000¹⁰⁵¹. The State of West Bengal responded¹⁰⁵² as follows:

Allocation of the funds by the State Government and Central Government

Flow of the funds is smooth and the Government of India and the State Government make easy flow to the ground level officers. There is no such difficulty in this regard in the State of West Bengal. If extra funds are available then the vigilance work could be strengthened. Funds from the GOI are promptly cleared and are quickly channeled to the grass root level officer. There is no such delay in the West Bengal and the funds from the GOI are fully utilized, for the purpose for which it is sanctioned.

Vacancy of the posts in forest staff

Out of seven hundred forty three sanctioned posts of Forest Guards only one hundred ninety posts have been filled in the wildlife wing. There are presently six hundred thirty three Forest Guards and one hundred seventy seven Foresters posted in different places. Government is trying to fill the vacancies of Forest Guards as soon as possible on the priority basis.

Reorganization of the field staff

Forest staff is being properly armed with the DBBL guns; rifles etc. All the NPs and the WS have the well connected and extensive road network or waterways. A large number of the motor vehicles and vans have been provided for patrolling.

Training of wildlife staff

Trainings are being organized frequently and regularly at different field levels with the help of police and other enforcing agencies.

Protection outside Protected Areas

Only 1.4 percent of the tiger population is found outside the Protected Areas. The forest staffs posted outside the NP always keep conservation of the wildlife as amongst the highest of their priorities. All Divisional Forest Officers outside the PAs are entrusted with powers under the WLPA as exofficio Wildlife Wardens.

Poaching problem

We are making regular and frequent interstate meeting having common borders, for cooperation and information sharing to combat the illegal trade.

Compensation

Payment of compensation for the death of human being from the attack by tiger, elephant etc, are given by the DFO to the concerned victim as urgently as possible, there is no delay in this regard. Compensation for the

¹⁰⁵¹ See order dated 31.01.2001

¹⁰⁵² Affidavit dated 26.02.2001

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

livestock killed by the predator is also paid very promptly. The enhanced rate of compensation is being taken by the State Government from the present rate of Rupees twenty thousand to Rupees one lakh.

Legal powers

Vehicles, weapons and tools used for the committing wildlife crimes are seized by the wildlife officials and are confiscated as per the Indian Forest Act, 1927. Many such vehicles have been seized in this operation.

3.29.11. Settlement of rights

The settlement of the rights have been completed in all the NPs and WS in the State of West Bengal.

3.29.12. Other issues

In compliance to the order dated 07.07.1997, one of the information sought was the State of the tiger and other endangered species. The State informed¹⁰⁵³ as follows:

Tiger population: In Sundarban Tiger Reserve, the tiger population was two hundred five in 1979, two hundred forty two in 1996 and in Buxa Tiger Reserve twenty nine in 1993 and thirty one in 1996. About thirty four percent of the State's recorded forest areas have been brought under Protected Area network through notification as NP or WS. Since the exact total count of tiger population in the wild is never possible, the population figure arrived at in the census only indicates a figure with a range of variations.

Rhino population: From forty four to fifty five between 1992 and 1996

Wild elephants of North Bengal: From one hundred seventy five in 1989 to two hundred twenty five in 1996
The State submits that there has been a general increase in the population of all animals.

¹⁰⁵³ Counter affidavit dated 18.08.1997

3.30. *The Union Territory of Andaman and Nicobar Islands*

3.30.1. *Introduction*

The Union Administration was late in responding to the orders of the Court. Andaman and Nicobar Islands being ecologically fragile area, the Administration has appointed State Level Environmental Council to function as State Level Coastal Zone Management Authority.

3.30.2. *Constitution of Wildlife Advisory Board:*

The Court had to resort to contempt notices against States who did not abide by the orders passed by the Court¹⁰⁵⁴. It was then that the Union Territory of Andaman and Nicobar Islands informed that the Board has been constituted with effect from 06.02.1995¹⁰⁵⁵.

3.30.3. *Appointment of Wildlife Wardens and Honorary Wildlife Wardens*

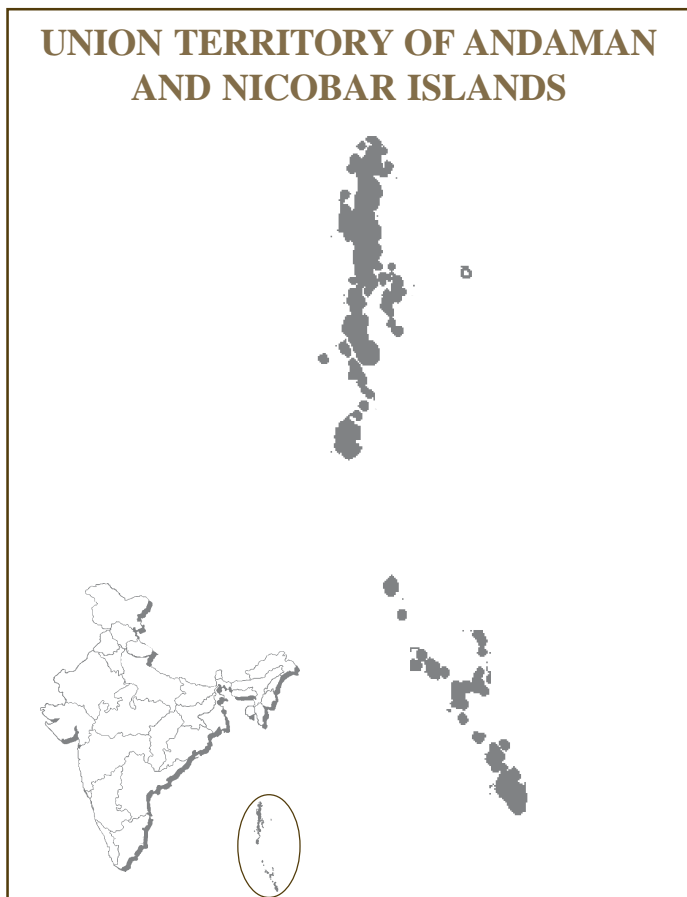
The Court ordered all States to appoint Wildlife Wardens as well as Honorary Wildlife Wardens¹⁰⁵⁶. However no response was given by the Andaman Government¹⁰⁵⁷.

3.30.4. *Status of Protected Areas*

In response to the order dated 07.07.1997, the Union Territory of Andaman and Nicobar Island responded¹⁰⁵⁸ that out of nine National Parks, final notifications have been issued with respect to seven under Section 35 of the Act as amended up to 1991 with regard to remaining two i.e.

- a) ***Mahatma Gandhi Marine NP:*** it partly covers Territorial waters, which requires concurrence of Chief Naval Hydrographer of the Central Government under Section 26A, and thus has been referred to the Ministry of Environment and Forests, Government of India for seeking clearance.
- b) ***The Rani Jhansi Marine NP:*** Its jurisdiction also includes Territorial Waters; the same is being referred to the Ministry of Environment and Forests, to seek approval of the Chief Naval Hydrographer.

The Proclamation under Section 21 for the above two National Parks was issued on 19.02.1998 pursuant to an order dated 22.08.1997¹⁰⁵⁹.



¹⁰⁵⁴ See order dated 22.08.1997

¹⁰⁵⁵ Affidavit filed in August, 1997

¹⁰⁵⁶ See order dated 25.03.1997

¹⁰⁵⁷ Affidavit filed on August, 1997

¹⁰⁵⁸ Affidavit filed in 2006 date nil

¹⁰⁵⁹ Affidavit filed in August, 1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

There are total ninety five Wildlife Sanctuaries.

- a. With respect to one Cuthbert Bay Turtle Sanctuary final notification has been issued.
- b. Notification under Section 18 declaring ninety Sanctuaries have been issued. The process of final notification under Section 26A has been initiated.
- c. Notifications under Section 18 have been issued with respect to four Sanctuaries and formalities under Section 19-25 are in process of completion.

It was stated in an affidavit¹⁰⁶⁰ that out of ninety five WSS final notification has already been issued with regard to ninety one WSS as regards the four WSS necessary proclamations have been issued under Section 21 of the WLPA

Another affidavit¹⁰⁶¹ was filed pursuant to the above order dated 22.08.1997 where it stated that the process as contemplated by Section 21-25 of the WLPA has been completed in respect of two NPs viz. Mahatma Gandhi Marine NP and Rani Jhansi Marine NP, and four WSS viz. Lohabarrack Crocodile Sanctuary, Battimalv Island Sanctuary, Tillongchang island Sanctuary and Megapode Island Sanctuary.

Pursuant to the order dated 23.11.2005, another affidavit¹⁰⁶² was filed which gave the status of PAs existing on 01.11.2005 by the Andaman Government. The final position of the eight National Parks and ninety five Wildlife Sanctuaries in the Union Territory of Andaman and Nicobar Islands are as follows

National Parks

1. **Mahatma Gandhi Marine National Park:** The Park partly covers territorial waters and hence requires concurrence of Chief Naval Hydrographer before final notification is issued. Proposal was sent to the Ministry of Environment and Forests for seeking clearance¹⁰⁶³. Proclamation was earlier issued by the Collector and after settlement of rights final notification was issued on 18.10.1999¹⁰⁶⁴.
2. **Rani Jhansi Marine National Park:** The Park's jurisdiction also includes Territorial Waters and hence was referred to the Ministry of Environment and Forests, to seek approval of the Chief Naval Hydrographer¹⁰⁶⁵. Intention to declare Rani Jhansi Marine National Park was issued under Section 35 of Act¹⁰⁶⁶ and proclamation was issued by the Collector under Section 21. The Chief Naval Hydrographer Officer, Dehradun provided no objection certificate for including territorial water within the limits of the National Park. Proposal was sent to Government of India¹⁰⁶⁷ for the concurrence to issue the final notification.
3. **Campbell Bay National Park:** It covers an area of 426.23 sq. km. Final notification was issued under Section 35¹⁰⁶⁸.
4. **Galanthea National Park:** It covers an area of 110 sq. km. Final notification was issued under Section 35¹⁰⁶⁹.
5. **Saddle Peak (North Button):** It covers an area of 3253.68 ha. Final notification was issued under Section 35¹⁰⁷⁰.

¹⁰⁶⁰ Affidavit filed in 2006 in compliance of order dated 23.11.2005

¹⁰⁶¹ Affidavit filed in August, 1997

¹⁰⁶² Vide notification dated 12.11.1996

¹⁰⁶³ Vide letter-dated 08.03.2006 and dated 16.05.2006

¹⁰⁶⁴ Vide notification dated 22.11.1996

¹⁰⁶⁵ Vide notification dated 28.11.1996

¹⁰⁶⁶ Vide notification dated 22.11.1996

¹⁰⁶⁷ Vide notification dated 22.11.1996

¹⁰⁶⁸ Vide notification dated 22.11.1996

¹⁰⁶⁹ Vide notification dated 22.11.1996

¹⁰⁷⁰ Through an affidavit filed in 2006 dated nil

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

6. **South Button:** Final notification was issued under Section 35¹⁰⁷¹.
7. **Middle Button:** Final notification was issued under Section 35¹⁰⁷².
8. **Mount Harriet:** Final notification was issued under Section 35¹⁰⁷³.

Sanctuaries

In response to the order dated 23.11.2005 the Union Territory of Andaman and Nicobar Islands informed the Court regarding the status of Sanctuaries and the settlement process initiated in these Sanctuaries¹⁰⁷⁴.

1. **Lohabarrack Crocodile Sanctuary:** It was notified as Sanctuary under Section 18¹⁰⁷⁵. Proclamation was issued under Section 21 by the Collector, Andaman who informed that no claims were received with regard to this Sanctuary¹⁰⁷⁶.
2. **Battimallv Island:** It was notified under Section 18¹⁰⁷⁷. Proclamation was issued under Section 21 on 03.09.1997 by the Collector of Nicobar. The Collector informed¹⁰⁷⁸ that no rights existed over this Sanctuary.
3. **Tillongchang Island:** It was notified under Section 18¹⁰⁷⁹. Proclamation was issued under Section 21 on 03.09.1997 by the Collector of Nicobar. The Collector informed¹⁰⁸⁰ there exists right for collection of coconuts by Nicobar Tribals.
4. **Megapode Island:** It was notified under Section 18¹⁰⁸¹. Proclamation was issued under Section 21 on 03.09.1997 by the Collector of Nicobar. The Collector informed¹⁰⁸² that no rights existed over this Sanctuary.
5. **Cuthbert Bay:** Final notification was issued under Section 26A¹⁰⁸³.
6. **Sir Hugh Rose:** Final notification was issued vide notification dated 16.02.1987.
7. **Pitman:** Final notification was issued vide notification dated 16.02.1987.
8. **James:** Final notification was issued vide notification dated 16.02.1987.
9. **Potanma:** Final notification was issued vide notification dated 16.02.1987.
10. **Kyd:** Final notification was issued vide notification dated 16.02.1987.
11. **Petric:** Final notification was issued vide notification dated 16.02.1987.
12. **Defence:** Final notification was issued vide notification dated 16.02.1987.
13. **Montgomery:** Final notification was issued vide notification dated 16.02.1987.
14. **Clyde:** Final notification was issued vide notification dated 16.02.1987.
15. **Sandy:** Final notification was issued vide notification dated 16.02.1987.
16. **Snake:** Final notification was issued vide notification dated 16.02.1987.

¹⁰⁷¹ Vide notification-dated 03.05.1983

¹⁰⁷² vide DO dated 08.07.1998

¹⁰⁷³ Vide notification-dated 19.01.1985.

¹⁰⁷⁴ Vide office order dated 06.03.1998

¹⁰⁷⁵ Vide notification-dated 19.01.1985.

¹⁰⁷⁶ Vide office order dated 06.03.1998

¹⁰⁷⁷ Vide notification-dated 19.01.1985.

¹⁰⁷⁸ Vide office order dated 06.03.1998

¹⁰⁷⁹ Vide notification-dated 24.04.1997

¹⁰⁸⁰ Affidavit filed in August, 1998

¹⁰⁸¹ Affidavit dated 02.05.1998

¹⁰⁸² Affidavit dated 16.3.1998

¹⁰⁸³ Vide letter dated 21.05.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

17. **Cinque:** Final notification was issued vide notification dated 16.02.1987.
18. **Passage:** Final notification was issued vide notification dated 16.02.1987.
19. **Sisters:** Final notification was issued vide notification dated 16.02.1987.
20. **North Brother:** Final notification was issued vide notification dated 16.02.1987.
21. **South Brother:** Final notification was issued vide notification dated 16.02.1987.
22. **Bluff:** Final notification was issued vide notification dated 16.02.1987.
23. **Spike:** Final notification was issued vide notification dated 16.02.1987.
24. **Talabaicha:** Final notification was issued vide notification dated 16.02.1987.
25. **Mangrove:** Final notification was issued vide notification dated 16.02.1987.
26. **Stoet:** Final notification was issued vide notification dated 16.02.1987.
27. **Belle:** Final notification was issued vide notification dated 16.02.1987.
28. **Arial:** Final notification was issued vide notification dated 16.02.1987.
29. **East/ Inglis:** Final notification was issued vide notification dated 16.02.1987.
30. **Duncan:** Final notification was issued vide notification dated 16.02.1987.
31. **Oyster:** Final notification was issued vide notification dated 16.02.1987.
32. **Parkinson:** Final notification was issued vide notification dated 16.02.1987.
33. **Cone:** Final notification was issued vide notification dated 16.02.1987.
34. **Landfall:** Final notification was issued vide notification dated 16.02.1987.
35. **East:** Final notification was issued vide notification dated 16.02.1987.
36. **West:** Final notification was issued vide notification dated 16.02.1987.
37. **Peacock:** Final notification was issued vide notification dated 16.02.1987.
38. **White Cliff:** Final notification was issued vide notification dated 16.02.1987.
39. **Reef:** Final notification was issued vide notification dated 16.02.1987.
40. **Mayo:** Final notification was issued vide notification dated 16.02.1987.
41. **Paget:** Final notification was issued vide notification dated 16.02.1987.
42. **Shearme:** Final notification was issued vide notification dated 16.02.1987.
43. **Point:** Final notification was issued vide notification dated 16.02.1987.
44. **Ox:** Final notification was issued vide notification dated 16.02.1987.
45. **Shark:** Final notification was issued vide notification dated 16.02.1987.
46. **North:** Final notification was issued vide notification dated 16.02.1987.
47. **Kwangtang:** Final notification was issued vide notification dated 16.02.1987.
48. **Rowe:** Final notification was issued vide notification dated 16.02.1987.
49. **Latauche:** Final notification was issued vide notification dated 16.02.1987.
50. **Jungle:** Final notification was issued vide notification dated 16.02.1987.
51. **Trilby:** Final notification was issued vide notification dated 16.02.1987.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

52. **Table (Excelsior):** Final notification was issued vide notification dated 16.02.1987.
53. **Table (Dalgarne):** Final notification was issued vide notification dated 16.02.1987.
54. **Temple:** Final notification was issued vide notification dated 16.02.1987.
55. **Turtle:** Final notification was issued vide notification dated 16.02.1987.
56. **Rose:** Final notification was issued vide notification dated 16.02.1987.
57. **Brush:** Final notification was issued vide notification dated 16.02.1987.
58. **Bamboo:** Final notification was issued vide notification dated 16.02.1987.
59. **Blister:** Issued final notification vide notification dated 16.02.1987.
60. **Dot:** Final notification was issued vide notification dated 16.02.1987.
61. **Curlew:** Issued final notification vide notification dated 16.02.1987.
62. **Oliver:** Final notification was issued vide notification dated 16.02.1987.
63. **Oyster:** Final notification was issued vide notification dated 16.02.1987.
64. **Orchid:** Final notification was issued vide notification dated 16.02.1987.
65. **Curlew (B.P.):** Final notification was issued vide notification dated 16.02.1987.
66. **Egg:** Final notification was issued vide notification dated 16.02.1987.
67. **Swamp:** Final notification was issued vide notification dated 16.02.1987.
68. **Dottrill:** Final notification was issued vide notification dated 16.02.1987.
69. **Gurjan:** Final notification was issued vide notification dated 16.02.1987.
70. **Sea Serpent:** Final notification was issued vide notification dated 16.02.1987.
71. **Snake:** Final notification was issued vide notification dated 16.02.1987.
72. **Bondaville:** Final notification was issued vide notification dated 16.02.1987.
73. **Buchanan:** Final notification was issued vide notification dated 16.02.1987.
74. **Surat:** Final notification was issued vide notification dated 16.02.1987.
75. **Enterance:** Final notification was issued vide notification dated 16.02.1987.
76. **Benette:** Final notification was issued vide notification dated 16.02.1987.
77. **Roper:** Final notification was issued vide notification dated 16.02.1987.
78. **South Reef:** Final notification was issued vide notification dated 16.02.1987.
79. **Mask:** Final notification was issued vide notification dated 16.02.1987.
80. **Tuft:** Final notification was issued vide notification dated 16.02.1987.
81. **Hump:** Final notification was issued vide notification dated 16.02.1987.
82. **Gander:** Final notification was issued vide notification dated 16.02.1987.
83. **Goose:** Final notification was issued vide notification dated 16.02.1987.
84. **Flat:** Final notification was issued vide notification dated 16.02.1987.
85. **Spike:** Final notification was issued vide notification dated 16.02.1987.
86. **Ranger:** Final notification was issued vide notification dated 16.02.1987.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

87. **Wharf:** Final notification was issued vide notification dated 16.02.1987.
88. **Tree:** Final notification was issued vide notification dated 16.02.1987.
89. **Chanel:** Final notification was issued vide notification dated 16.02.1987.
90. **Narcondam:** Final notification was issued vide notification-dated 29.08.1997.
91. **North Reef:** Final notification was issued vide notification-dated 29.08.1997.
92. **Barren:** Final notification was issued vide notification-dated 29.08.1997.
93. **South Sentinel:** Final notification was issued vide notification-dated 29.08.1997.
94. **Interview Island:** Final notification was issued under Section 26A vide notification dated 29.08.1997.
95. **Galathea Bay:** Intention notification issued under Section 18 of the WLPA, 1972 vide notification-dated 15.09.1997. Proclamation under Section 21 of the WLPA was issued by the Collector, Nicobar vide notification dated 14.10.1997.

3.30.5. State Level Environmental Council to function as State Level Coastal Zone Management Authority¹⁰⁸⁴

It was stated that the Notification dated 28.04.1997 was further amended by notification dated 25.05.1998 notifying that State Level Environmental Council will function as State Level Coastal Zone Management Authority for the UT

3.30.6. Immunization of livestock

Pursuant to an order dated 20.03.1998 which required the respective States and UTs to apprise the Court of the status of Immunisation of livestock among other things, the UT of Andaman and Nicobar Islands informed¹⁰⁸⁵ that the State administration has directed the concerned authorities for taking the appropriate action to comply with the provisions of Section 33A read with Section 35(8) of WLPA 1972. Another affidavit¹⁰⁸⁶ pursuant to an order dated 17.07.1998 informed that the A&N islands are free from most of dreaded and communicable livestock diseases. The Government of India has declared the island provisionally free from Rinder Pest¹⁰⁸⁷ and hence no livestock immunization has been undertaken in this territory.

3.30.7. Registration of arms

Pursuant to an order dated 20.03.1998 which required the respective States and UTs to apprise the Court of the status of registration of firearms and issuance of fresh licences among other things, the UT of Andaman and Nicobar Islands informed¹⁰⁸⁸ that the State administration has directed the concerned authorities for taking the appropriate action to comply with the provisions of Section 34 read with Section 35(8) of WLPA 1972. Pursuant to an order dated 17.07.1998, the UT further informed¹⁰⁸⁹ that as per provisions of Section 34 (1) of the WLPA, necessary rules have been framed and published vide notification dated 01.04.1996 for the purpose of registration of firearms.

¹⁰⁸⁴ Affidavit dated 02.05.1998

¹⁰⁸⁵ Affidavit dated 16.3.1998

¹⁰⁸⁶ Affidavit dated 16.3.1998

¹⁰⁸⁷ Affidavit dated 16.3.1998

¹⁰⁸⁸ Affidavit dated 16.3.1998

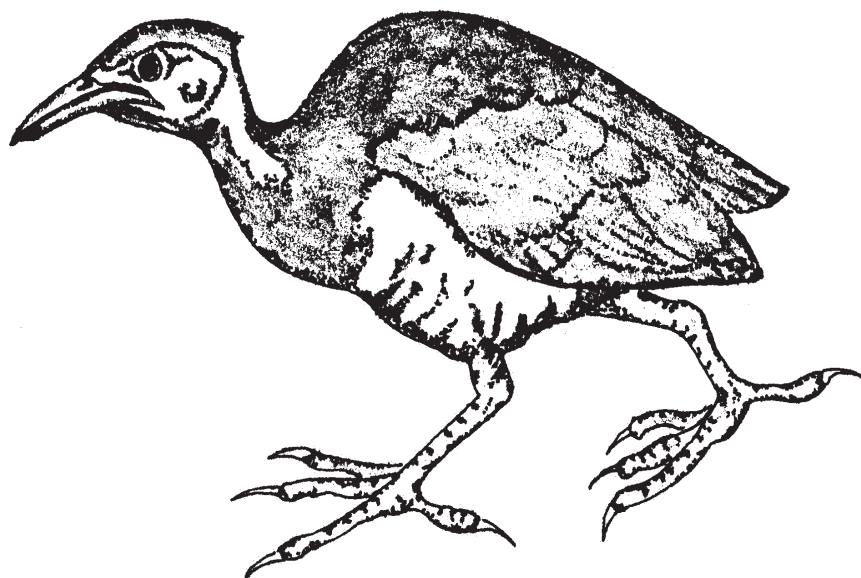
¹⁰⁸⁹ See order dated 07.07.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Another affidavit¹⁰⁹⁰ was filed in response to the above order dated 17.07.1998 wherein it was stated that registration of persons possessing arms and residing within ten km of NPs and WSs has been completed. Eight persons could not be registered, as they could not be traced inspite of all efforts of authorities nor did they respond to the notices issued by the authorities concerned in this regard. The Deputy Commissioner, Andaman district has been requested to take appropriate action against the defaulters by canceling their licence and forfeiting their arms.

