



W.P.No.15230 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY ORDERS RESERVED ON : 20.07.2022

ORDERS PRONOUNCED ON : 10.08.2022

CORAM:

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE.N.MALA

W.P.No.15230 of 2022
and W.M.P.Nos.14406 & 14407 of 2022

A.Viswanathan

... Petitioner

vs.

- 1.State of Tamil Nadu,
Rep. By Chief Wild Life Warden,
No.1, Jennis Road,
Suriyammamet Saidapet,
Chennai – 600 015.
- 2.Central Zoo Authority,
B-1 Wing, 6th Floor,
Pt. Deendayal Antyodaya Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110 003.
- 3.GREENS ZOLOGICAL, RESCUSE &
REHABITATION CENTRE,
SSO, A5, Village Moti Khavdi District,
Jamnagar,
Gujarat – 361280.



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4.Madras Crocodile Bank Trust,
Post Bag No.4,
Mahabalipuram,
Tamil Nadu – 603 104.

... Respondents

Prayer in W.P.No.15230 of 2022: Writ Petition is filed under Article 226 of the Constitution of India humbly praying “to issue a WRIT OF MANDAMUS or any other appropriate Writ, or order, or direction, in the nature of a Writ, it is therefore prayed that this Hon'ble Court may be pleased to set aside /quash the permission by which the Respondent Nos.1 and 2 granted permission for the transfer of 1000 crocodiles from the respondent No.4 facility to the Respondent No.3 facility, and consequentially issue directions to quash and set aside the permission granted by the Respondent No.2 to the Respondent No.3 to operate a Zoo and to pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in W.M.P.No.14406 of 2022: Writ Miscellaneous Petition is filed under Article 226 of the Constitution of India humbly praying to direct the Respondents 1 and 2 to an inquiry and investigation be directed into the management and affairs of the Respondent No.3 by an independent agency like CBI, CID or Special SIT constituted by this Court and based on the



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report, action be taken or directed to be taken against the Respondent No.3

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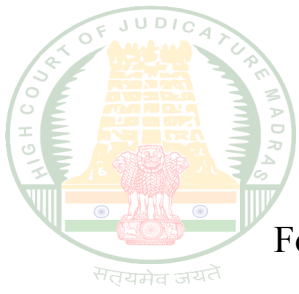
and to pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in W.M.P.No.14407 of 2022: Writ Miscellaneous Petition is filed under Article 226 of the Constitution of India humbly praying that this Hon'ble Court may graciously be pleased to issue any other appropriate Writ, or order, or direction, in the nature of a Writ, it is therefore prayed that this Hon'ble Court may be pleased direct the Respondent No.1 and 2 from giving any permission to Respondent No.3 for acquiring, purchasing, exchanging or selling any animals from any other zoos in Tamil Nadu, India or abroad and to pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.H.Agrawal for Dr.S.K.Samy

For R1 : Mr.P.Muthukumar
Government Pleader

For R2 : Ms.V.Sudha
Central Government Standing Counsel



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For R3

: Mr.Atul Nanda, Senior Counsel for
Dr.Sujay N. Kantawala

: Mr.Niranjan Rajagopalan
Assisted by Meghna Kumar for
M/s.G.R.Associates

* * * * *

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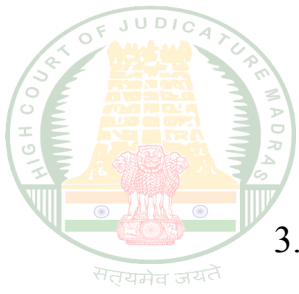
ORDER

[Order of the Court was made by N.MALA, J.]

The Writ Petition is filed as a Public Interest Litigation to set aside /quash the permission by which the respondent Nos.1 and 2 granted permission for the transfer of 1000 crocodiles from the respondent No.4 facility to the respondent No.3 facility, and consequentially to quash and set aside the permission granted by the respondent No.2 to the respondent No.3 to operate a Zoo.

2. With the consent of both the petitioner as well as the respondent's counsel the main writ petition is taken up for hearing and is disposed of by this order.