3.30.8. Control over poaching: Guns, ammunition etc

In response to the order dated 20.03.1998 which among other things required the States and UTs to report on measures for wildlife conservation, the UT of A&N informed¹⁰⁹¹ that frequent patrolling, restriction on entry in Sanctuary and NP under Section 27 and Section 35 (8) under the WLPA are being under taken to check and prohibit activities in NPs and WSs which are prohibited under provision of WLPA 1972. Further, pursuant to the order dated 17.07.1998 it was stated¹⁰⁹² that necessary arms have been provided to almost all staff posted in WSs and NPs. VHF communication sets have been provided in vantage point covering NPs and WSs. More efforts are made to provide the above facilities in current year.



¹⁰⁹⁰ Affidavit dated 10.10.1997

¹⁰⁹¹ See order dated 25.03.1997

¹⁰⁹² Affidavit dated 10.10.1997

3.31. The Union Territory of Chandigarh

3.31.1. Introduction

There exist only two Wildlife Sanctuaries in Chandigarh. The Administration of Chandigarh has provided information on constitution of wildlife Advisory Board, appointment of Wildlife Wardens, registration of arms, settlement process, immunization of livestock and other measures for wildlife conservation. The details are as follows:

3.31.2. Constitution of Wildlife Advisory Board

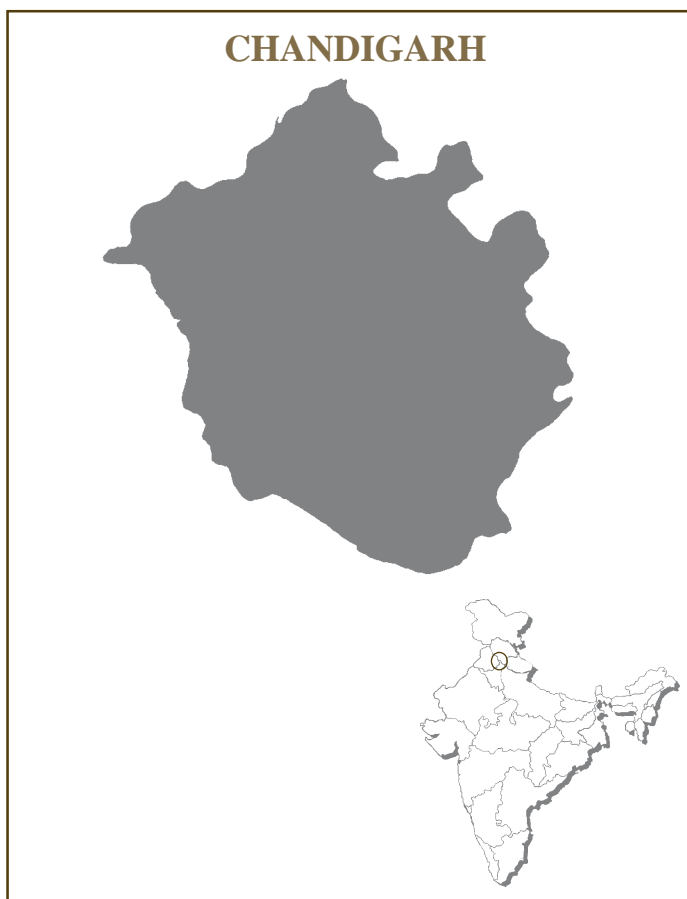
On directions issued to the States to update their present status with regard to constitution or reconstitution of Boards¹⁰⁹³, the Union Territory of Chandigarh informed the Court that the Board was reconstituted vide Government order dated 21.11.1996¹⁰⁹⁴. *The conduct of the States seems to be that of lethargy and almost disrespect for the rule of law. In this case, repeated orders of Supreme Court elicited a response to suggest that the Board had already been constituted much before the first order but they did not bother to inform the Court on the due date.*

3.31.3. Appointment of Wildlife Wardens and Honorary Wildlife Warden

The Court ordered all States to appoint Wildlife Wardens¹⁰⁹⁵. However, the contention of the UT of Chandigarh was that since it has only 32 sq. km. of Forest, which is well protected and no Honorary Wildlife Warden has been appointed as there is adequate staff to take care of and protect wildlife¹⁰⁹⁶. *This seems like the UT of Chandigarh has interpreted the Wildlife Protection Act as per convenience. The objective of Honorary Wildlife Warden is perhaps to involve external monitoring and assistance to wildlife conservation and not a day to day implementation role. However, these questions were perhaps never raised in the Court rooms.* The State Government eventually issued a notification dated 14.01.1998 in exercise of the powers conferred under Section 4 (1)(bb) of WLP and appointed Shri Gurdial Singh, Sarpanch, Village Khuda Aisher as the Honorary Wildlife Warden¹⁰⁹⁷.

3.31.4. Settlement of rights including issuance of proclamation notification

Pursuant to order dated 07.07.1997, the Union of Chandigarh informed¹⁰⁹⁸ about the status of Protected Areas including the position on settlement of rights as follows:



¹⁰⁹³ Affidavit dated 03.02.1998

¹⁰⁹⁴ Affidavit dated 10.10.1997

¹⁰⁹⁵ Under Section 18 vide notification dated 21.07.1977

¹⁰⁹⁶ Affidavit dated 03.02.1998

¹⁰⁹⁷ Affidavit dated 07.09.1998

¹⁰⁹⁸ Affidavit dated 07.09.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Sukhna Wildlife Sanctuary: Total area in acre is 6280 notified in 1977¹⁰⁹⁹. The area had been notified under Section 4 of the Indian Forest Act, 1927. Forest Settlement Officer was appointed vide memo dated 11.06.1991, to settle the rights. However, no objections were received.

Pursuant to order dated 07.11.1997, another affidavit was filed¹¹⁰⁰ by the UT where it stated that Notification under Section 4(1) (c) of the Forest Act, 1927 declaring 7548.43 acres of land as reserved forest on 09.05.1991 stands issued. Notification under Section 20 of Indian Forest Act is on and will be completed shortly and the process of declaring Sanctuary will be completed under Section 26A of WLPA. No proclamation under Section 21 of the WP Act will be required to be issued. In response to order dated 17.07.1998, another affidavit¹¹⁰¹ explained that in the Sukhna WS, declared over Reserve Forest Area, all the formalities of determination of rights were completed at that time. The final notification Under Section 26A of WLPA has been issued on 06.03.1993.

The Chandigarh City Bird Sanctuary: It is in the urban area, the total area is 7 acres. Notified under Section 18 before the amendment (i.e. the 1991 amendment to the WLPA) vide notification dated 29.09.1988. The proceedings for investigation were not necessary before the notification. The administration, in the light of the direction given by the Court, has initiated the action for completing all the necessary proceedings required under Section 19-25 of WLPA, 1972 with regard to Sanctuaries in the UT of Chandigarh. The UT also informed that the said Sanctuary falls in Sector 21 B and the use of the said park by the public has not been prohibited till an alternate public park is developed in the sector and the rights of public are settled. It was thus requested that this may be allowed to continue as an exception. In response to order dated 17.07.1998, another affidavit¹¹⁰² explained that the rights of residents of Chandigarh City have been settled and the final notification has been issued vide dated 03.09.1998. This was further reiterated in response to an order dated 23.11.2005¹¹⁰³.

3.31.5. Immunization of livestock

Pursuant to order dated 20.03.1998 which sought information with regard to immunization of livestock among other things, the UT responded¹¹⁰⁴ that immunization has been done in Sanctuary (Kaimbwala) and two villages i.e. and Alisher situated near Sanctuary in Chandigarh. In another affidavit¹¹⁰⁵ pursuant to order dated 17.07.1998, the UT informed that no livestock is allowed in Sanctuary for grazing. Livestock of nearby villages Kaimbwala and Khuda Ali Sher has been immunized, and will continue to be immunized when required.

hundred percent immunization has been done in two villages. Further, a Veterinary Sub Center is functioning at Khuda Ali Sher which is within one km of Sukhna Sanctuary.

3.31.6. Registration of arms

Pursuant to order dated 20.03.1998 which sought information with regard to registration of the Arms and the issuances of fresh arms other things, the UT responded¹¹⁰⁶ that the District Magistrate has started obtaining the concurrence of the CWLW before the issuance of new arm licenses. Approximately four thousand six hundred twenty two license have been issued by the office of District Magistrate. A public notice dated 26.05.1998 was also issued, calling upon all the license holders to register their arms with the CWLW within a period of two weeks

¹⁰⁹⁹ Affidavit dated 12.12.2005

¹¹⁰⁰ Affidavit dated 27.05.1998

¹¹⁰¹ Affidavit dated 30.10.1998

¹¹⁰² Affidavit dated 27.05.1998

¹¹⁰³ Affidavit dated 30.10.1998

¹¹⁰⁴ Affidavit dated 12.03.1998

¹¹⁰⁵ Affidavit dated 07.09.1998

¹¹⁰⁶ Affidavit dated 27.05.1998

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

from the issuance of the notice failing which steps will be taken to revoke this license. The UT further pleaded¹¹⁰⁷ pursuant to order dated 17.07.1998 that six months period may be given for framing of rules for registration of arms licences and four month time for completion of process of registration thereafter.

3.31.7. Control over poaching: Equipments, communication and wireless sets

Pursuant to order dated 16.01.1998, the UT informed that Forest Guards have already been provided with wireless sets, pagers and motor cycles. Modern arms will be provided after giving the training for the same¹¹⁰⁸. It further stated¹¹⁰⁹ in response to the order dated 17.07.1998, that as regards modern arms is concerned, it has been approved by Chandigarh Administration and the necessary formalities are under process. The arms will be provided within six months.

3.31.8. Some other unique issues on wildlife conservation measures

Pursuant to order dated 20.03.1998, which sought specific steps to prohibit activities which are prohibited under the WLPA the UT informed¹¹¹⁰ as follows:

- Entry into the Sanctuary is regulated through grant of permit from CWLW.
- Entry into the Sanctuary with arms is prohibited (except for the security personnel accompanying a High Security Risk person.)
- Fire watchers are deployed during the summer season to keep a vigil on the incidents of fire.
- Use of chemicals, explosive or any other substance, which may cause injury to or endanger any wildlife, is strictly prohibited.
- Development of habitat for wildlife and removal of bhabbar and other miscellaneous grasses from the Sanctuary is done in accordance with the provisions of WLPA with prior approval of Administration.

3.31.9. Larger measures on wildlife conservation as per information sought by the Central Government

Another affidavit¹¹¹¹ elaborated some larger measures on wildlife conservation as follows:

Allocation of funds by State and Central Government

Chandigarh Administration is receiving funds from the Central Government for development of the Sukhna Wildlife Sanctuary

Vacancy of posts in forest department

No post of Forest Guard and forester is lying vacant.

Reorganization of field

That staffs posted in the Sanctuary area have been provided with the weapons like guns and wireless sets etc. Strict watch and ward is kept in the periphery of the Sanctuary area which is close to the village habitation

¹¹⁰⁷ Affidavit dated 23.02.2001

¹¹⁰⁸ See order dated 07.07.1997

¹¹⁰⁹ Affidavit dated 04.08.1997

¹¹¹⁰ Affidavit dated 04.08.1997

¹¹¹¹ Affidavit dated 04.08.1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Training of staff

Chandigarh Administration agrees with the suggestions regarding training of the staff. The staff of the Chandigarh Forest Department is being trained at the Chandigarh police headquarters. All staff is under the control of Chief Wildlife Warden.

Staff in cities and towns

Adequate staff has been stationed in the urban area to check the trading in wildlife product and their processing

Intelligence

Interstate intelligence is inadequate and there is need to strengthen this aspect

Compensation for killing of livestock and human

No tigers found in Chandigarh and no killing of the livestock has taken place.

Confiscation of vehicles

That there is need for making a provision for confiscation of tools, weapons and vehicles used for committing the wildlife crimes.

Legal powers

The staff is empowered to confiscate vehicles, arms and other articles used for committing wildlife offences after making necessary arrangements.

Release of funds

That the funds are received well in time.

Intelligence networking

That a coordination committee will be constituted by taking representatives from different departments to deal with issues relating to illegal wildlife trade.

Incentives

Provisions for giving incentives are required to be worked out.

3.32. The Union Territory of Dadar and Nagar Haveli

3.32.1. Introduction

The Union Territory of Dadar and Nagar Haveli informed the Court that the total geographical area of the UT is 491.90 sq. km, out of which 200 sq. km. is under forest. The other details are as follows:

3.32.2. Constitution of Wildlife Advisory Board

On directions issued to the States to update their present status with regard to constitution or reconstitution of Boards¹¹¹², it was informed that the Board was constituted in 1993 vide notification dated 05.01.1993¹¹¹³. *It is important to note, however that this UT does not have any NP or WS. Even though a large area is under forest cover, the Board has been constituted as the primary duty of the Board is to protect and conserve wildlife and forests.*

3.32.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

Pursuant to order dated 07.07.1997 regarding the appointment of Wildlife Wardens, the UT informed¹¹¹⁴ that the Wildlife Wardens have been notified vide notification dated 30.04.1990.

3.32.4. Settlement of rights including issuance of proclamation notification

Pursuant to order dated 07.07.1997 regarding providing the status of settlement of rights, the UT informed¹¹¹⁵, that there are no Wildlife Sanctuaries or National Parks in the UT. However, pursuant to order dated 29.08.2006, the UT informed¹¹¹⁶ that the Administration of Dadar and Nagar Haveli has notified an area of 92 sq. km. as Dadra and Nagar WS under Section 26 A (1)(b) of the WLPA, 1972 on 24.11.2000. This was a part of the 203.2152 sq. km. Reserved Forest Area notified on 01.05.1969 under Section 20 of the Indian Forest Act, 1927. However, 23.10 ha. area in survey number one hundred thirty nine, village Kala which was formerly a part of Dadra and Nagar Haveli Reserve Forest but was dereserved on 01.05.1979 for settlement of Damanganga Dam has been inadvertently through error included in the WS area and a separate detailed proposal for exclusion of the same would be considered soon.



¹¹¹² Affidavit dated 06.02.2007

¹¹¹³ Affidavit dated 04.08.1997

¹¹¹⁴ Affidavit dated 05.03.2001

¹¹¹⁵ See order dated 07.07.1997

¹¹¹⁶ Affidavit dated 04.08.1997

3.32.5. Immunization of livestock

The UT filed an affidavit that since there is no Wildlife Sanctuaries or National Parks in the UT Thus, no action/ steps were required to be taken under Section 33A of the WLPA, 1972.

3.32.6. Registration of arms

The UT filed an affidavit that since there is no Wildlife Sanctuaries or National Parks in the UT Thus, no action or steps were required to be taken under Section 34 of the WLPA, 1972.

3.32.7. Control over poaching: Guns, ammunition etc

Pursuant to order dated 07.07.1997, the UT informed¹¹¹⁷ that no cases of illegal poaching are noticed in the UT.

3.32.8. Larger measures on wildlife conservation as per information sought by the Central Government

An affidavit filed in March 2001¹¹¹⁸ elaborates the response that the Union of India has sought in one affidavit vide order dated 20.04.2000 as follows:

Allocation of funds by Central and State Government

Funds are directly released to the entities created for this purpose to avoid diversion of earmarked funds by the State Government.

Vacant posts

One post of Deputy Conservator of the Forest was created for management of wildlife. The same was filled in the year 1996.

Timely payment of compensation

Action is being initiated for the enhancement of compensation in case of human being injury.

Organization of field staff

Creation of forest station on the pattern of police stations, creation of strike forces on the pattern of the provincial armed constabulary and creation of new battalion of forest protection forces. Introduction of the sniffer dogs for forest protection is also agreed by the administration, providing necessary safeguards to the use of the arms in self defence in legitimate discharge of their duties.

Training of the forest staff

Suggestion of recruiting ex servicemen as Forest Guard is also agreed upon.

Intelligence networking

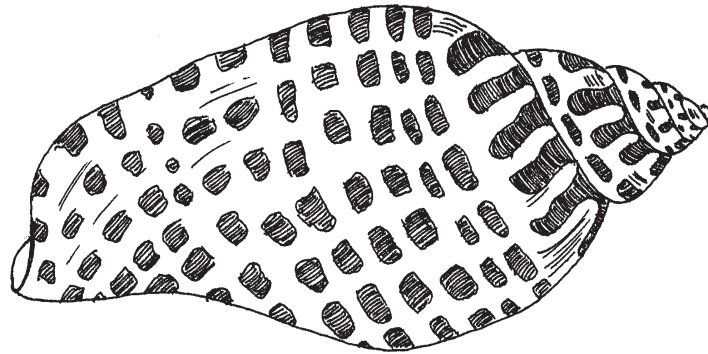
Coordination committee is established under the chairmanship of the Conservator of Forests/ Chief Wildlife Warden with Deputy Conservator of Forests.

¹¹¹⁷ Affidavit dated 05.03.1998

¹¹¹⁸ Affidavit dated 05.03.1998

3.32.9. Settlement of rights

92 sq. km. area has been declared as Wildlife Sanctuary. As such there are no issues related to settlement of rights except finalization of team plots given on the basis of lease prior to 1980. In order to give compensation to the tribal villagers, the Ministry of Environment and Forests has been requested to provide a sum approximately Rupees five crores so that the cultivators finally leave the forest area.



3.33. *The Union Territory of Daman and Diu*

3.33.1. *Introduction*

The Administration of Daman and Diu has provided responses on issues relating to constitution of wildlife Advisory Board, appointment of Wildlife Wardens, registration of arms, settlement process, immunization of livestock and other measures for wildlife conservation. The details are as follows:

3.33.2. *Constitution of Wildlife Advisory Board*

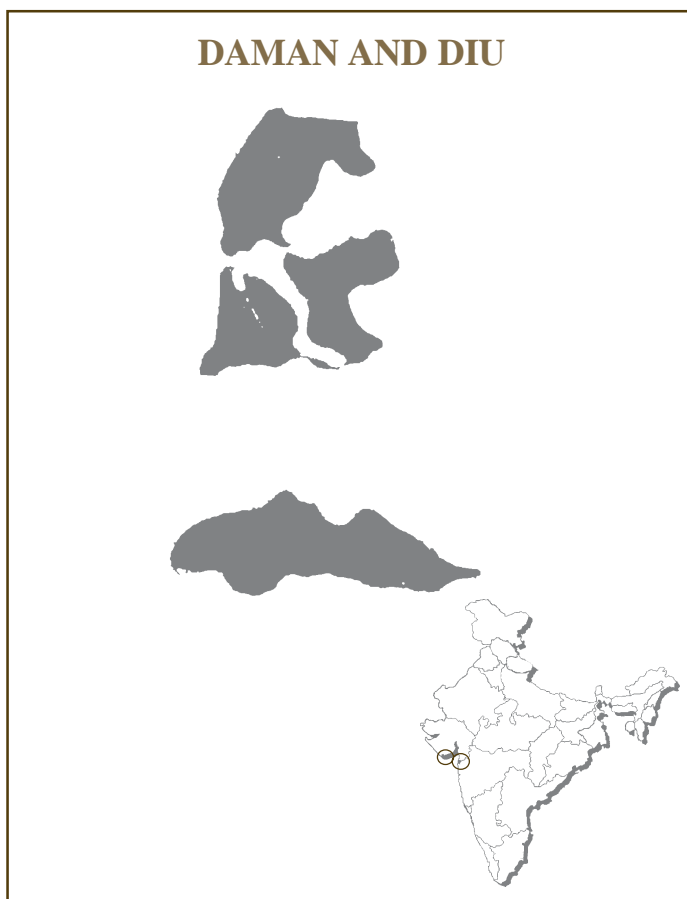
On directions issued to the States to update their present status with regard to constitution or reconstitution of Boards¹¹¹⁹, the UT of Daman and Diu informed the Court that the Board has not been constituted yet, however steps are been taken for its formation¹¹²⁰. Subsequently, the Board for the UT was constituted vide notification dated 17.11.1997¹¹²¹.

3.33.3. *Appointment of Wildlife Wardens and Honorary Wildlife Wardens*

With regard to appointment of Wildlife Wardens and Honorary Wildlife Wardens as per the order dated 16.01.1998, the UT informed¹¹²² that the Conservator of Forests and Deputy Conservator of Forests have been notified as CWLW and Wildlife Warden vide notification dated 17.10.1997. Two HWWs have been appointed for the UT vide notification dated 20.11.1997.

3.33.4. *Settlement of rights including issuance of proclamation notification*

In response to the order dated 07.07.1997 which among other things sought information regarding the settlement of rights and status of PAs, the UT informed¹¹²³ that there is no National Park, but one Bird Sanctuary is proposed at village Fudam, district Diu. Notifications inviting claims have been issued for the same¹¹²⁴. On the basis of claims preferred, a decision to issue of final notification under Section 26A of WLPA will be taken. It was further informed¹¹²⁵ that the proclamation under Section 21 of the WLPA has been issued with regard to Bird Sanctuary in Diu on 21.02.1998. The extent of the area is 218.568 ha. Under Sections 22-25, the Collector, Diu shall take action on the basis of claims preferred and thereafter the area proposed in village Fudam in Diu shall be declared "Fudam



¹¹¹⁹ Affidavit dated 04.08.1997

¹¹²⁰ Vide notification dated May, 1990.

¹¹²¹ Affidavit dated 05.03.1998

¹¹²² Affidavit dated 18.05.1998

¹¹²³ Affidavit dated 21.08.1998

¹¹²⁴ Vide letter dated 15.07.1998

¹¹²⁵ Note that the order dated 22.08.1997 gave one year for the process of completion of settlement of rights to all States and Union Territories.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Bird Sanctuary” under Section 26-A of WLPA well before 20.05.1998¹¹²⁶. It was further informed¹¹²⁷ that the Collector was asked to expedite completion of inquiry for acquisition of rights¹¹²⁸. The Collector had submitted inquiry report dated 23.07.1998 under Section 22 of WLPA to the Administrator, Daman for perusal and declaration of Sanctuary under Section 26A WLPA. The inquiry report of the Collector has been examined keeping in view all the relevant aspects with regard to future protection and management of the proposed Fudam Bird Sanctuary and it has been observed that various points are required to be examined with due seriousness and as such considerable time is required, to complete the inquiry and settlement of remaining point so it may not be possible for the administration of Daman and Diu to comply with the Court directives by stipulated date i.e. 22.08.1998. Extension of one year was pleaded for issuing final notification under Section 26A of the WLPA 1972¹¹²⁹.

Another affidavit¹¹³⁰ clarified the real position in notifying the said Bird Sanctuary. As stated earlier the Collector, Diu submitted a detailed inquiry report dated 17.07.1999. He stated four points which may pour difficulties if final notification under Section 26 A takes places.

1. Not possible to establish the timing and number of persons, which should pass through the Sanctuary.
2. Indian Air Force plans to establish an air base in, Diu. A request has been made to the IAF to look for an alternate site keeping in view the impact on the environment and ecology. The Bird Sanctuary would fall directly in the funnel area, if the present airstrip is extended and a fighter base is made. The Civil Airstrip too has become more active. The aero planes would be directly flying over the bird Sanctuary while landing and take-off.
3. It has been proposed to dam the two bridges so as to create a huge sweet water body in Diu. The administration has taken up this matter with the Government of Gujarat, which has shown keen interest in this project. The water body once created would provide great relief to Diu and Gujarat, from drinking water shortage, and irrigation facilities.
4. Diu is a tiny island of 39 sq. km and approximately twenty five percent of the land mass is marshy. A major Holt along the coast and the creek cannot be developed due to applicability of CRZ regulations. ASI restriction of no development zone is another restriction on development. Further restrictions by declaring Fudam Creek as Bird Sanctuary may lead to total stagnation of future developments, more so when this area is surrounded by municipal area on two sides. People are already protesting against the proposed declaration. It may have an adverse effect on the psyche of the people, who culturally have been very eco friendly.

Keeping in view the above points, it is not feasible to notify the Sanctuary under Section 26A.

3.33.5. Immunization of livestock

Pursuant to order dated 20.03.1998, regarding steps taken to immunize livestock in and around Sanctuaries among other things, the State responded¹¹³¹ that once the Fudam Bird Sanctuary is declared as Sanctuary under Section 26A, thereafter the order of the SC with respect to Section 33A i.e relating to immunization shall be complied with. Further, livestock immunization programs are regularly being carried out by Veterinary Officer, Diu. No communicable disease has been traced so far. The Sanctuary is surrounded by salty water area and salt pans and there is no green pasture for grazing of cattle.

¹¹²⁶ Affidavit dated 20.08.1999

¹¹²⁷ Affidavit dated 18.05.1998

¹¹²⁸ Affidavit dated 18.05.1998

¹¹²⁹ Affidavit dated 24.08.1998

¹¹³⁰ Affidavit dated 04.08.1997

¹¹³¹ Affidavit dated 05.03.2001

3.33.6. Registration of arms and issue of license

Pursuant to order dated 20.03.1998, regarding steps taken to registration of arms in and around Sanctuaries under Section 34 of the WLPA, among other things, the State responded¹¹³² that once the Fudam Bird Sanctuary is declared as Sanctuary under Section 26A, thereafter the order of the SC with respect to Section 34 i.e relating to registration of arms and issuance of new licenses shall be complied with. Further as an interim measure, inventory of the arms license holders of Diu as on 30.04.1998 has been made by the Collector¹¹³³.

3.33.7. Control over poaching: Guns, ammunition etc

As per the affidavit filed¹¹³⁴ no cases of illegal poaching are noticed in the UT

3.33.8. Larger measures on wildlife conservation as per information sought by the Central Government

An affidavit filed in March 2001¹¹³⁵ elaborates the response that the Union of India has sought vide order dated 20.04.2000 as follows:

Allocation of the funds by the State and Central Government

Central Government funds for the wildlife are directly released to the entities created for this purpose to avoid diversion of the earmarked funds by the State.

Filling of the vacant posts

Ministry is being requested for the creation of the executive posts, ministerial posts for ensuring proper administration in the forest department and management of Bird Sanctuary and Deer Parks.

Timely payment of compensation

No killing of human being has been reported by the predator. Action is being initiated for adopting compensations rules to address the problem that may arise in future.

Reorganization of field formations

Creation of forest station on the pattern of police stations, creation of strike forces on the pattern of the provincial armed constabulary and creation of new battalion of forest protection forces. Introduction of the sniffer dogs for forest protection is also agreed by the administration, providing necessary safeguards to the use of the arms in self defense in legitimate discharge of their duties.

Training of the forest staff

Suggestion of recruiting ex servicemen as Forest Guard is also agreed upon. Suggestion for distribution of material in vernacular language shall be complied with and as regard forensic examination as and when exigencies arise the help of neighbouring State Government shall be availed.

Settlement of rights

Final notification of the Fudam Bird Sanctuary shall be issued after completion of required formalities by the Collector.

¹¹³² Affidavit dated September, 1997

¹¹³³ Affidavit dated September, 1997

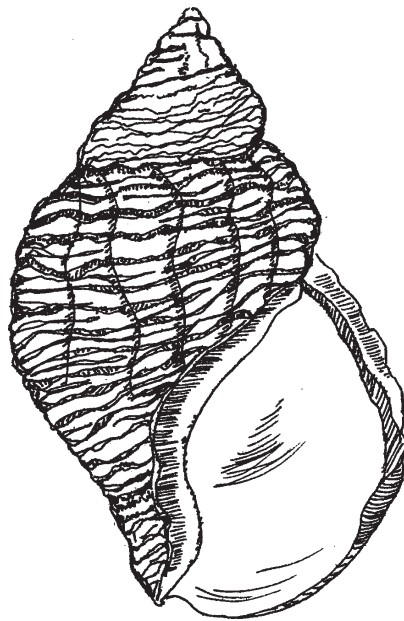
¹¹³⁴ Affidavit dated September, 1997

¹¹³⁵ Affidavit dated September, 1997

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Intelligence networking

Co-ordination committee under the chairmanship of the Conservator of Forests/Chief Wildlife Warden with Deputy Conservator of Forests.



3.34. The Union Territory of Lakshadweep

3.34.1. Introduction

The Wildlife Protection Act, 1972 and Wildlife Protection Central Rules, 1973 have come into force in Lakshadweep from 01.01.1974 vide Gazette dated 01.01.1974¹¹³⁶.

3.34.2. Constitution of Wildlife Advisory Board

In pursuance to the order dated 07.07.1997, it was informed¹¹³⁷ that the Board was constituted vide notification dated 07.08.1997.

3.34.3. Appointment of Wildlife Wardens and Honorary Wildlife Wardens

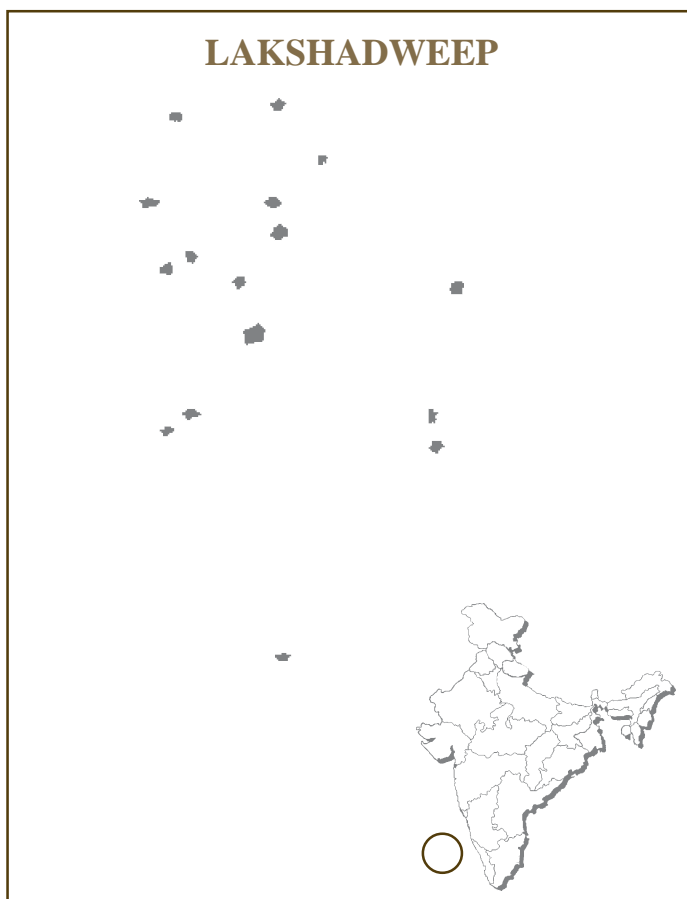
In pursuance to the order dated 07.07.1997 which sought information regarding the appointment of Wildlife Wardens among other things that UT responded¹¹³⁸ that the Chief Wildlife Wardens (CWLW) was appointed under Section 4(1) of the WLPA on 15.10.1985. The Wildlife Wardens were appointed on 30.03.1995.

3.34.4. Settlement of rights including issuance of proclamation notification

In pursuance to the order dated 07.07.1997 regarding settlement of rights in PAs among other things, the UT informed¹¹³⁹ that the Bird Sanctuary at Pitti Island (Bird Island) was notified vide notification dated 01.05.1995. Further, pursuant to the order dated 20.03.1998, a proclamation dated 06.03.1998 has been issued by Collector-Cum-Development Commissioner inviting claims as per provisions of the WLPA 1972 before the Collector with the specified time.

3.34.5. Control over poaching

In pursuance to the order dated 07.07.1997 with regard to illegal poaching the UT responded¹¹⁴⁰ that the provisions of the Act and rules are duly implemented in the entire territory for protection and conservation of wildlife. No case of illegal poaching are noticed.



¹¹³⁶ Affidavit dated September, 1997

¹¹³⁷ Affidavit dated September, 1997

¹¹³⁸ Affidavit dated September, 1997

¹¹³⁹ Affidavit dated September, 1997

¹¹⁴⁰ Affidavit dated September, 1997

CONCLUDING REMARKS

The CEL-WWF India case which for the first time raised the issue of implementation of provisions of WLPA including settlement of rights in Protected Areas which have been pending in most States, among other things, after thirteen years has certainly streamlined the States in thinking about the major issues that beset wildlife conservation. It also brought out the uniqueness in many States which is often ignored when one implements a national legislation in a nation with so much diversity and habitats as India. The pressures of economic development on ecologically sensitive areas such as PAs are becoming even more evident than before. Whether it is diversion of PAs for irrigation projects or laying of pipelines or transmission lines or construction of roads, the Courts have managed to workout schemes to balance the need for conservation in the face of development. Judicial scrutiny, statutory scrutiny and economic disincentives for diverting PAs are some of the methods used as brought out in various cases. Some unique sociopolitical situations which are totally unrelated to wildlife conservation have emerged as the biggest threats to conservation. Insurgency in few north eastern States as well as Central Indian States is one such example.

The various responses by the States apart from establishing the status of core issues such as status of implementation of the Wildlife Protection Act including settlement of rights, immunisation of livestock, control of poaching, registration of arms, issuance of licences also threw up several suggestions by the State themselves for better wildlife management. Clearly, better financial allocations, sound intelligence network, good infrastructure including weapons and communication devices, skill development and overall capacity development were highlighted as definitive steps that needs to be under taken on an urgent basis. State level coordination, as well as interstate coordination especially between line agencies such as police and forest department is another key focus area for improving wildlife conservation.

The perusal in detail of most affidavits as well as Court orders however makes it abundantly clear that the problems and the solutions suggested are still at a superficial level. Very few examples, of good practices, strategy sharing methods, intelligence development, sound ecological criteria for PA management, methods of training, structured skill development, increase in financial outlay with definitive purposes and rationale were discussed. The responses which came after much persuasion reflected more reluctance than proactive stance for combating wildlife and Protected Area issues in the respective States. The fatigue by Court is also evident as the case unfolded into several sub-issues on personnel, staffing, funds and other administrative issues which need not have used up so much of Court's time. The last few years have shown that the Court has become more of a watch dog on the issue of diversion of PA land through a interim arrangement of Court - Standing Committee of NBW visits loop as methodology rather than following a more decentralized and realistic approach for dispute resolution. Further, although the case generated huge amount of information in the last thirteen years there is very little strategy to use them creatively for better wildlife management. It is hoped that this humble effort which at least collates the numerous details and attempts to analyse the trends will be the first step towards a careful strategy both within

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

and outside Court rooms for ultimately saving India's wildlife. The present collation of status of implementation in the National Parks and Sanctuaries would serve as a reliable bench mark to monitor future activities. Several unfinished tasks remain and most importantly the settlement of rights – one of the main stays of the original petition still remains unresolved. The time has come for the Centre as well as the State Governments under the watchful eye of the Supreme Court to come up with concrete solutions to settling people's rights especially in light of the recently enacted Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006 and Rules, 2008. It is time that critical wildlife habitat be carved out of the existing Parks and Sanctuaries and to the extent possible be made inviolate and the remaining be managed with co-existence as a real opportunity to strengthen the conservation regime rather than cause irreversible damage to the last standing Protected Areas of India.

Annexure I

MAJOR INTERVENTION APPLICATIONS

S.No.	I.A. No.	Subject matter of IA	Status
1.	2	Additional reliefs were also laid down by the petitioner relating to the main issue of preservation of wildlife	Court directed the States to complete process of settlement of rights and further directed Member Secretary NBWL to file report vide order dated 14.11.2007.
2.	8	Application for recalling the Court's order dated 17.07.1998	Allowed on 24.02.2003
3.	13	Exemption of the order dated 22.07.1998 relating to issuance of arms to Forest Guards by the State of Manipur due to internal disturbances of law and order	Exemption granted by the Court. Disposed off on 18.07.2006
4.	15	Permission sought by State of U.P. for de reserving forestland in Kaimure Wildlife Sanctuary for constructing Bansagar Irrigation Project	Allowed by the Court on 28.04.2003. However, it persisted to list in the Court till 07.11.2003
5.	17	The State of Arunachal Pradesh sought permission for diversion of 42 ha of forestland falling within Tale Wildlife Sanctuary for constructing Dam in order to generate hydro electricity in Andhra Pradesh	Standing Committee has given its recommendation.
6.	18	NHPC filed this application seeking directions that were put forward by the State of Arunachal Pradesh in I.A. No. 17	This I.A. was clubbed with I.A. No. 17.
7.	19	To implead the applicant society Shri Raghavendra Sewashram Samiti as one of the respondents to the CEL case	Allowed by the Court on 24.02.2003
8.	20	The Shri Raghavendra Sewashram Samiti prays through this application to allow exchange of its land for the land belonging to the Forest Department for construction of hospital	Proposal was rejected by the Standing Committee. However, the Court directed the matter to be again re-considered by the Committee. Pending

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

S.No.	I.A. No.	Subject matter of IA	Status
9.	21	Application for exemption from filing official translations of annexure of I.A. No. 20	Allowed on 24.02.2003
10.	22	To implead ONGC as one of the respondent to the case	Though allowed on 24.02.2003 however stands dismissed by order dated 07.11.2003
11.	23	Diversion of revenue land for drilling operations by ONGC in Desert National Park	Recommendations of Standing Committee were accepted by the Court and the proposal was accepted subjected to fulfillment of conditions. Disposed off by the Court on 07.11.2003
12.	24	State of Goa sought permission to redefine boundaries of the two Wildlife Sanctuary and further implement the recommendations of the Karapurkar Committee Report	The matter was referred to the Standing Committee on 09.05.2002. However, there was no further progress in the said matter. Matter is pending
13.	25	State of Uttaranchal sought permission to dereserve forestland in the Corbett Tiger Reserve for relocating and resettling of villagers	Recommendations given by Standing Committee. Matter is still pending
14.	26	Additional grounds were submitted by the State of Goa for seeking permission for diversion as stated in I.A. No. 24	The application was opposed by CEL on ground that mining activity continued in the Protected Area. State has filed its response. Pending
15.	27	Diversion of forestland in Sunabeda Wildlife Sanctuary for construction of an earthen dam. Proposal rejected by the Committee due to violation of the provisions of FCA.	Response of State Government awaited as on 30.11.2007
16.	28	Application filed by Tukaram R. Prabhu in order to implead him as one of the respondent to the case	Allowed on 24.02.2003
17.	29	Allowing electrification of the area adjacent to the notified Sanctuary in Goa.	Matter placed before Standing Committee on 24.02.2003. Pending
18.	30-32	Uttaranchal Pey Jal Nigam sought permission for laying pipelines and construction of clear water reservoir in the Rajaji National Park.	The matter was referred to CEC who recommended the proposal subjected to certain conditions. Response from the State is awaited
19.	33	State of Maharashtra intends to transfer 46 ha land which forms part of Radhanagiri Wildlife Sanctuary for completion of Dhamini Water Project.	Matter was referred to Standing Committee on 18.07.2006 in order to reconsider the conditions laid down by the State Government. Pending

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

S.No.	I.A. No.	Subject matter of IA	Status
20.	35	Diversion of 145.26 ha of Dalma Wildlife Sanctuary for Subernrekha Multipurpose Project undertaken by the Department of Water Resources, Jharkhand.	Diversion allowed by the Court upon fulfillment of the conditions laid by the Standing Committee. Disposed off on 23.11.2005
21.	36	Diversion of 1658 ha of forestland for regularization of Agri Silvi Plots and diversion of 4073.95 ha of forestland for conversion of 73 forest villages into revenue villages in district Nandurbar in the State of Maharashtra.	The matter when referred to NBWL it was found that the area did not form part of any protected forest. Hence Court directed the matter to be placed before the Forest Bench on 14.11.2007
22.	37	Permission is required in order to construct 132 KV single circuit line from Pithoragarh to Darchula falling within the boundary of Askot Wildlife Sanctuary in Uttaranchal and for cutting and removal of trees evacuated by laying down of such transmission line for evacuation of power from Pithoragarh to Darchula.	Violations were committed by the user agency while executing the proposal recommended by the Standing Committee. The matter was referred again to the Committee for its consideration. Response awaited
23.	38	Application for direction of renewal lease on behalf of Kailashnand Mission Trust	The Court rejected the application on 14.11.2007
24.	39	Application for stay against the information printed in Danik Jagran newspaper dated 05.10.2003 published by office of director Rajaji National Park	The Court rejected the application on 14.11.2007
25.	40	Application for exemption from filing official English translation of annexures of I.A. No. 38	Allowed on 16.11.2004
26.	41	Kailashanand Mission Trust seeks permission of the Court for grant of ex-parte ad-interim stay against the demolition of leased portion	Limited protection was granted to the lease portion. State Government was directed to submit the proposal of renewing lease to the Central Government along with the recommendations of Chief Wildlife Warden. Pending
27.	43	Application to implead the applicant as one of the respondents to the case	Allowed on 16.11.2004
28.	44	To have access to the Samadhi of Tat Wale Baba and to his other property which was sealed by the Forest authorities	Court directed the applicant to make an application to the Chief Wildlife Warden under Section 27 of WLPA. Disposed off on 14.11. 2007
29.	45	Application for exemption from filing the official translation of the annexures	Allowed on 16.11.2004

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

S.No.	I.A. No.	Subject matter of IA	Status
30.	46	Stay order of demolition or damage to the temple Shri. Sureshwari Devi Mandir is situated within territorial limits of Rajaji National Park at Hardiwar and also to permit the applicant to perform regular puja.	The Standing Committee rejected the proposal.
31.	47	Application for exemption from filing official translation	Though allowed on 16.11.2004 but since I.A No. 48 was rejected, this I.A. stands rejected.
32.	48	Application for direction of renewal of 3 leases granted for supply of water by the Kailashanand Mission Trust	Rejected by the Court on 14.11.2007
33.	49	Application for stay in relation to I.A. No. 48	Rejected by the Court on 14.11.2007
34.	50	Application for exemption from filing official translation	Allowed on 16.04.2004
35.	51	Clubbed with I.A. No. 46-47. Details are missing	The Standing Committee rejected the proposal.
36.	52	The application was filed by Wildlife Trust of India for seeking intervention in the matter of resettlement and relocation of Gujjars residing in the Rajaji National park. Application was dismissed due to non appearance of the applicant on 30.08.2004. Court on 30.11.2007 directed CWLW Uttarakhand to file detailed report before the Standing Committee.	Response of NBWL awaited.
37.	53	State of Uttaranchal seeks permission of the Court for transfer of 0.1532 ha reserve forest land situated in Rajaji National Park on lease basis for the purpose of laying pipelines for drinking water for a group of villages situated in district Pauri, Garhwal.	Standing Committee rejected the proposal on 26.07.2005. Pending
38.	54	The State of Maharashtra has sought to take permission to take steps for regularization of lands to the extent of 707.74 ha in Kalsubai Harishchandragad and Great Indian Bustard Wildlife Sanctuaries in Maharashtra in favour of 180 adivasis namely EkSali.	Standing Committee rejected the proposal. MoEF affidavit stated that Chief Wildlife Warden has not submitted its proposal. Thus on 14.11.2007 Court directed the State to submit its proposal and NBWL then to submit its report.
39.	55	Grant of permission to State of Maharashtra to submit proposal to MoEF for approval to de reserving 62.46 ha out of the Tadoba Andhari Tiger Reserve for construction of Bamangaon Minor Irrigation Project.	CEC and Standing Committee rejected the proposal. Matter disposed off on 29.08.2006

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

S.No.	I.A. No.	Subject matter of IA	Status
40.	56	Application for exemption from filing official translation in I.A. No 55	Allowed on 06.12.2004. However stands disposed off in accordance to the main I.A. No. 55
41.	57	The State of Maharashtra requires dereservation of forestland in Mayureshwar Sanctuary for building an irrigation canal for drought affected areas of Baramati, Purandar and Daund Talukas of Pune district.	Report of the Standing Committee awaited. Pending
42.	61	The Department of Atomic Energy sought approval for uranium exploration at Chitrial and Peddagattu in Rajiv Gandhi Tiger Sanctuary	In compliance to the recommendation of Standing Committee Rupees five crore was deposited by the user agency. Hence matter was disposed off on 26.07.2005
43.	62	Application to implead Himachal Consortium Power Projects Ltd. as one of the respondent to the main petition	Allowed on 30.08.2004
44.	63	Permission for setting up the Lambadug Hydro Electric Project which falls within the boundary of Dhauladhar Wildlife Sanctuary in Kangra district of Himachal Pradesh	The project was sanctioned by the Committee. Pending
45.	64	The applicant seeks to restore I.A. No. 52 filed by the applicant which was dismissed because of non appearance by Counsel for the applicant.	Recommendations of the Standing Committee are awaited. Pending
46.	65	The State of Maharashtra seeks permission of the Court to approach the Central Government for getting approval for dereserving part of Pench National Park situated in Nagpur district for constructing earthen dam on Sagar Nala.	This I.A. was modified and another I.A. No. 86 was filed which is been referred to Standing Committee. Pending
47.	66	Application for exemption from filing the official translation of annexures of I.A. No. 65	Allowed on 16.11.2004
48.	67& 76	Construction of irrigation dam undertaken in Bhiumshankar Wildlife Sanctuary despite warning being given under FCA. Matter was referred to CEC. Report of CEC was numbered as I.A. No. 76	Court on 28.03.2007 directed NBWL to file its response within 6 weeks. Proposal of CWLW not submitted as per MoEF affidavit. Response of NBWL awaited as on 14.11.2007
49.	69	Application to implead applicant Mahant Laxman Dass of Mauni Baba Gufa as one of the respondent to the main petition	Allowed on 06.12.2004. However stands dismissed along with main I.A. No. 70

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

S.No.	I.A. No.	Subject matter of IA	Status
50.	70	To grant lease to the Mauni Baba Gufa and Anna Chhetra in Rajaji National Park	On basis of the Standing Committee's report, matter was dismissed on 23.11.2005
51.	71	Application for seeking interim relief in the Mauni Baba Gufa case	On basis of the Standing Committee's report, matter was dismissed on 23.11.2005
52.	72	Application for exemption from filing official translation of the annexure	Allowed on 06.12.2004 however stands dismissed along with I.A. No. 70
53.	73	Uttaranchal Pey Jal Sansadhan Vikas Evam Nirman requires permission for dereserving forestland on lease basis for laying pipeline under the Jakhsaur Group of village water supply scheme within the Bindsar Wildlife Sanctuary in Almora within the Bindsar Wildlife Sanctuary in Almora.	Report of the Standing Committee awaited. Pending
54.	74	Application for seeking permission to dereserve the forestland allotted to the Directorate for rehabilitation of displaced persons from the Tehri Dam Project in the State of Uttaranchal.	The Court permitted the diversion subjected to the fulfillment of the conditions accepted by the State Government Disposed off on 29.08.2006
55.	75	Permission for conversion of 420 forest villages into revenue villages in the State of Chhattisgarh	CEC reports were filed in the Court. NWBL report awaited for regularization of boundaries of NP and WS. Matter to be placed before the forest bench by order dated 14.11.2007
56.	78-79	Agarwal Pigments Pvt. Ltd., in order to manufacture titanium dioxide requires water from the Chambal River by way of laying pipelines within the Ghariyal Sanctuary. Matter referred to NBWL on 23.11.2005. Proposal was rejected. Court granted time to the applicant to file its response to the report of the NBWL n 28.03.2007	Court rejected the application on 06.02.2008
57.	109	Application for seeking modification of order dated 06.02.2008 on the ground that the applicant had filed its affidavit in response.	A detailed application filed by the applicant which is being considered by NBWL as per order dated 17.09.2008
58.	80	Uttaranchal Pey Jal Nigam seeks permission for transfer of reverse forestland for laying drinking water pipelines in Rajaji National Park.	The Court permitted the applicant to withdraw the matter on 14.11.2007. Dismissed.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