3. INTRODUCTION:



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3.“The greatness of a nation and its moral progress can be judged by

the way its Animals are treated” – M.K.Gandhi.

“51-A.Fundamental duties. --- It shall be the duty of every citizen of India

(g) to protect and improve the natural environment including forest, lakes, rivers and wildlife, and to have compassion for living creatures.”

4.In this Public Interest Litigation we are called upon to address the issue of the validity of transfer of 1000 crocodiles from the 4th respondent Zoo to the 3rd respondent Zoo in t

“51-A.Fundamental duties. --- It shall be the duty of every citizen of India ----

(g) to protect and improve the natural environment including forest, lakes, rivers and wildlife, and to have compassion for living creatures.”

he light of the provisions of the Wild Life Protection Act, 1972 and the rules framed there under.”

5.Our nation culturally has always been Ecocentric. We believe in peaceful co-existence with all creatures and our love and reverence for the



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animal world is reflected in our religion, folklore, art and craft. From ancient times we are known to have protected, venerated and conserved wild life.

The legacy of protection of wild animals and plants is reflected in the constitution 42nd Amendment Act, 1976 by which Article 51-A was inserted in Part IV-A of the constitution. Article 51-A reads as follows:

“51-A.Fundamental duties. --- It shall be the duty of every citizen of India ----

(g) to protect and improve the natural environment including forest, lakes, rivers and wildlife, and to have compassion for living creatures.”

6.The constitution under Schedule VII List III Entry 17-B provides for Protection of Wild Animals and Birds. Tracing the power to the above, the Parliament enacted the Wild Life Protection Act, 1972 with the object of protection of wild animals and birds with a view to ensuring the ecological and environmental security of our country.

7.Section 38-H of the Wild Life Protection Act, 1972 mandates that



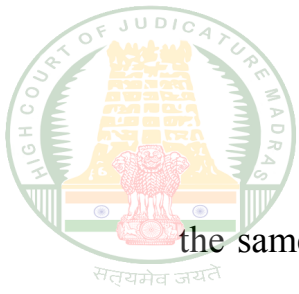
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without the recognition of the Authority, no Zoo can be operated. Zoo is defined under See 2(39) of the Act. The Recognition of Zoo Rules, 2009 was enacted laying down the procedure for recognition of Zoos', renewal of recognition, classification of Zoos' and matters incidental thereto. In the light of the provisions of the Act and the Recognition of Zoo Rules (RZR) 2009 the issues raised before us will be answered.

8.THE BRIEF FACTS NECESSARY FOR THE PURPOSE OF DISPOSAL OF THIS WRIT PETITION ARE AS FOLLOWS:

The petitioner is an Ex-Service Man and an environment and animal lover and as such he has filed the public interest litigation.

9.According to the petitioner in the year 2019, the respondent No.3 made an application to the 2nd respondent for recognition to operate a Rescue, Rehabilitation center and Zoo in the village Kanalus, Taluk Lalpur, District Jamnagar, Gujarat. After compliance of the prescribed formalities the 2nd respondent granted the recognition for operating the mini zoo for a period of three years upto August, 2023. The writ petitioner after referring to various provisions of the Act objected to the grant of permission stating that



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the same were in violation of the provisions of the Wild Life Protection Act 1972, and the Recognition of Zoo Rules, 2009.

10. According to the petitioner the 3rd respondent is not operating the Zoo, rescue and rehabilitation center in accordance with the law and regulations. The Petitioner elaborately discussed the rules framed under the Act to drive home the point that the 2nd respondent could not have permitted the 3rd respondent zoo to bring in 1000 Crocodiles to its facility from the 4th respondent zoo.