S.No.	I.A. No.	Subject matter of IA	Status
59.	81	Application was filed by the disciple of Tat Wala Baba, Swami Mahavir Das Ji Maharaj seeking permission for having access to the Samadhi of Tat Wala Baba to perform puja on the occasion of Nirwana Diwas.	Court directed concerned authority (Chief Wildlife Warden) to consider the matter. Disposed off on 14.11.2007
60.	82	The State of Jharkhand through this application seeks urgent directions for I.A. No.35 which relates to implementation and execution of Subernarekha Multipurpose Project	Diversions permitted by the Court. Disposed off on 23.11.2005
61.	83	Impleadment application filed by the applicant Himmat Singh resident of Tanda Forest Block in Uttaranchal.	Allowed on 23.11.2005
62.	84	Application for modification of the order dated 13.11.200 in order to denotify forest area in Tanda forest block of Terai Central Forest Division in Uttaranchal. Matter was referred to CEC. However, CEC report stated that the allotment needs to be considered by FAC.	Court directed the matter to be placed before FAC on 14.11.2007. Response awaited as on 06.02.2008
63.	85	Application for exemption from filing the official translation of the annexures of I.A. No. 84	Amendment allowed on 23.11.2005.
64.	86	Amendment of I.A. No. 65 filed by State of Maharashtra.	Amendment allowed. Matter was disposed off on 29.08.2006
65.	87 & 88	The State of Haryana has sought permission of the Court for denotifying two Wildlife Sanctuaries namely Saraswati Wildlife Sanctuary and Bir Bara Ban Jind Wildlife Sanctuary.	Matter is referred to the Standing Committee. Pending
66.	89	This application is regarding diversion of forest land for Indira Sagar (Polavaram Project) across Godavari River in Papikonda Wildlife Sanctuary.	Court directed the matter to be placed before the Forest Bench on 14.11.2007 (in I.A. No 1572-78)
67.	90	State of Uttaranchal seeks permission for construction of Naitwad Sewa Motor Road for connecting the Dadra- Kwar villages of Himachal Pradesh which requires dereservation of forestland situated in Govind Vihar Wildlife Sanctuary.	The Court rejected the proposal vide order dated 14.11.2007. Dismissed.
68.	91	Uttaranchal Jal Vidyut Nigam Ltd. has sought permission by transferring land falling under the Askot Wildlife Sanctuary on lease basis for a period of 35yrs in order to construct Power House.	Recommendations of NBWL awaited as on 30.11.2007.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

S.No.	I.A. No.	Subject matter of IA	Status
69.	92	Permission was sought by the State of Madhya Pradesh for relocation of 64 villages from the National Parks and 86 villages from the Wildlife Sanctuaries.	National Board of Wildlife has already given some opinion and report to be submitted with an affidavit within eight weeks as on 08.04.2008
70.	93	The State of Andhra Pradesh sought permission to exchange 2.23 ha of land belonging to HEH Nizam falling in 17 different locations in the conservation zone of Kasu- Brahmananda Reddy National Park at Hyderabad with equal consolidation land toward north- west corner of the park.	Notice is been issued to Union of India on 29.08.2006.
71.	94	The State of Haryana sought permission during the pendency of the State Government's earlier application (I.A. No. 87) to dereserve 4.9 acres of land in the Saraswati Sanctuary required for the purposes of completing an irrigation project called the BML-Hansi Branch Butana Branch Multipurpose Link Channel	The Court considering the approval given by the Standing Committee, permitted dereservation of the said area on 18.07.2007. Disposed off.
72.	95	Removal of encroachment and all non essential structures and activities from the Chilla Power Project Colony as also compliance of the stipulated conditions On 30.11.2007 Court directed the State to file report explaining steps that have been taken to remove unauthorized commercial establishments within NP. NBWL ordered to investigate and submit its report	Report of both State and NBWL awaited.
73.	96-97 & 102	Dereservation of forestland in Askot Musk Deer Sanctuary required for execution of the Dhauliganga Intermediate Hydroelectric Project and Goriganga Stage IIIA Hydroelectric project by the National Hydroelectric Power Corporation Ltd.	State's response awaited on the recommendations of NBWL. Pending
74.	99	Application for direction inter-alia permitting the applicant to have access to the Samadhi of Tat Wale Baba from 30.11.2006 to 02.12.2006	Court directed concerned authority (Chief Wildlife Warden) to consider the matter. Disposed off on 14.11.2007
75.	100	Implementation of project for translocation of some of the Asiatic Lions found in the Gir National Park to Kuno Wildlife Sanctuary in Madhya Pradesh. State of Gujarat in its counter affidavit opposes the rehabilitation project. State of M.P. filed its affidavit and supports translocation. Matter referred to NBWL for considering the affidavit of State of MP and Gujarat.	Referred to NBWL for its recommendations as on 06.02.2008

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

S.No.	I.A. No.	Subject matter of IA	Status
76.	101	Uttaranchal Pey Jal Sansadhan Vikas Evam Nirman Nigam, Rudraprayag requires transfer of 0.604 ha of forest land in Kedarnath Sanctuary for the purpose of laying 50 and 40 mm diameter pipeline for drinking water purposes	The Court directed the applicant to furnish all the details to the National Board for Wildlife so as to look into the same and pass necessary orders. Application disposed off on 11.03.2008
77.	103	Transfer of forest land in Thane and Raigad districts for regularization of Eksali plots and Dali plots by State of Maharashtra	Response of NBWL awaited. Transferred to the Forest Bench by order dated 11.03.2008
78.	104-105	State of Maharashtra seeks transfer of forest land for submergence and construction of dam in Radhanagari Wildlife Sanctuary in Kolhapur	The Court directed the State of Maharashtra to submit a revised proposal in the prescribed format before the National Board for Wildlife for its consideration by order dated 17.09.2008
79.	106	Permission to exclude revenue/ protected forest land within Panna National Park by the State of Madhya Pradesh pursuant to the order passed by the Collector (regarding resettlement of rights) and for further for issuing final notification after exclusion of the said land	Court on 14.11.2007 issued notice and referred the matter to NBWL. By order dated 11.03.2008 six weeks time was granted to NBWL to furnish its recommendations. Response awaited.
80.	107	Dereservation of 750 ha of land for the proposed Bokang Bailling Hydroelectric Project on the river Dhauliganage within the Askot Wildlife Sanctuary in Uttarakhand by Tehri Hydro Development Corporation.	Notice issued on 14.11.2007. Response of NBWL awaited. Court on 11.03.2008 ordered the I.A. to be listed before forest bench as the issue of demarcation of WS pending before CEC
81.	108	Application for passing order similar to order dated 14.11.2007 in I.A. No. 43-45, 81 and 99 with respect to caves in Rajaji National Park collectively known as Bhoothnath Gufa. This application came to be filed under an apprehension that the Government authorities may demolish the temple in compliance to the orders of the Honorable Court to remove encroachments from the National Park.	By the order dated 11.03.2008, the Court disposed off the application.
82.	110-112	Bharat Sanchar Nigam Ltd. Has sought permission to pay optic fiber cable along an existing road in Gandisagar National Park.	Standing Committee of NBWL approved the project subject to existing directives of SC and clearance under FCA Application disposed off on 30.04.2008.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

S.No.	I.A. No.	Subject matter of IA	Status
83.	113, 114 & 115	Department of Atomic Energy, Atomic Minerals Directorate for Exploration and Research for modification of dereservation order of the Court in order to undertake uranium exploration at Chitrial in Rajiv Gandhi Wildlife Sanctuary	Notice has been issued as per order dated 17.09.2008

Annexure II

COURT ORDERS IN CEL-WWF INDIA CASE

WP (C) No. 337/95	Order date 10.05.1995	Page No 1
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Adjourned.

WP (C) No. 337/95	Order date 25.08.1995	Page No 2
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Issue rule nisi.

I.A. No. 2	Order date 24.02.1997	Page No 3
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Issue notice.

Notice may be served on the counsel of various State Governments and the counsel for the Union of India returnable in four weeks.

I.A. No. 2	Order date 25.03.1997	Page No 4
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The learned counsel appearing for the Union of India and the States State that they have not been supplied the full set of papers. The Registry is directed to provide the set of papers to the counsel who had entered appearance on behalf of the Union of India and one respective States. As regards the application for directions that has been submitted by the petitioner, the respondent No. 1 is directed to take steps to call a meeting of the Indian Board of Wildlife and submit a report about the progress that has been made in this regard within a period of one month. The respondents-States are directed to inform the Court what steps they have taken with regard to the constitution of the Wildlife Advisory Boards and appointment of Wildlife Warden. An affidavit in this regard shall be submitted by the respective States within a period of one month. It has to be ensured that while appointing Wildlife Wardens persons having an idea about the protection of wildlife alone are appointed.
List after six weeks.

I.A. No. 2	Order date 07.07.1997	Page No 6
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In pursuance of the directions contained in the order dated 25.03.1997, affidavits have been filed on behalf of the Union of India and the States on Madhya Pradesh, Punjab, Arunachal Pradesh, Tripura, Maharashtra, Tamil Nadu and Haryana. From the Affidavit that has been filed on behalf of the Union of India, we find that by Resolution dated 24.12.1996 the Board for Wildlife was reconstituted and the meeting of the said Board was held on 13.03.1997. The agenda of the said meeting has been filed as annexure with the said affidavit but the decisions taken on the items of agenda have not been indicated. Shri Malhotra, the learned senior counsel appearing for the

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Union of India, prays for four weeks time to place on record the decisions that have been taken at the said meeting of the Board. The learned counsel also states that within four weeks an affidavit will be filed indicating the steps that have been taken by the Union of India for the Implementation of the provisions of the Wildlife Protection Act by the various State Governments. Time prayed for is allowed.

From the affidavits filed on behalf of some of the State Governments, we find that in some of the States Wildlife Advisory Boards have yet not been constituted by the concerned State Governments. The States in which the said Boards have not been constituted should file an affidavit within four weeks to indicate the steps that have been taken in this regard and explain the delay in the constitution of the Boards. Four weeks further time is granted to the States that have not yet filed affidavits in pursuance of the order dated 25.03.1997 failing which contempt proceedings will have to be initiated against them. In the said affidavit, the concerned State Government will indicate the steps that they have taken in pursuance of the provisions contained in the Wildlife Protection Act. They will also indicate the particulars of the Sanctuary/ National Park as well as the notification that has been issued in respect of that Sanctuary / National Park.

I.A. No. 2	Order date 11.08.1997	Page No 9
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List the matter on 22.08.1997

I.A. No. 2	Order date 22.08.1997	Page No 10
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In the order 07.07.1997 it was observed that some of the States had not filed affidavits in pursuance of the order dated 25.03.1997. By the said order four weeks time was granted to the concerned States to file the affidavits and it was also indicated that in the event of failure to do so, contempt proceedings will have to be initiated against them. So far affidavits have not been filed on behalf of the States of Assam, Andhra Pradesh, Bihar, Goa, Jammu and Kashmir, Kerala, Manipur and Nagaland and the Union Territory of Andaman and Nicobar Islands. The learned counsel appearing for the State of Assam states that he will be filing the affidavit during the course of the day. He is permitted to do so. Since affidavits have not been filed on behalf of the other States referred to above, it is directed that contempt notices be issued to the respective Chief Secretaries of the concerned States/Union Territory. Their personal presence is not necessary for the present.

A perusal of the affidavits that have been filed on behalf of the States and the Union Territories shows that in some of the States Wildlife Advisory Boards have either not been constituted or were constituted earlier and after the expiry of the term of the Board, that was constituted, there has been no reconstitution of the Board. In the States in which Wildlife Advisory Board had earlier been constituted but the term has expired and the Board has not been reconstituted, necessary steps should be taken to constitute / reconstitute the Wildlife Advisory Board within a period of two months.

As regards the appointment of Wildlife Wardens, we find that in some States Wildlife Wardens have not been appointed at all while in some States Wildlife Wardens have been appointed for some areas but have not been appointed for other areas. It is directed that the concerned State / Union Territory shall take the necessary steps to appoint Wildlife Wardens for all the areas within a period of two months.

Even though notifications in respect of Sanctuaries / National Parks have been issued under Section 18 / 35 in all States / Union Territories, further proceedings as required under the Act i.e. issue of proclamation under Section 21 and other steps is contemplated by the Act have not been taken. The concerned State Governments/Union Territories are directed to issue the proclamation under Section 21 in respect of the Sanctuaries / National Parks

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

within two months and complete the process of determination of rights and acquisition of land or rights as contemplated by the Act within a period of one year.

As regards denotification of nay area which is included in a Sanctuary / National Park, it is directed that before placing the proposal before the Legislative Assembly the concerned State Governments shall refer the proposal to

the Indian Board for Wildlife for its opinion and the proposal shall be placed for consideration before the Legislative Assembly along with the opinion of the Indian Board for Wildlife.

In order to effectively control the growing increases of poaching in the Sanctuaries / National Parks the Central Government as well as the Governments of the States/Union Territories are directed to ensure that the Forest guards in the Sanctuaries / National Parks are provided modern arms, communication facilities, viz. wireless sets and other necessary equipments in that regard. Necessary steps for that purpose shall be taken within six months.

I.A. No. 2	Order date 17.10.1997	Page No 14
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From the records it is very difficult to find out what steps have been taken by each State/Union Territory in compliance within the directions given by this Court. The learned counsel for the States/Union Territories are directed to file a short statement about the steps that have been taken by the concerned State/Union Territory in pursuance of the directions and also give reference to the relevant paragraph in the affidavit and the page on the record. The learned counsel for the States/Union Territories will be permitted inspection of the Record.

I.A. No. 2	Order date 07.11.1997	Page No 16
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Regarding Constitution of Wildlife Advisory Board

From the affidavits filed on behalf of the various States the following position emerges:-

Goa: The Wildlife Advisory Board has not yet been constituted in the State of Goa. Ms. Subhahini states that necessary action in this regard is under consideration and the order shall be passed within a period of two weeks.

Gujarat: In the State of Gujarat although the Wildlife Advisory Board was constituted in 1994, non official members have not been appointed as yet. The learned counsel for the State prays for four weeks' time to appoint the non official members of the Board.

Haryana: The affidavit filed on behalf of the State of Haryana does not indicate whether the Wildlife Advisory Board has been constituted for the State. The learned counsel for the State prays for one weeks' time to file an affidavit indicating the steps that have been taken by the State to constitute the Wildlife Advisory Board and States that if it has not been constituted as yet, the same shall be constituted within a period of four weeks.

Karnataka: In the affidavit filed on behalf of the State of Karnataka it is stated that Wildlife Advisory Board has been constituted but the date of the constitution of the Board has not been mentioned. The learned counsel for the State prays for one week's time to file an affidavit indicating the date on which the Wildlife Advisory Board was constituted.

The time as prayed for is granted and it is directed that the States concerned shall take the necessary steps to ensure that the directions of this Court regarding constitution of the Wildlife Advisory Board in the States are complied with.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Appointment of Honorary Life (sic) Wildlife Wardens

As regards the appointment of Honorary Life Warden, we find from the affidavits filed on behalf of the various States that necessary information has not been given in the affidavits filed on behalf of the States of Arunachal Pradesh, Bihar, Gujarat, Haryana, Himachal Pradesh, Manipur, Meghalaya, Mizoram, and Delhi. The learned counsel appearing for the said States pray for four weeks time to file an affidavit giving the necessary information in that regard. Time prayed for is allowed. If the Honorary Life (sic) Wildlife Wardens have not been appointed in any of the State, the State Government concerned shall take necessary steps to appoint the Honorary Life (sic) Wildlife Warden within the said period.

The learned counsel appearing for the State of Maharashtra States that by Notification dated 16.10.1997 appointment of Honorary Life (sic) Wildlife Warden has been made and he will file an affidavit within two weeks in this behalf. Time prayed for is allowed.

The learned counsel appearing for the State of Orissa states that steps are being taken to appoint Honorary Life (sic) Wildlife Wardens and such appointment would be made within two weeks. He is directed to file an affidavit in that regard within three weeks.

From the affidavit filed on behalf of the State of U.P. it appears that even though there is larger number of districts only one Honorary Life (sic) Wildlife Warden has been appointed as yet. The learned counsel states that the process for appointment of Honorary Life (sic) Wildlife Warden for other districts is going on and such appointment shall be made within four weeks and an affidavit about such appointment shall be filed within five weeks.

As regards issuance of proclamation under Section 21 of this Act we find from the affidavits filed on behalf of the States that in event of the States such proclamation has not been issued in respect of the National Parks and Sanctuaries. The States Governments are directed to take the necessary steps in that regard. The same shall be done within two months failing which contempt proceedings will have to be initiated against the concerned State.

I.A. No. 2	Order date 16.01.1998	Page No 23
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Regarding Constitution of Wildlife Advisory Boards

From the affidavits that have been filed after the passing of the order dated 07.11.1997, it appears that the Boards have been constituted in all the States / Union Territories.

Regarding appointment of Honorary Wildlife Warden

Affidavit have been filed by the concerned States which show that except the National Capital Territory of Delhi, Honorary Wildlife Wardens have been appointed in the other States/Union Territories. The learned counsel appearing for the Delhi State states that the process for appointment is going on and the order for appointment would be issued within four weeks.

In our order dated 07.11.1997 we had noticed that only one Honorary Wildlife Warden had been appointed in the State of Uttar Pradesh even though there is large number of districts. The learned counsel for the State had stated that the process for appointment of Honorary Wildlife Warden for the districts was going on and that such appointment shall be made within four weeks. Shri R.C. Verma the learned counsel for the State states that it has not been possible to make the appointments on account of the impending general election and the model code of conduct. He prays for six weeks further time for making the appointment. We are not satisfied that this is a proper justification for not taking action in the matter of appointment of the Honorary Wildlife Wardens. We, however, give four weeks time to the State Government to make such appointments.

Regarding issuance of proclamations under Section 21 of the Act

We find that the requisite steps for issuance of such proclamations have not been taken in large number of States.

Andhra Pradesh In Andhra Pradesh there are four National Parks but no proclamation has been issued in respect of any of them. There are 20 Sanctuaries. In the affidavit filed on behalf of the State it is admitted that proclamation has not been issued in respect of 7 Sanctuaries. As regards 5 Sanctuaries no information has been given as to whether proclamation has been issued or not.

Arunachal Pradesh. In the State of Arunachal Pradesh out of 10 Sanctuaries final notification has been issued in respect of 8 Sanctuaries. But not information has been given as to whether proclamation has been issued in respect of the remaining 2 Sanctuaries.

Gujarat There are 4 National Parks and 21 Sanctuaries in the State of Gujarat. In the affidavits that have been filed on behalf of the State all that is stated is that initial notifications have been issued but the nature of the notification has not been disclosed. It is not clear as to whether the proclamations under Section 21 have been issued or not in respect of the National Parks and the Sanctuaries.

Haryana In the State of Haryana there are 9 Sanctuaries. Final notification has been issued in respect of one Sanctuary. It is stated that Proclamation is not required to be issued in respect of 4 Sanctuaries which are situated in reserve forest. No information has been given regarding issuance of proclamation for the remaining Sanctuaries.

Karnataka In the State of Karnataka there are 5 National Parks and 19 Sanctuaries but in the affidavits that have been filed on behalf of the State no information has been furnished with regard to issuance of proclamation under Section 21 or the issuance of the final notification.

Manipur In the State of Manipur there are 2 National Parks and 3 Sanctuaries. Final notification has been issued in respect of one National Park. There is no information as to whether a proclamation has been issued or not with respect to the other National Park. Proclamation has not been issued in respect of the 3 Sanctuaries.

Nagaland There is 1 National Park and 2 Sanctuaries. In the affidavit filed on behalf of the State no information has been given as regards the issuance of a proclamation or the final notification in respect of the same.

Rajasthan There are 2 National Parks and 25 Sanctuaries. Proclamation has been not issued in respect of 12 Sanctuaries.

Tamil Nadu There are 5 National Parks and 17 Sanctuaries. Proclamation has not been issued in respect of any of them.

Tripura There are 4 Sanctuaries in the State of Tripura. Proclamation has not been issued in respect of any of them.

Uttar Pradesh There are 7 National Parks and 29 Sanctuaries in the State. Final notification has been issued in respect of 6 National Parks. Proclamation has not been issued in respect of one National Park. Proclamation has not been issued in respect of any of 29 Sanctuaries.

West Bengal There are 5 National Parks and 15 Sanctuaries. Final notification has been issued in respect of 3 National Parks. Proclamation has not been issued for two National Parks as they are forest land. 13 out of 15

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Sanctuaries are on the forest land for which no proclamation is required. No information has been given as to whether the 2 Sanctuaries are on the forest land and if not whether proclamation has been issued or not.

Andaman and Nicobar There are 9 National Parks and 95 Sanctuaries. Final notification has been issued in respect of 7 National Parks. Proceeding has been pending in respect of the remaining two as marine National Parks. Proclamation has not been issued in respect of 4 Sanctuaries.

Chandigarh. There are 2 Sanctuaries. Proclamation has not been issued in respect of one Sanctuary. Ms. Kamini Jaiswal, the learned counsel appearing for the Administration of the Union Territory of Chandigarh states that proclamation has not been issued in respect of the said Sanctuary for the reason that it lies within the reserve forest and proclamation is not required to be issued.

Goa There is one National Park and 4 Sanctuaries. From the affidavits filed on behalf of the State it is not clear as to whether proclamation under Section 21 has been issued in respect of the National Park. Proclamation under Section 21 has been issued in respect of 2 Sanctuaries but it has not been issued for the remaining 2 Sanctuaries. It is not clear as to whether proclamation is required in respect of those Sanctuaries or not.

Delhi. There is 1 Sanctuary but proclamation has not been issued.

Lakshadweep There is 1 Sanctuary but proclamation has not been issued.

Daman and Diu In the Union Territory of Daman and Diu there is 1 Sanctuary but proclamation has not been issued.

It would thus appear that in the States/Union Territories referred to above proclamations under Section 21 have not been issued in respect of several National Parks and Sanctuaries. By our order dated 22.08.1997 we had directed the concerned State Governments/Union Territory Administration to issue the proclamation under Section 21 in respect of the Sanctuaries/National Parks within two months and complete the process of determination of rights and acquisition of land or rights as contemplated under the Act within a period of one year.

By our order dated 07.11.1997 further time of two months was granted to take step in that regard. It is a matter of regret that in spite of the aforesaid directions of this Court the State Governments and the Administration of the Union Territories referred to above have not taken the necessary steps for issuing the proclamation under Section 21 in respect of the National Parks / Sanctuaries. Although, we had directed that in the event of failure to comply with the said directions, contempt proceedings will have to be initiated against the concerned State Government / Union Territory Administration, we are giving a last opportunity to the concerned State Governments/Union Territory Administration to take steps to issue the requisite proclamation under Section 21 of the Act in respect of the National Parks/ Sanctuaries for which such proclamations is required to be issued under the Act within a period of six weeks. It is, however, made clear that in the event of failure to comply with this direction contempt proceedings will be initiated against the person/persons responsible. The concerned States/Union Territories shall file affidavits regarding compliance by 16.03.1998.

By our order dated 22.08.1997 we had directed that contempt notices be issued to the respective Chief Secretaries of the concerned States/Union Territories who have not filed the affidavit as directed by this Court. Shri B.B. Singh, the learned counsel appearing for the State of Bihar has filed the affidavit explaining the position. Keeping in view the aforesaid affidavit, the contempt proceedings initiated against the Chief Secretary of the State of Bihar are

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

dropped and the contempt notice is discharged. The contempt proceedings are also dropped against the Chief Secretary of the State of Manipur and the contempt notice is discharged.

I.A. No. 2	Order date 20.03.1998	Page No 31
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The affidavits that have been filed in pursuance of the directions given under the order dated 16.01.1998 indicate that compliance with regard to the said direction in respect of issuance of proclamation under Section 21 of the Wildlife (Protection) Act, 1972 has been made by the States / Union Territories of Andhra Pradesh, Arunachal Pradesh, Gujarat, Haryana, Rajasthan, Tripura, Uttar Pradesh, West Bengal, Andaman and Nicobar, Chandigarh, Delhi and Daman and Diu.

Karnataka As regards the State of Karnataka, an affidavit has been filed which shows that the Forest Settlement Officers have been appointed and 10 weeks time is sought for issuing the proclamation. Time prayed for is allowed.

Manipur Proclamation has been issued in respect of 3 Sanctuaries and out of the 2 National Parks proclamation has been issued in respect of the National Park and as regards the Siroy National Park it has been stated that the matter could not be taken up due to a Court case pending with the Honorable Gauhati High Court in Civil Rule 209/91. From the affidavit it is not clear as to whether any interim order has been passed by the High Court prohibiting the State from issuing the said proclamation. A better affidavit should be filed indicating the correct position in this regard within eight weeks.

Nagaland No affidavit has been filed on behalf of the State of Nagaland in pursuance of the direction given by this Court under the order dated 16.01.1998. In the circumstances, it is directed that notices be issued to the Chief Secretary to the Government of Nagaland to show cause as to why contempt proceedings should not be initiated against him for non compliance of the direction given by this Court. His personal presence is not required.

Tamil Nadu In the State of Tamil Nadu out of 5 National Parks 4 are in the Reserved Forest Area for which no proclamation is required and proclamation has been issued in respect of one National Park. There are 17 Sanctuaries out of which 6 are in Reserved Forest Area, proclamation has been issued in respect of 6 Sanctuaries. The learned counsel prays for eight weeks time to issue proclamation in respect of the remaining Sanctuaries.

Time prayed for is allowed.

As regards appointment of Honorary Wildlife Wardens it is stated that they the appointments have been made in Delhi as well as in the State of U.P.

Contempt notices issued in pursuance of the directions contained in the order dated 22.08.1997 to the respective Chief Secretaries of the concerned States/Union Territories are discharged.

Under Section 33(A) of the Wildlife Protection Act there is a mandatory requirement that all wildlife in and around the National Park/Sanctuary should be immunized and Section 34 of the said Act makes it mandatory that all firearms within the National Park/Sanctuary and within ten km from the boundary of the Sanctuary should be registered. The said provision also prohibits issue of any fresh arms licences within a radius of ten km of a Sanctuary without the prior concurrence of the Chief Wildlife Warden. The State Government/Union Territory Administration is directed to file affidavits indicating that steps have been taken with regard to the compliance with the aforesaid provisions contained in the Wildlife (Protection) Act. Such affidavits should be filed within eight weeks. In the said

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

affidavit the State Government/Union Territory Administration should also indicate the steps that have been taken to prohibit the activities in a National Park / Sanctuary which are prohibited under the provisions of the Wildlife (Protection) Act.

WP (C) No. 337 / 95	Order date 17.07.1998	Page No 36
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Regarding issuance of proclamation

Karnataka By our order dated 20.03.1998 10 weeks time was granted to the State of Karnataka to issue the necessary proclamation. Nobody appears for the said State to indicate as to what steps have been taken nor has any affidavit been filed. In the circumstances notice for initiating contempt proceedings is issued to the Chief Secretary to the State of Karnataka. Personal presence is dispensed with at this stage.

Manipur An affidavit of G.K. Prasad, Principal Chief Conservator of Forests has been filed today in Court wherein it is stated that Civil Rule 209/91 which was pending before the Gauhati High Court has now been withdrawn and proclamation under Section 21 of the Wildlife (Protection) Act, 1972 (for short 'the Act') has been issued in respect of Siroy National Park.

Nagaland On behalf of the State of Nagaland an affidavit has been filed wherein it is stated that the requisite three proclamations have been issued on 13-14.05.1998 in respect of one National Park and two Sanctuaries.

Tamil Nadu Shri Mariarputham, the learned counsel appearing for the State of Tamil Nadu states that out of five Sanctuaries for which proclamation was required to be issued proclamation has been issued in respect of two Sanctuaries namely, (i) Vettangudi Birds Sanctuary and (ii) Vellode Birds Sanctuary and that proclamations have yet to be issued in respect of remaining three Sanctuaries namely (i) Karikili Birds Sanctuary (ii) Pulicat Birds Sanctuary and (iii) Udayamarthandapuram Birds Sanctuary. The learned counsel prays for four weeks time to issue the proclamations in respect of the remaining three Sanctuaries. Four weeks time is granted for that purpose.

Compliance with the provisions of Sections 33-A and 34 of the Wildlife (Protection) Act, 1972

In addition to the 17 States on whose behalf affidavits have been filed, as indicated in the Office Report dated 15.07.1998, affidavits have been filed on behalf of the States of Kerala, Manipur and Tamil Nadu. As regards the Union Territory of Pondicherry it is stated that since there is no National Park/Sanctuary in the said Territory no steps were required to be taken under Sections 33-A and 34 of the Act, and therefore, no affidavit has been filed. Affidavits have not been filed on behalf of the States of Assam, Bihar, Gujarat, Himachal Pradesh, Jammu and Kashmir, Karnataka, Rajasthan and the Union Territories of Lakshadweep and Dadra and Nagar Haveli. Six weeks further time as a last opportunity is granted to all these States/Union Territories Administration to file the necessary affidavits in accordance with the directions contained in the order dated 21.03.1998 failing which contempt proceedings will have to be initiated against the person/persons responsible.

We have perused the affidavits that have been filed by various State Governments/ Union Territories Administration. As regards compliance with the requirement of Section 33-A regarding the immunization of livestock, we find that no concrete steps have been taken in most of the States/Union Territories. What is required is that the immediate vicinity of each National Park/Sanctuary there should be veterinary centre of the Animal Husbandry Department which should undertake the immunization of livestock that are being taken into the National Park/Sanctuary for the Purpose of grazing etc. The States/Union Territories are, therefore, directed to take concrete steps for the establishment of such centres in the immediate vicinity of the National Park/Sanctuary within their territory within a period of two months so that the requirement of immunization in accordance with the requirements of Section 33-A can be fulfilled.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

As regards registration of persons in possession of arms as required under Section 34 of the Act, it appears that no concrete steps have been taken regarding registration of persons possessing arms. Except the State of Madhya Pradesh, the rules are still to have been framed. The affidavits filed on behalf of the other States/Union territories do not indicate that rules as contemplated by Section 34 have been framed. In order to complete the process of registration as required under Section 34, it is necessary that the rules are framed by the respective State Governments/Union Territories Administration. It is, therefore, directed that all the States Governments / Union Territories Administration shall frame the necessary rules for the purpose of registration of person in possession of arms within a period of two months and the possess of registration should be completed within four months thereafter.

All the State Governments / Union Territories Administration should file their affidavits indicating compliance with the aforesaid directions about the setting of veterinary centres and framing of rules. The said affidavits should be filed within ten weeks.

In our order dated 22.08.1997 it was directed that the concerned State Government / Union Territories Administration would complete the process of determination of rights and acquisition or rights as contemplated by the Act within a period of one year. In the affidavits that are to be filed in pursuance of the above mentioned direction of this Court the respective State Government / Union Territory Administration shall also indicate the present position with regard to the compliance with the aforesaid direction given by this Court. By order dated 22.08.1997 it was directed that in order to effectively control the growing menace of poaching in the Sanctuaries / National Parks the Central Government as well as the State Governments / Union Territory Administration should ensure that the Forest Guards in Sanctuaries / National Parks are provided modern arms, communication facilities viz., wireless sets and other necessary equipment in that regard within six months. The Central Government as well as the State Governments / Union Territories Administration are directed to file affidavits indicating the steps taken by them in compliance with the aforesaid direction. The said affidavit shall be filed within four weeks.

Suo Moto Contempt Petition No. 241/98

The Chief Secretary to the Government of Nagaland is present in Court. We have perused the affidavit filed by the Chief Secretary to the Government of Nagaland in pursuance of the contempt notice which was issued under the order dated 20.03.1998. In view of the explanation offered in the said affidavit the contempt notice is discharged and the contempt proceedings are dropped.

I.A. No. 2	Order date 09.10.1998	Page No 42
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A last opportunity is given to the Union of India and the States which have not filed an affidavit as yet, to file such affidavit within four weeks. A copy to be supplied to the learned advocate for the petitioner. The matter shall be listed on a non miscellaneous day before an appropriate Bench (Not necessarily this Bench) after six weeks.

I.A. No. 2	Order date 09.02.1999	Page No 48
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Learned counsel appearing for Union of India prays for and is granted four weeks time to file the counter. List aster four weeks before a Bench presided over by Honorable S.P. Bharucha J.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. No. 2	Order date 16.03.1999	Page No 50
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Mr. P.P. Malhotra states that he shall an affidavit by 17th instant. Adjourned for two weeks.

I.A. No. 2	Order date 31.03.1999	
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On an earlier occasion too we have pointed out to the counsel for the Union of India that the Wildlife Protection Act, 1972, was Union Legislation. It was therefore imperative for the Central Government to establish a mechanism by which the Act could be effectively enforced. The affidavit dated 16.03.1999, filed on behalf of the Union of India, among other things, states that the funds which are released by the Central Government are not utilized in time by the State Governments and that the funds do not reach the field agencies expeditiously. If there is a Central legislation, we think that it for the Centre to implement it. It cannot be that such legislations have to be implemented only by recourse to Article 32 before this Court. We now expect on the next occasion to hear that some scheme has to be evolved by the Central Government in this behalf. Adjourned for eight weeks.

I.A. No. 2	Order date 20.07.1999	Page No 54
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In pursuance of our order dated 31.03.1999, an affidavit has been filed by Mr. Surendra Kumar, Regional Deputy Director in the Ministry of Environment and Forests, Government of India on 09.07.1999. That affidavit is completely unsatisfactory and the learned Additional Solicitor General is right in so stating. He is also right in stating that the matter requires to be liked at a much higher level.

Adjourned for four weeks. On the next occasion, given the importance of the matter and the attitude thus far displayed by the Union of India, we would request the Attorney General to appear.

I.A. No. 11 is dismissed.

I.A. No. 2	Order date 17.08.1999	Page No 61
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Not to be placed before a Bench of which Honorable Mr. Justice S.N. Variava is a Member.

I.A. No. 2	Order date 03.02.2000	Page No 58
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We have heard Mr. Panjwani, learned Attorney General and learned Solicitor General. The matter is adjourned for eight weeks for further steps to be taken.

On the application of Mr. Panjwani, I.A. No. 2 is dismissed as withdrawn to enable him to take other appropriate steps in the High Court.

I.A. No. 2	Order date 22.03.2000	Page No 62
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List next week.

I.A. No. 2	Order date 31.08.2000	Page No 63
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The learned Solicitor General states that much progress has been made pursuant to discussions with the Chief Secretaries of the various States. An affidavit in this regard shall be filed by the Union of India by 01.04.2000. The States shall respond thereto within four weeks.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

List after six weeks.

I.A. No. 2	Order date 13.11.2000	Page No 64
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Four weeks for filing of affidavits by the States that has not already done so. List after five weeks. Pending further orders, no dereservation of forests/Sanctuaries/National Parks shall be effected.

I.A. No. 14	Order date 29.01.2001	Page No 64-C
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List the I.A. along with the main matter.

I.A. No. 2 with I.A. Nos.8 & 14	Order date 31.01.2001	Page No 65
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On 13.11.2000, we gave four weeks time to the States to respond to the affidavit filed by the Union of India on 26.08.2000. Thus far only the States of M.P., Orissa, U.P., Sikkim and Punjab have done so. Four further weeks are given, as a last opportunity, for the other States to file responses. It is made clear that even if the States have nothing to say, they shall so State on affidavit.

A copy of this order shall be sent to the Chief Secretaries of each of the defaulting States.

It is made clear that failure to comply with the order shall be viewed very seriously by this Court.

The responses on affidavits by the States shall be served by them on Mr. A.D.N. Rao, Adv. on behalf of the Union of India and on the petitioner.

List after five weeks.

I.A. No. 14	Order date 31.01.2001	Page No 65-B
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Issue notice.

I.A. No.2 with I.A. Nos. 8 & 14	Order date 21.03.2001	Page No 66
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List on 28.03.2001.

I.A. No.2 with I.A. Nos. 8 & 14	Order date 28.03.2001	Page No 67
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It is for this Court to decide whose opinion it requires. By the order dated 22.08.1997 this Court required the opinion of the Indian Board for Wildlife. There is no reason why, in the circumstances, that order should be modified so that the opinion is sought from the Wildlife Preservation Advisory Board constituted under the J&K Wildlife Protection Act, 1987.

The I.A. is dismissed.

Contempt P. (Civil) 254/2001 in WP No. 337/1995	Order date 10.09.2001	Page No 68
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The contempt petition is dismissed.

I.A. No. I.A. No. 15	Order date 17.09.2001	Page No 69
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CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

List on 05.11.2001.

I.A. No.	I.A. No. 15	Order date	05.11.2001	Page No	70
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List after two weeks. Liberty to file a reply.

I.A. No.	I.A. No. 15	Order date	26.11.2001	Page No	71
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Adjourned. The advocate for the State of U.P. being in personal difficulty.

I.A. No.	I.A. Nos. 15, 16, 17 & 18	Order date	04.02.2002	Page No	72
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List after four weeks.

I.A. No.	I.A. No. 15	Order date	21.02.2002	Page No	73
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Adjourned for two weeks from 11.03.2002.

I.A. No.	I.A. Nos. 15, 16, 17, 18, 19, 20-21	Order date	01.04.2002	Page No	74
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List after one week.

I.A. No.	I.A. No. 22-23	Order date	26.04.2002	Page No	76
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List on 29.04.2002.

I.A. No.	I.A. Nos. 15-23	Order date	03.05.2002	Page No	77
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List on 09.05.2002.

I.A. No.	I.A. No. 15-23	Order date	09.05.2002	Page No	78
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Prayers A and B are allowed.

I.A. Nos. 15, 17, 20, 22, 23, 24 and 25 be first placed before the Standing Committee of the I.B.W.A. for its consideration. In the meantime, no permission under Section 29 of the Wildlife Act should be granted without getting the approval of the Standing Committee.

Let the matter come up in August, 2002.

I.A. No.	I.A. Nos. 8 & 13, 15-25	Order date	09.08.2002	Page No	79
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At the request of Mr. K.N. Rawal the matter is adjourned. List on 26.08.2002. In the meantime, the Indian Board for Wildlife should submit its report.

I.A. No.	I.A. Nos. 8 & 13, 15-24 & 26	Order date	30.10.2002	Page No	82
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Not to be listed tomorrow / 31.10.2002.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. No. I.A. Nos. 8 & 13, 15-24 & 26	Order date 01.11.2002	Page No 83
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Adjourned. List after four weeks before a Bench of which Honorable Mr. Justice Y.K. Sabharwal is a Member.

I.A. No.8, 13, 15, 16, 17, 19-24, 26-29	Order date 24.02.2003	
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I.A. No. 8, 13, 15, 16, 17, 19-24, 26-29

For recalling the order dated 17.07.1998 and modification of order dated 22.08.1997 and directions and modification of Court's order dated 13.11.2000 and impleadment/directions and exemption from filing O.T. and directions.

I.A. No. 27, 28 and 29

Let these I.As be first placed before the Standing Committee of IBWL for its consideration. The State Governments are directed to co-operate and supply the necessary up-to-date position to the Central Government, when asked for.

I.A. No. 8, 13, 15, 16, 17, 19-24 & 26-29	Order date 28.04.2003	Page No 85
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I.A. Nos. 22 and 23

These applications have been filed by ONGC for carrying out oil/gas exploration in Desert National Park in Rajasthan. The applications were referred to IBWL. An affidavit of Deputy Inspector General (Wildlife), Government of India, has been tendered in Court today. According to the said affidavit the recommendations for diversions have been accepted subject to the following conditions:-

- "1. ONGC would deposit Rupees five crores in a specially created fund for the conservation and management of Desert National Park. This amount is an initial compensation for exploratory phase.
2. In case oil/gas is struck in the region, the State Government would declare adequate additional area to the National Park for providing suitable habitat, especially to the great Indian Bustard that is critically endangered."

Mr. Mukul Rohatgi, learned Additional Solicitor General submits that condition of deposit of Rupees five crores is onerous and the ONGC has already offered Rupees one crore which is just and reasonable. We have on one hand Ministry of Environment and Forests and on the other a Government Corporation. We hope that what amount should be deposited would be sorted out as a result of joint deliberations. List the matter in third week of July, 2003. In case ONGC desires to commence with the work, it may do so on deposit of Rupees five crores subject to variation, if any, by joint consultation or by this Court later.

I.A. No.15

This application has been filed on behalf of State of U.P. to construct Bansagar Irrigation Project (Adwa-Meja and Meja-Jirgo Link Channels) covering an area of 180.79 hectares. The Ministry of Environment and Forest subject to fulfillment of certain conditions incorporated in its letter dated 23.12.2002 and in the affidavit tendered in Court today incorporating the conditions imposed by the Standing Committee-IBWL have permitted the commence of the project. All conditions imposed are acceptable to the State of U.P. The application is, therefore, ordered subject to fulfillment of the conditions as aforesaid. Further we direct that the identification of the sites in terms of the letter dated 23.12.2002 shall be done also in consultation with IBWL.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

List all other applications in third week of July, 2003. Parties may file their response before the next date of hearing.

I.A. No. 30-32	Order date 23.06.2003	Page No 86
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Issue notice

Counsel for the applicant undertakes to effect dasti service on all the parties including Standing Committee for Indian Board of Wildlife (NBWL). The IBWL shall expeditiously take up the applicant's prayer for consideration in terms of the order of this Court dated 09.05.2002.

List soon on reopening of the Court

I.A. No. 8, 13, 15, 16, 17, 19-24, 26-29 & 30-32	Order date	22.07.2003
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Adjourned

I.A. No. 30-32	Order date 13.08.2003	
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Adjourned. To be listed on 22.08.2003.

I.A. No. I.A. Nos. 30-32 & 33	Order date 22.08.2003	Page No 89
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I. A. Nos. 30-32

On request of Mr. A.D.N. Rao as last opportunity, adjourned for two weeks. List on 05.09.2003.

Mr. Mukul Rohatgi, learned ASG, appearing for ONGC have brought to our notice order dated 28.04.2003 passed in I.As 22 and 23. By the said order noticing the contention of Mr. Rohatgi that the condition of deposit of Rupees five crores is onerous and the ONGC has already offered Rupees one crore which is according to him is just and reasonable, we had expressed the hope that as to what amount should be deposited would be sorted out as a result of joint deliberations and adjourned the matter to come up in third week of July, 2003. The matter relates to exploration by ONGC of oil/gas in Desert National Park in Rajasthan. Our attention has been drawn to letter dated 07.07.2003 written by Petroleum and Natural Gas Ministry to the Secretary of Ministry of Environment and Forests. We direct the Ministries to sort out the matter expeditiously and report to the Court on the next date of hearing.

I.A. No. 33

Replies may be filed within three weeks, rejoinder, within two weeks thereafter.

I.A. Nos. 8, 13, 16, 17, 19-24, 26-29, 30-32	Order date 05.09.2003	Page No 96
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Under Section 5-A of the Wildlife (Protection) Act, 1972, the Central Government was required to constitute National Board for Wildlife within three months from the date of commencement of the Wildlife (Protection) Amendment Act, 2002. The Prime Minister, as per Section 5-A, is the Chairperson of the National Board for Wildlife and the Minister in-charge of Forests and Wildlife is the Vice Chairperson. The date of the commencement of the Amendment Act is 01.04.2003. Three months time statutorily fixed expired on 01.07.2003. It is unfortunate

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

that for constitution of such a Board of which Prime Minister of the country is the Chairperson and where a statutory provision fixes as mandatory period, orders have to be passed directing the Central Government to comply with its obligation. Now, we are told that about a day or two earlier, the said Board has been constituted. Under Section 5-B of the Act, the National Board for Wildlife is required to constitute a Standing Committee for the purpose of exercising such powers and perform such duties as may be delegated to the Committee by the National Board. Under sub-section (3) of Section 5-B, the National Board is empowered to constitute committees, sub-committees or study groups, as may be necessary, from time to time in proper discharge of the functions assigned to it.

Mr. A.D.N. Rao, learned counsel, states that the first meeting of the National Board has been fixed for 15.10.2003 and, on instructions, further states the learned counsel, it is very difficult to advance the said date. The result is that as of now, there is neither a Standing Committee nor any other committee. Meanwhile, certain urgent applications are pending on which the expert views are necessary to be obtained.

I.A. No. 30

One such application filed by the State of Uttaranchal Pey Jal Nigam. That application was filed about three months back. The prayer in the application is for grant of permission to transfer the forest land as stated in para 17(a) of the application. The application, inter alia, states that the State administration has decided that the arrangements for Ardh Kumbh Mela shall be completed by 15.11.2003. The said Ardh Kumbh Mela is due to fall in the month of January, 2004. According to the application, the work after grant of permission is likely to take four months.

Considering the urgency and the aforesaid State of affairs, we refer the above application for examination to the Central Empowered Committee. The Central Empowered Committee is requested to give its report as early as possible. We would consider the said application, on receipt of the report of the Central Empowered Committee, on 22.09.2003.

The report shall positively be submitted by the Committee before the next date of hearing i.e. 22.09.2003.

I.A. Nos. 22 and 23

Orders were earlier passed on 28.04.2003 and again on 22.08.2003. By the last order, we directed the two Ministries, namely, Ministry of Petroleum and National Gas and Ministry of Environment and Forests, to sort out the matter and report it today. It seems that nothing has been done in that regard. Mr. Rao states that these applications would also be placed before the National Board in its meeting on 15.10.2003. The Indian Board for Wildlife (IBWL) had recommended that ONGC be granted permission to explore on compliance of conditions contained in that recommendation and also deposit of Rupees five crore as a condition. The condition of deposit of Rupees five crore according to the ONGC, is onerous.

We accept the recommendations of the IBWL except the condition in regard to the amount to be deposited which we defer and will decide after the National Board examines the matter. For present, we permit the ONGC to deposit an amount of Rupees one crore and proceed with the work. The ONGC would be required to deposit the balance, if any, as directed by this Court.

This amount of Rupees one crore shall be deposited in this Registry which shall be kept in a Fixed Deposit for a period of one year for the time being.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

The two applications filed by the ONGC (I.A. Nos. 22 and 23) and the I.A. Nos. 24 and 26 filed by the State of Goa shall be listed on 07.11.2003.

Reply to I.A. Nos. 24 and 26 be filed within four weeks.

All other applications shall also be listed on 07.11.2003.

I.A. Nos. 30-32	Order date 22.09.2003	Page No 97
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Pursuant to the order of this Court dated 05.09.2003, made in I.A. Nos. 30-32, the Central Empowered Committee (CEC) after inspection has filed its report dated 19.09.2003. Let this report be registered as a separate Interlocutory Application.

The CEC has recommended grant of permission to the applicant – Uttaranchal Pey Jal Nigam for use of 0.275 hectare of forest land in Rajaji National Park for Drinking Water Scheme on the conditions stipulated in the Report. The Report, *inter alia*, notices that the Drinking Water Scheme undertaken by the applicant-Uttaranchal Pey Jal Nigam is in public interest for which no alternative non forest land is available, the Scheme requires minimum use of forest land and no felling of trees is involved and that the scheme is designed for meeting the urgent requirement of drinking water for the Ardh Kumbh Mela and also for the population residing near the Swargashram Laxman Jhoola area. The Ministry of Environment and Forests would consider forthwith the question of grant of approval under the Forest Conservation Act as suggested in paragraph 17(vi) of the Report. I.A. Nos. 30-32 stand disposed of.

Further, it appears from the Report that certain parties are in illegal occupation of the forest land. Reference has been made in the Report to the illegal occupation of 2 acres of forest land by Kailashanand Mission Trust within the Rajaji National Park. The said Trust is represented before us by learned counsel. A copy of that Report has been handed over to learned counsel appearing on behalf of the Trust, who seeks three weeks' time to file response to the suggestions given in the Report, regarding taking over of possession from the Trust within a period of two months. Allowed as prayed.

Having regard to the need to preserve the Rajaji National Park, we direct the Chief Secretary of the State of Uttaranchal to file an affidavit within regard to any other illegal occupation or encroachment in the said Park. Affidavit be filed within a period of four weeks.

Post on 07.11.2003.

I.A. Nos. 8, 13, 15, 16, 17, 19-24, 26-29, 33-34 & 35, 36, 37, 38-40	Order date 07.11.2003	Page No 98
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I.A. Nos. 22 and 23

Mr. Mukul Rohtagi, learned Additional Solicitor General appearing for ONGC States that the amount of Rupees five cores referred to in the order dated 05.09.2003 has now been recommended to be reduced to Rupees two cores in the meeting of the National Board for Wildlife held on 15.10.2003. This fact is not disputed by Mr. A.D.N. Rao, Mr. Rohtagi further states that ONGC is willing to abide by it and deposit the said amount of Rupees two cores. ONGC is directed to deposit a sum of Rupees two cores with MoEF within a period of two weeks and on deposit thereof it may commence the project. These I.As. are disposed of accordingly.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. No. 34

Mr. G.L. Sanghi, learned senior counsel appearing for Kailashanand Mission Trust seeks one week's time to respond to the affidavit dated 02.11.2003 filed by Chief Secretary of Government of Uttaranchal to file a report as to the progress made in the removal of encroachment within a period of four weeks.

I.A. No. 20

Without being prejudiced by the order passed by the Standing Committee of IBWA the proposal for construction of the hospital in Rajaji National Park be considered on its own merits by the Standing Committee constituted by the National Board under Section 5B of the Act.

I.A. Nos. 27, 28 29 and 35

Let these applications be placed before the Standing Committee which has since been constituted. List the matters after 8 weeks.

I.A. No. 36

The application be sent to CEC for their comments. Post the matter after 8 weeks.

I.A. No. 37

Let this application be placed before the Standing Committee which has since been constituted. The State can place its view point before the Committee. List the matter after 8 weeks.

I.A. No. 26

Rejoinder may be filed within four weeks. Adjourned.

I.A. No. 33

The application be first examined by National Board as required by sub-section (3) of Section 26A of the Wildlife (Protection) Act, 1972. Put up the matter after 8 weeks.

I.A. Nos.	Order date 27.11.2003	
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List the I.A. on 28.11.2003.

I.A. Nos. 41-42	Order date 28.11.2003	
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I.A.No. 41

On the facts and circumstances peculiar to the applicant, as pointed out in the application, pending decision of the application, we grant limited protection to the extent that demolition/ceiling of the leased portion shall not take place till the next date of hearing on the applicant filing, within three days, an affidavit in this Court undertaking that no activities of any nature will be undertaken on the property in question with effect from 15.12.2003. On violation of this condition, the respondent would be free to seal or demolish or take such action in accordance

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

with law without any direction from the Court. Reply to the application be filed within two weeks. Rejoinder be filed in two weeks thereafter. List on 12.01.2004.

I.A. Nos. 17, 27-29, 35-37, 26, 23, 41-42	Order date 08.01.2004	
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Adjourned

I.A. Nos. 13, 16, 19-21, 24, 26, 27, 28, 29, 33, 34-50, 51 & 52	Order date 09.02.2004	Page No 109
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I.A. No. 13

Perused the affidavit of the Additional Principal Chief Conservator of Forests (Wildlife), Manipur, dated 06.02.2004.

The application is adjourned for a period of six months.

I.A. No. 16

We see no ground to allow the application and delete the word "forests" from the order 13.11.2000.

The application is accordingly dismissed.

I.A. Nos. 19-20, 27, 33, 35, 37

Mr. A.D.N. Rao, learned counsel, prays for one week's further time to examine the report of the Standing Committee of the National Board and place the same on record.

I.A. No. 36

As prayed, the Central Empowered Committee is granted two weeks' further time to submit the report.

I.A. Nos. 24 and 26

In view of the letter circulated by learned counsel for the State of Goa, two weeks time is granted.

I.A. Nos. 43-45 (Concerning "Tat wale Baba")

The State of Uttaranchal shall place record the photographs in respect of the construction under consideration in these applications within four weeks.

The applicant would be permitted to remove his belongings from the site.

The State of Uttaranchal is granted liberty to file further affidavits, if any, within two weeks.

All I.A. (Except I.A. Nos. 13 and 16)

List on a Friday, as last item, after four weeks

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. Nos. 27, 33-41, 43-53	Order date 16.04.2004	
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I.A.No. 27

Pursuant to the order dated 12.03.2004, an affidavit on behalf of the State of Orissa has been filed. Mr. A.D.N. Rao, learned counsel appearing for MoEF, seeks six weeks' time to file response thereto.

I.A.No. 33

Mr. Rao seeks further time to place on record the recommendations of the Standing Committee of the National Board.

I.A.No. 36

On request of the State of Maharashtra, the I.A. is adjourned till after summer vacation so as to enable the State to respond to the report of the CEC within four weeks.

I.As. Nos. 54, 55, 56

These applications are referred to CEC for their comments.

I.A.Nos. 34, 38, 39, 41, 48, 49 (Kailashanand Mission)

Adjourned

I.A.Nos. 46, 47, 51 (Suresh Devi)

Adjourned

I.A.No. 35

Mr. Rao states that the Committee members have visited the site but report is awaited. The I.A. is, accordingly, adjourned till after summer vacation.

I.A.No. 37

Report is awaited. Adjourned

I.A.No. 53

Mr. Rao states that the matter would be placed before the Standing Committee of the National Board in its next meeting. Adjourned

I.A. Nos. 27, 33-41, 43-53, 54-55 & 57, 43-45	Order date 16.07.2004	
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CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. Nos. 27, 33-41, 43-53, 54-55

No one is present for the Ministry of Environment and Forest. In the interests of justice, the case is adjourned.

I.A. Nos. 45-45 (Tatwale Baba)

Adjourned

I.A. Nos. 13, 27, 33-41, 43-60	Order date 09.08.2004	Page No 125
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Ms. S.W.A. Qudri, learned counsel appearing for the Ministry of Environment and Forests, prays for two weeks' time to file response in terms of the last order. Prayer allowed.
The case is adjourned.

I.A. Nos. 13, 27, 33-41, 43-61	Order date 30.08.2004	Page No 128
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I.A. No. 13

List after six months.

I.A. No. 27

Learned Additional Solicitor General prays for further time to comply with the order dated 16.04.2004. Let the response in terms of the said order be filed within four weeks.

I.A. No. 33

No separate order. Court's order dated 16.04.2004 shall remain in force.

I.A. No. 36

State of Maharashtra and Ministry of Environment and Forests are granted further four weeks time to file affidavits in terms of the order dated 16.04.2004.

I.A. Nos. 54, 55, 56

Four weeks' further time is granted to the State of Maharashtra to file a response.

I.A. No. 57

The application shall be forwarded to the Standing Committee of National Board for Wildlife for its consideration and recommendation.

I.A. Nos. 35 and 53

It is stated that the report of the Standing Committee of National Board of Wildlife is awaited. Mr. Malhotra, learned ASG prays for four weeks' time to comply with the order dated 16.04.2004. Adjourned.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. No. 37

Report is awaited.

Mr. Malhotra, learned ASG seeks further time to look into the matter and comply with the order dated 16.04.2004. Adjourned.

I.A. No. 52

None is present for the applicant. The I.A. is dismissed.

I.A. No. 61

Our attention has been drawn to the letter dated 16.01.2004 of Government of India, Ministry of Environment and Forests incorporating therein the recommendation of the Standing Committee of National Board for Wildlife in its meeting held on 24.12.2003 wherein the proposal in regard to carrying out of the uranium exploration in Chitrial and Peddagattu in Rajiv Gandhi Wildlife Sanctuary (Tiger Reserve), Andhra Pradesh was considered. The Standing Committee has agreed to the exploratory phase of the project subject to the condition that Rupees five crores shall be paid by the user agency for the better conservation and management of Rajiv Gandhi Wildlife Sanctuary. The amount will be deposited in credit fund. This will be in addition to the safeguard provided in the inspection report. User agency will also submit a detailed report regarding the outcome of the exploratory phase and seek further clearance in case uranium is found in the project Tiger Area. The permission as sought is granted in compliance of all the conditions stipulated in the minutes of the Standing Committee of the National Board for Wildlife. The amount of Rupees five crores will be deposited within a period of two weeks. Other conditions would be binding on the applicant. Subject to these conditions, I.A. 61/2004 is allowed in terms of prayer (a).

I.A. No. 62

I.A. is allowed. Copy of the application shall be given to counsel for the State of H.P. and the counsel for the Union of India, Ministry of Environment and Forests.

I.A. No. 63

Copy of the application shall be given to counsel for the State of H.P. and the counsel for the Union of India, Ministry of Environment and Forests.

The matter is referred to the Standing Committee of the National Board for Wildlife. Report after six weeks.

I.A. Nos. 34, 38, 39, 40, 41, 48, 49, 50, 46, 47, 51, 43, 44, 45 and 58-60

Mr. Malhotra, learned ASG prays for adjournment to look into these matters. Adjourned.

I.A. Nos. 27, 33-41, 43-51, 53-60, 63, 64 in 52, 65 & 66	Order date 16.11.2004	
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CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

For exemption from filing O.T. and Directions/Modification of order dated 13.11.2000 and intervention and modification of order dated 22.08.1997 and directions and modification of Court's order dated 13.11.2000 and impleadment/directions and restoration and modification of order dated 31.10.2000 and Office Report
Adjourned

I.A. Nos. 27, 33-41, 43-51, 53-61, 63-64 in 52, 65, and 66	Order date 06.12.2004	Page No 137
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I.A. No. 61

Further four weeks' time is sought by learned Additional Solicitor General to file the report in terms of order dated 30.08.2004. Time allowed, as arrayed.

I.A. No. 27

Along with the affidavit of Mr. Aseem Srivastav, Deputy Inspector General (Wildlife), Government of India, Ministry of Environment and Forest, dated 03.12.2004, the letter of Orissa Government has been filed showing as to the nature of activity which is going on in violation of the Forest (Conservation) Act, 1980. Mr. A.D.N. Rao, learned counsel appearing for MoEF, states that action for violation, as contemplated under the Act, is contemplated to be taken. Mr. Das, learned counsel appearing for State of Orissa, prays for some time to respond to the affidavit of Mr. Srivastav and the submission made by Mr. Rao regarding the contemplated action. Response by the State Government be filed within four weeks.

I.A. No. 33

It is represented that the National Board for Wildlife has appointed a committee which was to visit the site under consideration. On request of Mr. Rao, we grant further eight weeks' time to file the report.

I.A. Nos. 36, 54-56

Exemption from filing O.T. allowed.

As prayed, three weeks' further time is granted to the State of Maharashtra and MoEF to file their response.

I.A. No. 57

Mr. Rao states that the matter will be placed before the Standing Committee in its next meeting.

Adjourned.

I.A. No. 35

As per the affidavit of Mr. Aseem Srivastav, the project has been cleared subject to the conditions to be complied with by the State of Jharkhand. The State of Jharkhand may respond within a period of four weeks.

I.A. No. 53

It is stated by Mr. Aseem Srivastav in his affidavit dated 03.12.2004, that the application was adjourned by the Standing Committee of National Board for Wildlife as neither the Chief Wildlife Warden, Government of Uttaranchal

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

was present nor his comments were sent. Learned counsel representing the State submits that no intimation was given to them. Be that as it may, the Committee should now intimate the Chief Wildlife Warden, Government of Uttaranchal so that the matter can be examined by the committee and a report submitted to this Court.

I.A. No. 37

Although in the affidavit of Mr. Aseem Srivastav it is stated that the expert team comprising of three persons named therein will visit all sites concerning diversion cases together in Askot Sanctuary and submit report to the Committee. Mr. Rao submits that he has been orally instructed that the team has already visited the sites and the report is likely to be submitted shortly to the Committee.

Adjourned for eight weeks.

I.A. No. 64

I.A. No. 64 is allowed and I.A. No. 52 restored.

I.A. No. 63

Mr. Rao submits that the matter will be placed before the Standing Committee of National Board for Wildlife in its next meeting.

I.A. Nos. 34, 38, 39, 40, 41, 48, 49, 50, 46, 47, 51, 43, 44, 45, and 58-60

Adjourned. To be listed on a non miscellaneous day after six weeks.

I.A. No. 58 is allowed.

I.A. Nos. 65 and 66

I.A. No. 66 for exemption from filing O.T. is allowed.

I.A. No. 65 is referred to the National Board for Wildlife for its report.

I.A. No. 67 and 68

I.A. No. 67 is referred to the Central Empowered Committee for its recommendations.

I.A. No. 68 is allowed

I.A. No. 69, 70, 71, and 72

I.A. No. 72 for exemption from filing O.T. is allowed.

The State of Uttaranchal shall file its response to the applications within four weeks.

I.A. No. 73

The application is referred to the National Board for Wildlife for its report.

List these matters on a non miscellaneous day.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. Nos. 37	Order date 15.02.2005	
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Adjourned

I.A. Nos. 13, 27, 33-37, 38-41, 43-55, 57-61, 63, 65, 76	Order date 26.07.2005	Page No 146
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I.A. No. 13

List the interlocutory applications after six weeks.

I.A. No. 27

Further time is sought on behalf of the Union of India to file the response. Let it be filed within four weeks.

List the application thereafter.

I.A. No. 33

Report of the Standing Committee of the National Board for Wildlife shall be supplied to Mr. Raj Panjwani, learned advocate, and the learned advocate for the State of Maharashtra.

I.A. No. 35

Let the Union of India file its response within four weeks.

List the application thereafter.

I.A. No. 53

Mr. A.D.N. Rao, learned counsel, states that the standing committee for the National Board for Wildlife has rejected the proposal of the State Government. Let a copy of the Report be given to the learned advocate for the State, who would be at liberty to file response within four weeks.

I.A. No. 36

The Ministry of Environment and Forests is granted four weeks' time to file its affidavit.

I.A. Nos. 54-55

Mr. A.D.N. Rao, learned counsel, states that the Standing Committee of the Board has rejected the proposal. Let a copy thereof be supplied to the learned counsel for the applicant and also be placed on record. Let the State to it respond within four weeks.

List the applications thereafter.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. No. 57

Mr. A.D.N. Rao, learned counsel, states that the Report of the Standing Committee is awaited. List the application after eight weeks.

I.A. No. 37

Mr. A.D.N. Rao, learned counsel, states that the site inspection has been done and certain conditions have been imposed by the Standing Committee. Let the same be placed on record with a copy to the learned counsel for the State who may file response within four weeks.

I.A. No. 52

The application is adjourned.

I.A. No. 61

It is stated that in terms of order of order dated 30.08.2004, a sum of Rupees five crores have been deposited. No further orders are required to be passed on this application. It is disposed of accordingly.

I.A. No. 63

Mr. A.D.N. Rao, learned counsel, states that the Report is awaited. List the application after eight weeks.

I.A. Nos. 34, 38, 39, 40, 41, 48-50, IAs. 46, 47, 51 and IAs 43, 44, 45 and IAs 58-60

List the applications after eight weeks.

I.A. No. 65

The report of the Standing Committee is awaited. List the application after eight weeks.

I.A. No. 67

The Central Empowered Committee has filed its recommendation which has been registered separately as I.A. No. 76. The learned counsel for the Corporation seeks four weeks' time to file its response. Ordered accordingly.

List the application along with I.A. No. 76 after four weeks.

I.A. Nos. 69-71

List the applications along with I.A. No. 34
Response of the State of Uttaranchal may be filed within four weeks.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. No. 73

The matter is still to be placed before the Standing Committee of the Board.

List the application after eight weeks.

I.A. No. 74

The application is referred for consideration to the Standing Committee of the National Board for Wildlife. List the application after eight weeks.

I.A. No. 75

The application is referred for consideration to the Standing Committee of the National Board for Wildlife. It shall also be considered by the Central Empowered Committee. The Central Empowered Committee and the Board shall independently examine and file their Reports within eight weeks.

I.A. No. 77

The matter is referred to the Standing Committee of the Board. List the application after receipt of the Report.

Mr. Raj Panjwani, learned counsel, has drawn our attention to the order passed by this Court on 22.08.1997 whereby the State Governments and Union Territories were directed to issue proclamation under Section 21 of the Wildlife (Protection) Act in respect of Sanctuaries / National Parks within two months and complete the process of determination of rights and acquisition of land or rights as contemplated by the Act within a period of one year.

The learned counsel submits that for some time after passing of the said order, some of the State Governments had been filing affidavits regarding the action taken in terms of the said order but they have now stopped filing the affidavits, the result whereof been taken for completing the process of determination of rights and acquisition of land or rights as contemplated by the Act in terms of the said order.

Let Mr. Raj Panjwani, learned counsel, prepare a brief note placing on record up-to-date position and file it a week before the next date of hearing, which would be considered on the next date of hearing.

I.A. Nos. 13, 27, 33, 35, 36, 37, 52, 53, 54-55, 57, 63, 34, 38, 39, 40, 41, 48-50, 46, 47, 51, 43, 44, 45, 58-60, 69-71, 65, 73, 74, 75, 76, with 67, 78-79, 80, 81, 82, in 35, 85-85	Order date 23.11.2005	Page No 154
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I.A. No. 13

List the application after six months.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. No. 27

On 26th July, 2005, the Union of India was granted four week's time to file its response which has still not been filed.

As a last opportunity, the MoEF is directed to file the same within four weeks.

I.A. No. 33

Learned counsel for the State of Maharashtra prays for and is granted one week's time to file a joint affidavit of the Water Resources Department and Forest Department of the State.

I.A. No. 53

The minutes of meeting of the Standing Committee of National Board for Wildlife dated 06.04.2005 recommends the rejection of the proposal for diversion of 0.1532 hectares of forest land from Rajaji National Park to lay a pipeline for drinking water along the bridle path route of Neelkanth Mahadev Temple by Uttarachal Pey Jal Sansadhan Vikas Evam Nirman Nigam Ltd. The copy of the said minutes may be obtained by learned counsel appearing for the State of Uttaranchal from either Mr. Rao or Mr. Raj Panjwani. The State is granted four weeks' time to file an affidavit on the issue.

Adjourned.

I. A. No. 36

MoEF is directed and granted four weeks time to file the affidavit, in terms of order dated 26.07.2005.

I. A. No. 54, 55

Copy of the minutes of meeting of the Standing Committee of National Board for Wildlife dated 06.04.2005 may be obtained by learned counsel appearing for the State of Uttaranchal from either Mr. A.D.N. Rao or Mr. Raj Panjwani. The State is granted four week's time to file an affidavit on the issue.

Adjourned.

I.A. No. 57

As per the office report, the report of the Standing Committee of the National Board for Wildlife has not been filed. Let it be filed within eight weeks.

Adjourned.

I.A. No. 37

The Standing Committee of National Board for Wildlife as per the minutes 06.04.2005 has recommended the acceptance of the proposal subject to seven conditions. On request of learned counsel for the State, the application is adjourned for eight weeks. Response, if any, may be filed in the meanwhile.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. No. 52

As prayed, two weeks' time is granted to file additional affidavit to place on record the upto-date position.

List this application along with I.A. No. 34.

I.A. No. 63

On 06.12.2004, it was stated that the matter would be placed before the standing committee of National Board for Wildlife in its next meeting. But since the report was not filed placing on record the decision that may have been taken by the Board and to await the report, the matter was adjourned in terms of order dated 26.07.2005. The report has still not been filed. Let it now be filed within four weeks.

I.A. Nos. 68-72

Besides the report of the Standing Committee, we have also perused the affidavit dated 24.09.2005 filed by the Director, Rajaji National Park, and heard the learned counsel. There is no merit in the applications.

The applications are dismissed.

I.A. No. 65 and 75

Mr. A.D.N. Rao, learned counsel, states that the matter was probably taken up by the Standing Committee of National Board for Wildlife in its last meeting but he is yet to get the report/minutes. As prayed, the matters are adjourned to be listed after four weeks.

I.A. No. 74

The letter dated 10-11.06.2005 sent by the MoEF to the Government of Uttaranchal informing the State Government about the recommendation, agreeing in principle, for diversion of the land subject to the conditions stated therein has been filed in the Court. Learned counsel for the State of Uttaranchal, as prayed, is granted one week's time to take instructions and file affidavit in response.

Adjourned for two weeks.

I.A. No. 75

The response of the National Board for Wildlife as well as of the Central Empowered Committee has still not been filed. Let that be filed within three weeks.

List after four weeks.

I.A. Nos. 78-79

The applications are referred to the Standing Committee of the National Board for Wildlife for consideration and recommendation.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. No. 80

The application is referred to the Central Empowered Committee for consideration and recommendation.

I.A. No. 81

To be taken up along with I.A. No. 34.

I.A. No.

As prayed by learned counsel for the State of Haryana, one week's time is granted to rectify the defects. After the needful is done, the application may be placed for orders before the Court, after serving its copies to Mr. A.D.N. Rao and Mr. Raj Panjwani, learned counsel.

I.A. Nos. 83, 84, 85

I.A. No. 85, application for exemption from filing O.T. is allowed.

I.A. Nos. 83 and 84 are referred to the Central Empowered Committee for consideration and recommendation.

I.A. No. 2

On 22.08.1997 this Court after noticing that even though notifications in respect of Sanctuaries / National Parks have been issue under Section 18/35 in all States/Union Territories, further proceedings as required under the Act i.e. issue of proclamation under Section 21 and other steps as contemplated by the Act have not been taken, and thus all the State Governments/Union Territories were directed to issue the proclamation under Section 21 in respect of the Sanctuaries/National Parks within two months. It was further directed that the process of determination of rights and acquisition of land or rights as contemplated by the Act shall be completed within a period of two year.

Mr. Panjwani states that though proclamations under Section 21 were issued, but it appears that the process of determination of rights and acquisition of land or rights as contemplated by the Act still remains to be completed by many State Governments/Union Territories despite lapse of nearly seven years, having regard to the time granted in the order dated 22.08.1997. Learned counsel has taken us through various provisions of the Wildlife (Protection) Act in relation to obligation of completing the process of determination, as directed by this Court.

Under these circumstances, we direct the State Government/Union Territories to file affidavits, placing on record, the status as existing on 01.11.2005 in relation to compliance of the aforesaid direction.

This order to be communicated to the State Governments/Union Territories, through Chief Secretaries, and status report be filed within four weeks of the receipt of a copy of this order.

List these matters after six weeks.

I.A. Nos. 35 and 82

The project in question has been recommended for implementation on the basis of presentation, discussion and inspection, subject, however, to certain conditions. We accept the recommendation but making it clear that

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

diversion would be only on fulfillment of the conditions that have been imposed and mentioned in the affidavit filed by the MoEF. The applications are disposed of accordingly.

I.A. No. 67

The Central Empowered Committee (CEC) (I.A. No. 76, in its report dated 30.06.2005, has recommended that the permission sought by the Krishna Valley Development Corporation for construction of minor irrigation tank involving diversion of 7.76 hectares of forest land inside Bhimashankar Wildlife Sanctuary may be rejected and the Chief Secretary of the Government of Maharashtra may be asked to fix the responsibility for undertaking the work in violation of the Forest (Conservation) Act and the orders of this Court dated 14.02.2000, and to ensure that projects involving use of forest land should be implemented in the State only after obtaining necessary approval under the Act and if the land falls within a National Park or Wildlife Sanctuary, only after obtaining the permission of this Court. The report also takes a note of the submission of the Forest Department, *inter alia*, to the effect that the work started and continued in spite of repeated objections raise by the Forest Department against taking the work in violation of the Act and without seeking permission of this Court. In that regard, various letters were placed before the CEC. Those letters have been filed along with the Report of the CEC. The Corporation has filed its response dated 22.09.2005, to the recommendation of the CEC. Copy of the response/objections shall be sent to the State of Maharashtra, Forest Department of the State of Maharashtra and the CEC, who may file their responses/comments to the response/objections of the Corporation dated 22.09.2005, within four weeks of the receipt of the copy of the order of this Court.

I.A. No. 34 and connected applications

The written submissions have not been filed by the applicants though copies thereof have been supplied to Mr. Raj Panjwani, learned counsel. Let the same be filed in this Court within one week.

List these applications in the month of January, 2006, on a non miscellaneous day.

I.A. No. 33	Order date 08.12.2005	Page No 163
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List the matter on 16.12.2005.

I.A. No. 33	Order date 16.12.2005	
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Pursuant to order dated 23.11.2005, an affidavit has been filed on behalf of State of Maharashtra (Water Resources Department) as also on behalf of the Forest Department in response to the recommendations of the Standing Committee of National Board for Wildlife, dated 06.04.2005. It seems evident that some of the recommendations of the Board are not acceptable. Under these circumstances, while permitting the petitioner and/or the MoEF to file reply, if any, in response to these affidavits, within two weeks, we direct the application to be listed in the month of January, 2006.

I.A. Nos. 33, 87 & 88	Order date 25.01.2006	
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Adjourned

I.A. Nos. 33	Order date 07.02.2006	
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I.A. No.33 (For directions/modification of order dated 13.11.2000 and office report)

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Adjourned

I.A. Nos. 33	Order date 14.02.2006	
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Adjourned

I.A. Nos. 33	Order date 11.07.2006	Page No 172
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List the interlocutory application along with I.A. No. 13 in Writ Petition (C) No. 337 of 1995, which is stated to be listed on 18.07.2006.

I.A. Nos. 13, 33, 37 & 91	Order date 18.07.2006	
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I.A. No. 13

This application is being adjourned from time to time considering the special conditions prevailing in the State of Manipur in relation to it being a disturbed area. Because of the special conditions, the State Government was granted exemption from complying with the orders of this Court for supply of firearms to foresters. The exemption granted will continue until further orders till the situation improves in the State of Manipur whereupon the State will supply firearms to the foresters and inform this Court accordingly by filing an affidavit. The interlocutory application is disposed of accordingly.

I.A. No. 33

The Standing Committee of the National Board for Wildlife in its meeting dated 06.04.2005, accepted the recommendation of the sub-committee for permitting the project in respect whereof this application relates to, subject to the five conditions. In respect of Condition Nos. 1, 4 and 5, the matter can be sorted out by this Court as there does not appear to be much of dispute. In respect of Condition Nos. 2 and 3, affidavits have been filed on behalf of the State of Maharashtra, both by the Water Resources Department as also by the Forest Department. In our view, the Government of India has rightly suggested that the matter may be referred to the Standing Committee to reconsider the conditions in the light of the stand taken by the State Government on the aforesaid two conditions and on receipt of the fresh recommendations either modifying or affirming these conditions, the order may be passed by this Court. It is ordered accordingly. The Standing Committee of the National Board for Wildlife would consider Condition Nos. 2 and 3 afresh after taking into account all relevant facts, including the stand of the State of Maharashtra and file its recommendations. The matter may be placed before the Standing Committee in its next meeting.

List the application after the receipt of the recommendations of the Standing Committee.

I.A. No. 37

The applicant seeks diversion of 48.385 hectares (25 km) of forest land from Askot Musk Deer Sanctuary for laying 132 KV transmission line. The Standing Committee of National Board for Wildlife has recommended that permission sought for may be granted subject to the seven conditions. Those conditions are acceptable to the State Government. In this view, we grant the permission on applicant's complying with the conditions. Condition No.1 relating to deposit of five per cent of the project cost or Rupees one crore for conservation works within the Sanctuary is subject to the further orders that may be passed by this Court. It is acceptable to the applicant. The seventh condition is that since, on observation, it has been found that Nigam had constructed a power house in Village Jumma Tehsil Pithoragarh after the order of this

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Court was passed in the year 2000, explanation may be called for as it may be in violation of the Wildlife (Protection) Act, and Forest (Conservation) Act. The Minutes are dated 06.04.2005. There is nothing on record to show as to what transpired in the last over one year. The learned counsel for the State Government submits that the explanation was sent to the Standing Committee but nothing further has been heard. The Standing Committee would examine the matter and send its recommendation on this issue separately which could be examined despite the grant of permission of diversion, as prayed for. For this limited purpose, the interlocutory application is adjourned.

I.A. No. 91

The matter is directed to be examined by the Standing Committee of the National Board for Wildlife. List the application after receipt of the recommendations from the Standing Committee.

I.A. Nos. 27, 53, 36, 54, 55, 57, 52 and 81 with 34, 63, 65, 73, 86, 74, 75, 78, 79, 2 with 67 & 76, 80, 83, 84, 87, 88, 89, 90, 92 & 93	Order date 22.08.2006	
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For modification/amendment of Court's order dated 22.08.1997, exemption from filing O.T., direction/modification of order dated 13.11.2000, recommendations of CEC. in I.A. No.67, directions, restoration and direction/modification, for permission to lay pipeline under the Swarg Ashram Laxman Jhula Water Supply Scheme and direction/modifications, condonation of delay, impleadment and office report
List the interlocutory applications on 29.08.2006.

I.A. Nos. 27, 53, 36, 54, 55, 57, 52 and 81 with 34, 63, 65 with 86, 73, 74, 75, 78, 79, 2 with 67 & 76, 80, 83, 84, 87, 88, 89, 90, 92 & 93	Order date 29.08.2006	
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I.A. No. 27

Mr. A.D.N. Rao, learned counsel, prays for further time to file affidavit of the Ministry of Environment and Forests. Let it be filed within four weeks.

I.A. No. 53

The interlocutory application is adjourned.

I.A. Nos. 36 and 57

Let the affidavit of Ministry of Environment and Forests be filed during the course of the day. Copy of the affidavit has been supplied to the learned counsel for the State of Maharashtra, who prays for and is granted four weeks' time to file response to the affidavit.

I.A. No. 54

Four weeks' time is sought and is granted to file response to the report of the Central Empowered Committee.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. No. 55

The Central Empowered Committee as also the Standing Committee of the National Board for Wildlife have rejected the proposal of the applicant-State of Maharashtra. In this view, we dispose of the application with liberty to the State of Maharashtra to take, if so advised, any other appropriate step, if permissible in law.

I.A. Nos. 52 and 81 with 34

The Interlocutory applications are adjourned.

I.A. No. 63

Mr. A.D.N. Rao, learned counsel, states that the Standing Committee of the National Board for Wildlife has cleared the project. Let the affidavit of the Ministry of Environment and Forests with a copy to the applicant and the State of Himachal Pradesh be filed during the course of the day. The interlocutory application is adjourned.

I.A. Nos. 65 and 86

I.A. No.86 seeks amendment of the prayer made in I.A.No.65. Amendment is allowed. I.A. No.86 is disposed of. In I.A. No.65, Mr. A.D.N. Rao, learned counsel, states that the Standing Committee of the National Board for Wildlife has rejected the proposal for dereservation of 4.56 hectares of land. Let that be placed on record in the form of an affidavit. Now by I.A. No.86, the proposal is restricted to 1.48 hectares of land. Let this fresh proposal be placed before the Standing Committee of the National Board for Wildlife.

I.A. No. 73

Mr. A.D.N. Rao, learned counsel, states that the report of the Standing Committee of the National Board for Wildlife has not been received. The interlocutory application is adjourned.

I.A. No. 74

The Standing Committee of the National Board for Wildlife has accepted the proposal of diversion of the land in question. We accept the recommendation and permit diversion, as recommended. On the basis of, in principle, approval granted by the Standing Committee of the National Board for Wildlife, the Ministry of Environment and Forests has sent a communication dated 10-11.06.2005, to the Government of Uttaranchal conveying diversion of the land in question [2527.90 hectares], subject to the fulfillment of the conditions stated therein. The conditions are acceptable to the State Government. In this view, we permit diversion accordingly. The interlocutory application is disposed of.

I.A. No. 75

As prayed, the State of Chhattisgarh is granted four weeks' time to file response to the report of the Central Empowered Committee. The Standing Committee of the National Board for Wildlife may examine the matter and decide it expeditiously.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. Nos. 76 and I.A. No.67 in I.A. No. 2

The State of Maharashtra is directed to file an affidavit of a responsible officer from its Forest Department in response to the recommendation of the Central Empowered Committee (I.A. No.76) within four weeks. The cases are adjourned.

I.A. Nos. 78-79

To await the decision of the Standing Committee of the National Board for Wildlife. The interlocutory applications are adjourned.

I.A. No. 80

The interlocutory application is adjourned.

I.A. Nos. 83-84

Ms. Rachana Srivastava, learned counsel, is not present. The interlocutory applications are adjourned.

I.A. Nos. 87-88

The interlocutory applications are referred to the Standing Committee of the National Board for Wildlife.

I.A. No. 89

It is stated that the matter is being looked into by the Central Empowered Committee. This application is also referred to it. List the application after the report is received from the Central Empowered Committee.

I.A. No. 90

The interlocutory application is referred to the Standing Committee of the National Board for Wildlife.

I.A. No. 92

Copy of the interlocutory application be supplied to Mr. A.D.N. Rao and Mr. Raj Panjwani, learned counsel. The interlocutory application is adjourned.

I.A. No. 93

Issue notice to the respondent.

I.A. No. 2

The matter of completing the process of determination of rights and acquisition of land or right as contemplated by the Act in respect of some of the National Parks and Wildlife Sanctuaries has still not been completed despite lapse of so many years. Mr. Raj Panjwani, learned counsel, points out that it has not been completed in 14 out of 85 National Parks and 170 out of 494 Wildlife Sanctuaries, as per the

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

affidavits placed by the State Government on record. By order dated 23.11.2005, we directed that the State Governments/Union Territories to file affidavits placing on record the status as existing on 01.11.2005. In relation to the compliance of the aforesaid directions, the Registry has reported that no response has been filed on behalf of the States of Andhra Pradesh, Arunachal Pradesh, Gujarat, Bihar, Maharashtra, Chhattisgarh, West Bengal, Haryana, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Kerala, Manipur, Sikkim, Mizoram, Nagaland, Orissa, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh and Uttaranchal and Union Territories of Daman and Diu, Dadra Nagar Haveli, Lakshadweep and Pondicherry. Despite lapse of more than nine months, the status report has not been filed by the afore-noted States/Union Territories. We grant last opportunity and direct the Chief Secretaries to personally look into the matter and file their own affidavits in terms of order dated 23.11.2005, within four weeks of the receipt of the copy of this order. It would be the personal responsibility of the Chief Secretaries to comply with this order.

In respect of Kaziranga National Park, Mr. A.D.N. Rao, learned counsel states that he will check up and find out whether special leave petition has been filed or not and, if not filed, why there is delay and ensure its filing without further delay.

Mr. Raj Panjwani, learned counsel, points out that the State of Madhya Pradesh in one National Park and four Wildlife Sanctuaries has reduced area by twenty five per cent to fifty per cent. The Central Government was directed to file its response to this aspect. In this regard, reference is made to the affidavit at Page 2057 of Volume VII dated 29.09.2000. As prayed, the Central Government is granted four weeks' time to file its response.

I.A. No.34 and other connected matters shall also be listed on the next date of hearing.

I.A. Nos. 27, 53, 36, 54, 57, 52 & 81 with 34, 63, 65, 73, 75, 78, 79, 2 with 67 and 76, 80, 83, 84, 87, 88, 89, 90, 92, 37, 38-40, 41, 43-45, 46-47, 48-50, 51, 58-60 & 94	Order date 17.10.2006	
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Mr. A.D.N. Rao, learned counsel, states that since a copy of Office Report dated 16.10.2006, was supplied to him only yesterday, a short adjournment may be granted so that he can examine the office report and various steps are taken by the Ministry of Environment and Forests. A perusal of the office report shows that various State Governments on various interlocutory applications, the Ministry of Environment and Forests have not filed their responses. This is also applicable to Interlocutory Application No.2 in relation to completing the process of determination of rights and acquisition of land or rights as contemplated by the Act in respect of some of the National Parks and Wildlife Sanctuaries, as noted in detail in the order dated 29.08.2006. In case, responses to this and other applications are not filed within three weeks from today, this Court will proceed to hear the matters assuming that no response is required to be filed.

I.A. No. 92 has been filed by the State of Madhya Pradesh. The Ministry of Environment and Forests is directed to file reply to the application within three weeks.

I.A. No.94 is referred to the Standing Committee. This interlocutory application be taken up along with I.A. Nos.87 and 88.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

List all the matters after four weeks.

I.A. Nos. 27, 53, 36 & 57, 54, 52, 95 & 81 with 34, 63, 65, 73, 75, 78, 79, 2 with 67 & 76, 80, 83, 84, 87, 88, 89, 90, 92, 37, 38-40, 41, 43-45, 46-47, 48-50, 51, 58-60, 94, 96, 97 98 & 99	Order date 11.01.2007	
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Mr. Raj Panjwani, learned counsel, has drawn our attention to the affidavit filed on 20.11.2006, by Principal Chief Conservation of Forests (Wildlife), Government of Maharashtra, wherein for issue of final notification for the entire area, the reasons for delay are mentioned as under:

- i] Want of consent of the people for rehabilitation outside Protected Areas;
- ii] Identification of the sites for rehabilitation with the consent of the people;
- iii] The process involved in preparation of proposals for diversion for forest land identified for the rehabilitation; and

Mr. Panjwani further states that the aforesaid difficulties pointed out by the State of Maharashtra may be referred to the National Board for Wildlife or seeking their opinion in the matter. Learned counsel points out that some other State Governments have also expressed one or more of the aforesaid reasons pointed by the State of Maharashtra and that he will make a chart and assist the Court on the next date of hearing so that further reference can be made to the National Board for Wildlife in respect of those States as well. For the present, we refer the reasons for delay pointed out by the State of Maharashtra, as afore-noted, for the National Board for Wildlife and direct them to send their report within six weeks.

List matters after six weeks.

I.A. Nos. 96-97

The learned Additional Solicitor General appearing for the Union of India prays for a short adjournment to look into the matter and, if necessary, to file an affidavit within one week.

I.A. Nos. 93	Order date 08.02.2007	
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The petitioner is granted two weeks' time more, as prayed for, to comply with the Office Report. Furnish a copy of the Office Report on the learned counsel for the petitioner.

List again on 08.03.2007

I.A. Nos. 93	Order date 14.04.2007	
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I.A.No.93 is allowed accordingly.

I.A. Nos. 65	Order date 25.04.2007	
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The State of Maharashtra has filed the present application seeking permission to lay down the pipeline in a part of the Pench National Park/Tiger Reserve of a length of about 2.8 km. relating to Sagar Nalla Minor Irrigation Project, using about 1.48 hectares. The total area of the Pench National Park is 25512.192 ha. and the interference in the

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

National Park would be only to an extent of less than 0.01 percent. The Ministry of Environment and Forests has raised some objections stating that the laying of the pipeline would cause disruption to the animal movement and reduction in habitat quality and would cause damage to the ecological features of the National Park. We had requested the National Board for Wildlife to give their response but we are told that the National Board for Wildlife has not so far been constituted. Learned counsel for the petitioner submitted that this project is part of a minor irrigation project for giving supply of water to the agriculturists in Nagpur district who are badly in need of the water. It is also submitted that there was large scale scarcity of water and some farmers have committed suicides as a result of failure of rains and non availability of water for agricultural activities.

Under the above circumstances, we grant permission to the concerned authorities of the State of Maharashtra lay down the pipeline through the Pench National Park subject to the condition that they shall not cause the minimum disturbance to the ecological features or to the animal movement in the National Park while laying the pipeline. They may also enter the National Park as and when any repair work is required. They shall also furnish the details of the work to the Director, Pench National Park, before hand so that he can cooperate with the project. It is also made clear that they shall not use more than 1.48 ha of land from the Pench National Park for this purpose. I.A. No.65 is allowed to the extent indicated above.

I.A. Nos. 2, 27, 34, 38-40, 41, 43-45, 46-47 & 51, 48-50, 58-60, 52, 95 & 81, 99, 36, 54, 65, 75, 78, 79, 67 & 76, 80, 83-84, 87, 88, 89, 90, 92, 37 with 91, 94, 96-97 & 102, 98, 100 & 101	Order date 18.07.2007	
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The National Board for Wildlife represented through its Member Secretary is made as a suomotu respondent. The copies of the relevant papers may be served on the Member Secretary. As regards the pending matters, the views of the National Board for Wildlife could be of immense importance. As directed by this Court's orders dated 17.10.2006 and 11.01.2007, some of the States namely, Andhra Pradesh, West Bengal, Jharkhand, Manipur, Nagaland and Uttaranchal have not filed their responses so far. These States may file their response at the earliest.

I.A.No. 94

Learned senior counsel for the applicant seeks permission to withdraw the application with liberty to file appropriate proceedings. Permission sought for is granted. The application is dismissed as withdrawn.

I.A.No.102

Application for impleadment is allowed.

I.A.No. 96

State of Uttaranchal is directed to file its response.

I.A.Nos. 87 and 88

The applications are now pending before the National Board for Wildlife. The applicants would be at liberty to pursue the matter with the Board. The I.As are disposed of accordingly. List the matter on 11.09.2007. The

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

National Board for Wildlife to file its response in all the pending applications in the meantime.

I.A. Nos. 77	Order date 01.08.2007	
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As requested by learned AAG for the State, list the application along with main forest matter i.e. W.P. (C) No.202/1995 on 03.08.2007.

I.A. Nos. 77	Order date 03.08.2007	
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The State of Uttarakhand proposes to lay down pipeline for supply of drinking water to the Askot Wildlife Sanctuary in district Pithoragarh and permission is sought for transfer of 3.40 ha. of reserve forest land for this purpose. The CEC was directed to go through the proposal and propose the terms and conditions as it may deem fit. The CEC's recommendations have been received. Subject to the fulfillment of the conditions as contemplated by CEC, this application is allowed.

I.A. Nos. 2, 27, 34, 81, 38-40, 41, 43-45, 46-47, 51, 48-50, 58-60, 52, 95, 99, 36, 54, 75, 78, 79, 67, 76, 80, 83-84, 89, 90, 92, 37 with 91, 96-97, 98, 100, 101, 103, 104-105, 106 & 107	Order date 14.11.2007	
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I.A. No. 2

The State Governments have issued several notifications declaring their intention to constitute Sanctuaries in certain areas under Section 18 of the Wildlife (Protection) Act, 1972. But we are informed that final declarations have not been made under Section 26A of the Act declaring such areas as Sanctuaries. Before making such final declaration, the Act contemplates several acts such as issuing proclamations (Section 21), inquiry by Collector and admission or rejection of claims (Sections 22 to 24) and acquisition of lands/rights (Section 25 and 25A). The question of rehabilitation of large number of people residing within the Sanctuaries is also a serious issue to be tackled before a final declaration is made under Section 26A of the Act. The State Governments referred to various problems and the lack of sufficient funds for implementing have the provisions and have sought allocation of funds from the Union Government. We feel that this question may also be examined by the National Board for Wildlife (NBWL), headed by the Prime Minister. The Director of Wildlife Preservation, who is the Member Secretary of the National Board for Wildlife is directed to file a Report before this Court within eight weeks about the action to be taken for completing the requirements of Chapter IV of the Act. The State Government may also endeavour to complete the proceedings under Section 24 of the Act, without delay.

I.A. No. 37

The National Board for Wildlife had cleared a project permitting Uttaranchal Jal Vidyut Nigam Ltd. to draw 25 kilometer of transmission line from Jauljibi to Dharchula in the Askote Wildlife Sanctuary in the State of Uttaranchal. Such clearance is subject to some conditions. It appears that while executing the work Uttaranchal Jal Vidyut Nigam has not complied with all the conditions. The Deputy Director General, Wildlife had inspected the site and noted the violations committed by the Vidyut Jal Nigam. MoEF shall make available a copy of the report of the Deputy Director General. National Board for Wildlife will consider the same and submit its views to this Court, for passing further orders in the matter. Adjourned by six weeks.

I.A. Nos. 38-40 (with IAs.48 to 50)

An extent of two acres of forest land with the Rajaji National Park (Gohari Range, Vidasini Block) was originally leased on 29.07.1959 to the Kailash Anand Mission Trust for a period of thirty years, the constructing a nature cure clinic and allied Buildings. The lease period expired in 1989. The Trust had made an application to renew the lease, as the lease deed provides for two renewals for thirty years each. The Trust also filed this application for grant of permission for renewal of the lease for the next thirty years. The Deputy Inspector General (Wildlife), Government of India, Ministry of Environment and Forests, has filed an application in the month of November, 2007, to the effect that the Standing Committee of National Board of Wildlife has recommended the rejection of the application of the Trust for renewal of the lease on the ground that the Trust has felled number of trees without permission. As the Standing Committee of National Board of Wildlife has considered the application and recommended rejection, on the facts and circumstances, we reject these applications (IAs.38-40). Kailash Anand Mission Trust have also filed I.As. 48 to 50, seeking permission for grant of renewal of three leases of forest land relating to supply of water to the Nature Cure Clinic and to repair the water tank and also to repair the pipelines laid through Rajaji National Park. As the Trust's prayer for renewal of lease of two acres of Forest Land has been rejected, the prayer for consequential permission for renewal of leases for water supply area and permission to repairing the water line etc., have become infructuous. Consequently, I.As. 48 to 50 are also rejected. It is however made clear that if the State Government decides that the Trust is entitled for renewal, this order will not come in the way of State Government submitting a proposal to the Central Government along with the recommendation of Chief Wildlife Warden or other appropriate forest authority, as stated in the affidavit filed by the MoEF in July, 2007.

I.A. Nos. 43 to 45, 81 and 99

The applicant Swamy Shankardas claims to be the disciple of one 'Tat Wale Baba'. He has alleged that nine natural caves in area No.4, Vidasini, Gotri Range, in Rajaji National Park, collectively called as 'Bhootnath Gufa' was used by Tat Wale Baba and later by his disciples including the applicant for leading their life of meditation and yoga. The said caves also contain the Samadhi of Tat Wale Baba. The said caves were sealed on 29.11.2003, to prevent non forest activities. The prayer in the application is to permit the applicant to have access to the Samadhi and permit him to stay in the caves and maintain the Samadhi and perform routine poojas. According to the State of Uttaranchal and the Ministry of Environment and Forests, the caves - 'Bhootnath Gufa' are situated within the Rajaji National Park, to which the provisions of the Wildlife (Protection) Act, 1972 applies. It is also alleged that the applicant erected certain structures within the case and has been holding Bhandara for the visitors. It is stated that the caves have been attracting a large number of visitors and the non forest activities interfere with nature wildlife and pose a threat to the National Park. It is contended that the applicant was in illegal possession and as the encroached area has been restores to the National Park, the Standing Committee has rejected his applications. Section 27 of the Wildlife (Protection) Act, 1972 provides that no person (other than those mentioned therein) shall enter or reside in the Sanctuary except under and in accordance with the conditions of a permit granted under Section 28. Section 30 of the Act provides that no person shall set fire to a Sanctuary, or kindle fire, or leave any fire burning in a Sanctuary, in such a manner as to endanger such Sanctuary. Section 33 provides that the Chief Wildlife Warden shall be the authority who shall control, manage and maintain the Sanctuary. The learned counsel for the applicant submitted that the applicant has been enjoying certain rights prior to the declaration of the area as Wildlife Sanctuary and has been living as one with nature and has no other abode. Any right or privilege claimed by the applicant has to be determined in accordance with the provisions of the Act. Section 22 provides for inquiry by Collector into any claim and Section 24 relates to acquisition of rights as per orders passed by the Collector. The applicant would, therefore, be at liberty to make an application under the Act for admission of the rights and privileges claimed by him to enter the Sanctuary or to do or perform any act within the Sanctuary. The authority

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

may also consider whether the caves which have been sealed, should be opened for giving access to the applicant, in accordance with the provisions of the Act. I.As 43-45, 81 and 99 are disposed of accordingly.

I.A. No. 54

The State of Maharashtra proposes to regularize the 'Eksali' leases of adivasis in respect of an extent of 707.64 hectares of land within Kalsubai H. Sanctuary and Great Indian Bustard Sanctuary. The report of CEC has been received. We direct the State Government to submit a proposal in this regard to the National Board for Wildlife along with the Opinion of the Chief Wildlife Warden, Maharashtra within two weeks. NBWL may examine the same and submit a report within a period of 8 weeks thereafter.

I.A. Nos. 67 and 76

I.A. No. 67 has been submitted in connection with construction of an irrigation dam in Krishna Valley of Bhimashanker Wildlife Sanctuary in the district of Pune, by the State of Maharashtra. The matter was referred to CEC who report is numbered as I.A. 76. The matter has already been referred to the NBWL on 28.03.2007 and its report is awaited. The State Government is directed to submit its proposal in this behalf to the National Board for Wildlife within two weeks which may submit its report to this Court within eight weeks thereafter.

I.A. Nos. 83 to 85

It is stated that the applicant was given 3 1/8 acres of land in Tanda Block Forest, Haldwani district, Nainital in lieu of earlier occupied forest land. The CEC has reported that the allotment requires to be considered by the Forest Advisory Committee. The applicant is permitted to submit his application before the Forest Advisory Committee for regularization within four weeks. The Committee, after considering the application shall file a report before this Court within six weeks thereafter. Status quo as on today shall be maintained till the decision of the Advisory Committee.

I.A. No. 90

In view of the report of the National Board for Wildlife, the prayer of the State of Uttaranchal seeking permission to construct 27 km. road through Govind Vihar Wildlife Sanctuary (involving dereservation of forest land) is rejected.

I.A. Nos. 36, 75 and 89

Place before the Forest Bench of this Court.

I.A. Nos. 78 and 79

The applicants seek two weeks' time to file response to the report of NBWL. Time granted as prayed, finally.

I.A. No. 80

The petitioner is permitted to withdraw the application (seeking permission to lay a pipeline in Rajaji Nation Park), with liberty to move a fresh application with appropriate charges.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. No. 92

This application by State of Madhya Pradesh is ordered to be brought up along with I.A. No.2. In the meanwhile, MoEF and NBWL are directed to file their response.

I.A. Nos. 96, 97 and 100

Post these I.As on 30.11.2007.

I.A. No. 98

I.A. No. 98 by State of M.P. (seeking exemption from filing official translation of documents filed with additional affidavit) is allowed.

I.A. Nos. 101, 103 to 107

Issue notice to the State of Uttaranchal. The applications are referred to National Board for Wildlife for its recommendation.

I.A. Nos. 27, 34, 41, 46-47, 51, 52, 91, 95, 96-97 & 100	Order date 30.11.2007	
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I.A. No. 27

MoEF had written a letter on 21.05.2007 to the State Government to initiate action against concerned officials, for violation of FCA, by raising the height of existing dam in Sunabeda WS, without approval of the Central Government. The State was directed to file its response. So far, no response has been filed. State is granted four weeks' time to file response.

I.A. Nos. 52 and 95

The issue relating to rehabilitation of 1390 Gujjar families, occupying land within the Rajaji National Park, was referred to National Board for Wildlife. CWLW Uttarakhand was requested to file detailed report before the Standing Committee, NBWL and the Committee was thereafter required to give its recommendations. No Report has been so far received from NBWL Standing Committee. NBWL to file its report by February 2007. The counsel appearing for the applicant (Wildlife Trust of India) submits that several unauthorized commercial establishments are coming up within the Rajaji National Park. State has not taken any steps to remove the unauthorized constructions. State of Uttaranchal has to file its response. NBWL Standing Committee shall also look in to this matter and file a Report in that behalf.

I.A. Nos. 96 and 97

Two Hydro Electric Power Projects of National Hydro Electric Power Corporation are coming up in the State of Uttaranchal. The National Board for Wildlife has already approved the project subject to fulfillment of certain conditions. One of the conditions was additional land for extending the Sanctuary area which is lost by the implementation of the project work. The State has not yet granted the additional land nor filed its response. The State to file Report within three weeks

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. No. 91

Adjourned to await the recommendation of NBWL

I.A. No. 100

There was a proposal for translocation of some of the Asiatic Lions found in the Gir National Park to a forest in Madhya Pradesh, Gujarat. The State of Gujarat has raised certain objections. The State of Madhya Pradesh wants to file its response. It is permitted to do so within three weeks. The proposal is directed to be submitted to the National Board for Wildlife. NBWL may consider the objections of State of Gujarat and response of Madhya Pradesh and submit its recommendation in this Court in four months.

I.A. Nos. 46 and 47

Adjourned

I.A. No. 41

In view of the order passed on 14.11.2007 I.A. No. 41 has become infructuous. Interim order passed on 28.11.2003 stands vacated. Other applications adjourned. List in the first week of February, 2008

I.A. Nos. 2 and 92, 27, 34, 46-47 & 51, 58-60, 52 & 95, 54, 78-79, 67 & 76, 83-84, 37 & 91, 96-97, 100, 101, 103, 104-105, 106 & 107	Order date 06.02.2008	
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I.A.No. 2 and I.A. No. 92

The learned Additional Solicitor General submitted that NBWL will be meeting on 19.02.2008 and prayed for time to file response of MoEF and NBWL in respect of the prayer of State of Madhya Pradesh seeking Rupees two hundred eighty crores for settlement of rights of one hundred fifty villages and waiver of NPV, relating to Settlement of Rights Proceedings under Section 24 of the Wildlife Protection Act. List in the second week of April, 2008 for the response of MoEF and NBWL.

I.A. No. 27

There is an irrigation dam in the State of Orissa near Sunabeda Wildlife Sanctuary. Central Government gave approval in March, 1986 for submergence of 339.253 hectares of forest land. In the year 1989, the height of the dam was increased by 3.5 meters. in anticipation of approval by Central Government. In view of such increase in the height of the dam, an additional area of 142.62 hectares of forest land submerged under water. IBWL rejected the proposal on the ground that it would cause damage to wildlife and directed action against the Irrigation Department officials of the State of Orissa for violation of the provisions of Forest Conservation Act. I.A.No.27 filed by State of Orissa was referred to NBWL which rejected the proposal on 25.08.2004. On 06.12.2004 this Court directed MoEF to file its response on the proposed action for violation of the provisions of the said Act. MoEF by its letter dated 21.05.2007 directed the State Government to initiate action against the officers who are involved. The State Government is yet to take any action for prosecution.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

We are told that the State of Orissa has already made available a total of 575 hectares of land to the forest department for afforestation apart from paying a compensation of Rupees thirty five lakhs fourteen thousand to the Forest Department for afforestation purpose in lieu of the submerged land. It is also stated saplings have also been planted in the said land. It is also stated that the decision to raise the height of the dam was taken by some officers of Irrigation Department more than twenty years ago and those officers have all retired from service. In view of the peculiar circumstances of the case and the compensatory action as also long delay, we are of the view that the proposed action against the officers of the Irrigation Department should be dropped and the matter be closed. However, MoEF may verify as to whether the afforestation activities are being carried out as stated, and if there are any lapses, further action may be taken in that regard. With the observations, I.A.No.27 is disposed of.

I.A. Nos. 52 and 95

Report of NBWL and response of the State of Uttarakhand are awaited. List in the 2nd week of April, 2008

I.A.No. 54

Report awaited from the National Board for Wildlife. List in the 2nd week of April, 2008

I.A.Nos. 78 and 79

The applicant, a manufacturer of Titanium Dioxide, has sought permission to draw water from the Chambal River by laying a pipeline through Gharyal wildlife Sanctuary. The proposal was examined and rejected by the National Board for Wildlife. The applicant has not filed any response to NBWL report regarding rejection. In view of the same, the two applications (I.A.Nos.78 and 79) are rejected.

I.A. Nos. 67 and 76

Report awaited from the National Board for Wildlife. List in the 2nd week of April,2008.

I.A. Nos. 83 and 84

It is alleged that applicant was given 3.125 acres of land in Tanda Forest Block, Terai Central Forest Division, Haldwani, Dist. Nainital, in lieu of some encroached land. The issue was referred to CEC and the CEC has advised that the allotment may be considered by the Forest Advisory Committee. The applicant was, therefore, permitted to submit his application before the FAC The applicant states that he has submitted his applications on 07.12.2007. The FAC has not filed its report as per the directions of this Court. Report of the FAC is awaited. List in the 2nd week of April, 2008.

I.A. No. 37

Report awaited from the National Board for Wildlife. List in the 2nd week of April, 2008.

I.A. No. 91

The Uttaranchal Jal Vidyut Nigam Ltd. requires an extent of 0.334 hectares of land in Askote Wildlife Sanctuary for construction of a new power house. The matter was referred to the National Board for Wildlife for consideration and report/response as long back as 18.07.2006. NBWL has not so far filed any report or response. The work is stated to be crucial and any further delay will cause considerable hardship. As the land required is less than one

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

acre and as NBWL has not submitted its report for a long time, we permit the Uttaranchal Jal Vidyut Nigam Ltd. to proceed with the construction. The Vidyut Nigam and the State Government shall however, comply with any conditions that may be imposed by NBWL in due course. I.A. is disposed of accordingly.

I.A.Nos. 96 and 97

The National Hydro Electric Power Corporation seeks permission for construction of two hydro electric power projects for which it requires 266.75 hectares of land in the Askote Musk Deer Wildlife Sanctuary. The project has been approved by the National Board for Wildlife by its letter dated 06.07.2006, subject to fulfillment of three conditions. As per condition no.2, the State Government should increase the Sanctuary area suitably. As per condition no.3, the project proponent should pay NPV and comply with the conditions. The learned counsel appearing for the State expresses some technical difficulty in increasing the Sanctuary area due to demarcation etc. We have considered the matter.

The State is directed to identify suitable forest land for increasing the Sanctuary area as per condition no.2. The State may also hold discussions with MoEF and seek modification of condition no.2. The project proponent is, however, directed to comply with condition no.3 as also other conditions. The applicant (National Hydro Electric Power Corporation) is permitted to execute the work subject to the above. This order shall not, however, be a precedent for other matters. The I.As are disposed of accordingly.

I.A. No. 100

There was a proposal to translocate some lions from Gir N.P. Gujarat to the Kuno wildlife Sanctuary in the State of Madhya Pradesh. As the State of Gujarat has raised certain objections, the matter was directed to be considered by the National Board for Wildlife. We are told that the Board would be meeting on 19.02.2008 and is expected to take a decision in the matter. To await the report/response from N.B.W.L., post the I.A. in the 2nd week of April, 2008.

I.A. Nos. 101, 103, 104-105, 106 and 107, 46-47 and 51, 58-60 and 34

To be listed in the first week of March, 2008.

I.A. Nos. 101, 103, 104-105, 106 & 107, 46-47 & 51, 108 in 46, 58-60 & 34	Order date 11.03.2008	
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I.A. No. 101

By this application, the applicant seeks permission to lay pipeline through the Kedarnath Wildlife Sanctuary. The pipeline is being laid as a part of the drinking water scheme to villages Sari and Karokhi villages in district Rudraprayag with an estimated cost of Rupees ninety eight lakhs ninety nine thousand. As it is for a benevolent purpose to provide drinking water and it is also submitted that it would not cause any harm to the wildlife in the Sanctuary, the same is approved, subject to the sanction of the National Board for Wildlife. The applicant may furnish all the details to the National Board for Wildlife and the National Board for Wildlife may look into the same and pass necessary orders.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Application is disposed of accordingly.

I.A. No. 103

Post before the Forest Bench in the month of April, 2008. Meanwhile, the applicant is permitted to file the additional documents, if any.

I.A. Nos. 104-105

The applicant may furnish the entire proposals to the National Board for Wildlife within four weeks. Awaiting response from the National Board for Wildlife, list after six weeks.

I.A. No. 106

Six weeks time is granted for response of the National Board for Wildlife.

I.A. No. 107

Post along with the connected I.A. which is pending before the Forest Bench. Learned counsel appearing for the State of Uttaranchal submits that the demarcation of the Askot Wildlife Sanctuary is pending consideration before the CEC and any decision would be taken only after the response of the CEC is received.
Adjourned by four weeks.

I.A. Nos. 46-47, 51,108 with I.A.34

The applicant Shri Sureshwari Devi Mandir Prabandhak Samiti seeks certain directions by way of these applications. The applicant contends that a temple by name Sureshwari Devi Mandir is situated inside the Rajaji National Park at Haridwar. It is alleged that the temple is of ancient origin and a lot of devotees are worshipping the temple. The applicant prays that regular poojas are being conducted in the temple and lot of devotees come every day to offer prayers. The applicant prays that the poojas may be conducted and the devotees may be allowed to visit the temple. Learned counsel appearing for the State of Uttaranchal submitted that some people in the name of temple have erected structures and they are unauthorised. She also contended that is the temple is within the Rajaji National Park, permission to enter the Sanctuary area could be restricted as per the provisions of Section 27 of the Wildlife Protection Act, 1972. If at all any permission is granted to stay in the temple premises for any purpose, permission is to be obtained from the Chief Wildlife Warden under Section 28 of the said Act. The applicant would be at liberty to make suitable application within two weeks before the Chief Wildlife Warden giving out the details of the acts intended to be performed within the temple premises and the Chief Wildlife Warden may pass appropriate orders within a reasonable time. Till such time the pujari may carry on the regular poojas from 6.00 a.m. to 8.00 p.m. Any devotees entering the temple to conduct their prayers would be allowed to enter the temple premises. It is made clear that there shall not be any unauthorised constructions in the area. If there are any unauthorised structures other than the temple, the Chief Wildlife Warden or any other appropriate authority would be entitled to take any steps/action in accordance with law.
The applications are disposed of accordingly.

I.A. Nos. 58-60

Applications are rejected.

CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

I.A. Nos. 2 and 92, 52 & 95, 54, 67 & 76, 83-84, 37, 100, 109 in 78-79	Order date 08.04.2008	
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National Board of Wildlife has already given some opinion. Learned Additional Solicitor General submits that the Report with an affidavit be filed within eight weeks.
List in July, 2008.

I.A. Nos. 104-105, 106, 110-112	Order date 30.04.2008	
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I.A. Nos. 104-105

These applications have been filed by the State of Maharashtra seeking permission to submit a proposal to MoEF for approval for dereserving 14.12 hectares (for submergence) and 3.14 hectares (for construction of a dam) in the Radhanagari Wildlife Sanctuary, Kolhapur. Learned counsel appearing for the National Board for Wildlife states that the detailed proposal has not been received from the State. State of Maharashtra may submit the detailed proposal before the National Board for Wildlife within a period of four weeks and the NBWL may consider the same and pass appropriate orders and intimate to this Court.

List after eight weeks.

I.A. No. 106

The State of M.P. has not filed the detailed proposal before the NBWL regarding exclusion of 1659.693 hectares of revenue/protected forest. The State may file the proposal within four weeks before NBWL.
List after eight weeks.

I.A. Nos. 110-112

These applications have been filed BSNL seeking permission to lay optical fiber cable along the existing road by preparing a trench for a length of 15 km. in Gandhisagar Wildlife Sanctuary, Gujarat. The matter was considered by NBWL and it has approved the project in its meeting held on 08.06.2006. BSNL may, therefore, go ahead with the above project, subject to fulfillment of conditions, if any, laid down by NBWL. Applications are disposed of accordingly.

I.A. Nos. 2 & 92, 52 & 95, 54, 67 & 76, 83-84, 37, 100, 109 in 78-79, 104-105, 106, 113 and 114-115	Order date 22.07.2008	
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As requested, list after three weeks.

I.A. Nos.	Order date 20.08.2008	
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CONSERVING PROTECTED AREAS AND PRESERVING WILDLIFE

Deleted.

I.A. Nos. 2 & 92, 52 & 95, 54, 67 & 76, 83-84, 37, 100, 109 in 78-79, 104-105	Order date 17.09.2008	
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I.A. No. 100

Adjourned.

I.A. No. 37

Adjourned by eight weeks.

I.A. No. 52 and 95

Adjourned by eight weeks.

I.A. Nos. 54, 104 and 105

State of Maharashtra may submit a revised proposal in the prescribed format before the National Board for Wildlife.

I.A. Nos. 67 and 76

Adjourned by six weeks.

I.A. No. 109 in 78-79

Aggarwal Pigments, Kota, Rajasthan proposed to have a titanium dioxide manufacturing unit at a place near the Wildlife Sanctuary, Gharyal. This unit proposes to take water from the Chambal which passes through it. They seek permission of the National Board for Wildlife. National Board for Wildlife had earlier examined the matter. Now the applicant has filed a detailed affidavit which is further examined by the National Board for Wildlife. The same may be considered by the National Board for Wildlife and appropriate orders be passed within a reasonable time.

I.A. Nos. 113, 114 and 115

Issue notice.

All the remaining I.As are adjourned by six weeks.

Annexure III

Sanctuary and National Parks under the Wildlife Protection Act

Sanctuary: A Sanctuary is an area that is established under three provisions of the WLPA: i.e Section 26-A, Section 38(1) and Section 66(3).

Section 26 A

For an area of land or water, of any legal status except Reserved Forests and territorial waters around India's coast to be notified as a Sanctuary under *Section 26-A*, three conditions need to be fulfilled:

- Firstly, a **notification** under *Section 18* must be issued declaring the intention and the boundaries of a particular area that is required to be declared a Sanctuary.
- Secondly, the **period** (two months) after proclamation made by the Collector for preferring claims and with regard to peoples' rights must elapse and
- thirdly all the **claims**¹¹⁴¹ made in relation to any land must be disposed off by the State Government.

After these three conditions are fulfilled, the State Government is required to issue a **notification specifying** the limits of the area that would finally be notified as a Sanctuary under Section 26 A.

In the case of Reserved Forests (RFs) and territorial waters, this notification can be directly issued. The Sanctuary exists from the date of such a notification. Thus two separate notifications are required for all areas other than RFs and territorial waters, one as an *intention notification (Section 18 A)* and the other the *final notification (Section 26 A)*.

Section 31(1)

Under *Section 38(1)* the Central Government can also declare a Sanctuary anywhere in India. However two conditions need to be fulfilled prior to declaration of a Sanctuary under Section 38(1)

- First, the State Government must either lease or transfer any area under its control to the Central Government, which is not already a Sanctuary and
- Second, the Central Government must be contended that the particular area satisfies the conditions under *Section 18* i.e. it is of geological, geomorphological, faunal or floral significance.

The provisions and restrictions that apply to a Sanctuary are applicable to such areas declared as above including the power of compounding offences, seizure and arrest without warrant. **However, Section 38(1) has never actually been used by the Central Government.** (emphasis supplied)

Section 66(3)

Under *Section 66(3)* the provisions are concerning Sanctuaries that existed prior to the commencement of the WLPA. A Sanctuary that is declared under any previous Act would be deemed to be Sanctuary under the WLPA.

¹¹⁴¹ A claim is a means by which a person obtains possession or enjoyment of some privilege or an object.

Pre 1991

Position of a Sanctuary- No intention only final declaration

Prior to 1991 a Sanctuary could be declared under Section 18 without a prerequisite of settlement of right process. This clearly introduced the discretion of a timeline within which the settlement of rights process could be completed and more importantly the restrictions of a Sanctuary was immediately imposed on the proposed area. This position was corrected in 1991 wherein a two phase process was introduced i.e. Intention Notification and Final Notification after a due process of settlement of rights. It is equally important to understand that reserved forests were excluded from the process of settlement of rights and perhaps it was assumed that the settlement process of reserved forest under the Indian Forest Act is adequate enough and therefore there is no need to go through the process again. It is obvious that even this assumption was incorrect and this was further corrected in the recently enacted Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

No continuity or allowance of rights provision

A very important provision which was incorporated only in 1991 is the provision to allow the continuation of any right of any person in or over any land within the limits of the Sanctuary with the consultation of the Chief Wildlife Warden. Infact, this is the key legal provision which distinguishes between the National Parks and the Sanctuary today. This has allowed the State to be little more pragmatic about certain rights that can not be extinguished when a Sanctuary is created.

Post 2002 – 2003

The word "Protected Areas" was introduced for the first time which included Sanctuaries among other categories. An ambiguity that persistent since the beginning of the Act about which provision are applicable after an intention to declare a Sanctuary is notified was sought to be corrected. A new provisions relating to protection to Sanctuaries were introduced wherein not only the relevant provisions that would come into effect immediately but another important pragmatic issue of alternative livelihood was also introduced where the State Government was asked to make alternative arrangements for making available fuel, fodder and other forest produced till the settlement of rights process is incomplete.(Section 18A) Further, to remove any ambiguity about the Collector another provision was added to introduce not only the mandatory provision of appointing Collectors but also within a required timeline.

Alteration of boundary of a Sanctuary

The power to alter the boundary of a Sanctuary has also undergone significant changes. Prior to 2002-2003, the Sanctuary could only be altered after a simple majority of the State legislature recommended the same. This position changed after an ongoing case that is CEL, WWF-India vs. Union of India described above as well as after the 2002 amendments of WLPA. The power of the State legislature has been withdrawn and it is now the National Board of Wildlife which is the only Statutory Authority which can recommend the alteration of a Sanctuary. It is worth noting that under orders of the Supreme Court it is also important to get approval of the Supreme Court before a Sanctuary is denotified or diverted for other purposes.

The Advisory Committee

A 2002 – 2003 amendment also introduced the concept of Advisory Committee which includes the political representation including representatives from Panchayati Raj institutions, non government representation, experts and enthusiasts and line department representation as well. There is mandate is to render advise to take measures for better conservation and management of a Sanctuary.

Removal of encroachment

Another significant provision empowering officers to remove encroachment was also introduced in 2002 – 2003. Of course the usual administrative law principles apply.

National Park: A National Parks can be established under three provisions of the WLPA i.e. Section 35, Section 38(2) and Section 66(3).

Section 35

For an area to be declared under *Section 35*, an intention is declared by Notification for an area, which is of ecological, faunal, floral and geomorphological importance. This area may be an existing Sanctuary too. A National Parks is notified under the following three conditions. First, when the *period* of preferring claims has elapsed; second when all *claims* in relation to any land in the area intended to be a National Parks are disposed off by the State Government and lastly, when all *rights* in respect of land which is proposed to be included in the National Parks are vested in the Government. After the above conditions have been fulfilled the State Government shall issue a Notification specifying the limits of the area that is being declared as a National Parks.

Section 38 (2)

Under *Section 38(2)* the Central Government can declare a certain area as a National Parks. However there are two conditions that need to be fulfilled:

- Firstly, the State Government either leases or transfers any area under its control to the Central Government, whether it is a Sanctuary or not; and
- Secondly, the Central Government is satisfied that the particular area satisfies the conditions under *Section 35* i.e. it is of geological, geomorphological, faunal and floral significance.

It is pertinent to mention that the provisions and restrictions that apply to a National Parks are applicable to such area declared as above, including the power of compounding offences, seizure and arrest without warrant.

However, Section 38(2) has never been used by the Central Government (emphasis added)

Section 66(3)

Under *Section 66(3)* the provisions are regarding the National Parks that existed prior to the commencement of the present Act. National parks that existed prior to this Act, e.g. Hailey or Corbett National Park in Uttar Pradesh, notified under a special law enacted for this purpose, would be deemed to be National Parks under this Act. Also if the rights in or over any land are not extinguished under the previous Act for any National Parks then the extinguishment of such rights would be done in accordance with the present Act.

Post 2002 – 2003

Alteration of boundaries, Bonafide needs and direct declaration of a National Parks

The provisions of National Parks under the WLPA was relatively untouched till 2002 – 2003. Only three significant changes have been introduced. First, the alteration of boundaries is now subject to the Recommendation of National Board of Wildlife. Secondly, if a forest produce is removed for the betterment of wildlife in a National Parks the same may be used for meeting the personal *bonafide* needs of the people living in and around the National Parks. However, it can not be used for any commercial purpose. The third important component introduced was in case of Sanctuaries or areas where rights have been extinguished and the land is vested with the State Government under any Act such areas may be directly declared as a National Parks without going through the process of settlement of rights.

Enviro Legal Defence Firm

The Enviro Legal Defence Firm (ELDF), India's first environmental law firm established in 1999 aims at mainstreaming natural resource law, resolving conflicts over resources and strengthening environmental jurisprudence. Specifically, ELDF represents individuals and organizations in courts and before administrative agencies in cases that would have significant impact in protecting environment, resources and ecosystems and establish important precedents in case law; provides consultancy based research and training on natural resources law that can be used by others to protect both urban and rural environment;

WWF-India

World Wide Fund for Nature (WWF) is one of the world's largest and most respected independent conservation organizations. Its mission is to stop the degradation of the planet's natural environment, which it addresses through its work in biodiversity conservation and reduction of humanity's ecological footprint. It has been working on these issues in India for over four decades now.

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