11. The petitioner contended that under the Wild Life Protection Act, National Zoo Policy or the recognition of Zoo Rules, there is no provision to give approval or recognition to a private organization to establish a private Zoo. The petitioner further contended that the categorization of the 3rd respondent facility as a Mini Zoo was against the provisions of the Act and the Rules, in as much as the criteria for Mini Zoo are that it should have less than 10 Hectares of land, less than 1 Lakh visitors in a year, less than 10 species of animals and less than 100 animals. On the other hand the Master Layout filed by the 3rd respondent is for an area of 101.2 Hectares of land, 79

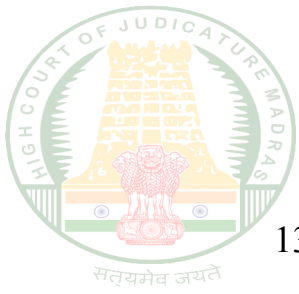


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species of animals and more than 750 animals, which in fact qualifies for the category of a large Zoo. According to the petitioner, the incorrect and unlawful categorization of the 3rd respondent facility would allow the 3rd respondent to operate as a large Zoo, but without complying the standards and norms applicable to the large Zoo. Further contention of the petitioner was that in the Master Plan published by the 3rd respondent it appears that the regulations in respect of enclosures were not followed and the approval/recognition was given without physical verification of the enclosures and therefore the recognition ought to be quashed and set aside.

12.The petitioner contended that the 3rd respondent Zoo was allowed to operate a Rescue and Re-habitation Center within the Zoo, which is a violation of Rule 2(j) of the Recognition of Zoo Rules 2009 (as amended in 2013) (hereinafter referred to as RZR). The said Rules stipulate that a Rescue Center cannot be intertwined or run together or within a Zoo, but it has to be a separate establishment.



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13.The petitioner further contended that the Master Lay out could not have been approved by the 2nd respondent for the reason that it houses an Administrative Office, which is likely to be used as a housing unit or quarters for the staff of the 2nd respondent and this is not permitted as per the schedule of standards and norms i.e. the Recognition of Zoo Rules (RZR).

14.The petitioner contended that the 3rd respondent private Zoo was allowed to enter into acquisition and exchange of animals, which is not permissible under Wild Life Protection Act (WLPA), National Zoo Policy (NZZP) and Recognition of Zoo Rules (RZR). The petitioner further contended that the 3rd respondent Zoo has no expertise in the field, therefore preference and weightage should be given only to Government Zoos, State Government Zoos and Municipal Authorities Zoos which have a proven track record.

15.The petitioner in the light of the above facts prayed to set aside/quash the permission granted by the 2nd respondent to the 4th respondent to transfer 1000 crocodiles from the 4th respondent zoo to the 3rd respondent zoo and consequentially to set aside/quash the permission



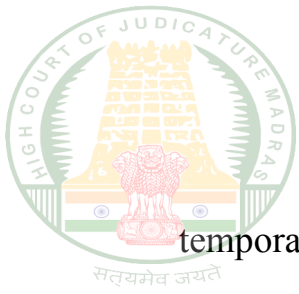
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granted by the 2nd respondent to the 3rd respondent to operate the Zoo.

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16.The 2nd, 3rd and 4th respondents filed counters which are dealt with briefly as here under.

17.The 2nd respondent in its counter submitted that the permission/approval was granted to the 3rd respondent vide letter dated 14.02.2019 under Section 38-H(1A) of the Wild Life Protection Act, 1972 to establish the greens Zoological Rescue and Rehabilitation Kingdom at Jam nagar, Gujarat on conditions stipulated therein. Subsequently an application under Section 38-H(1,3,4) of the Act was received from the zoo operator. The said application was evaluated and it was observed that the rescue center had been established but the main zoo and rescue center were in development stage. Hence permission was granted for a period of three years for operation of Rescue center only vide order dated 17.08.2020. According to the 2nd respondent Rule 2[(1 A)] of the Schedule of RZR of 2009 permits the respondent to recognize Rescue Centers for orphaned wild animals, subject to the availability of appropriate housing and upkeep infrastructure. With regard to the categorization of the 3rd respondent as a Mini Zoo in the website, it was contented that it was only a default category, which was



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temporary in nature considering that there was no specific category for Re-habitation/Rescue Centre. The 2nd respondent categorically submitted that in law there was no embargo on private companies/firms to operate a Zoo/Rescue Center. The 2nd respondent referred to Rule 2 (m) of the Recognition of Zoo Rules (RZR) to contend that the definition of Zoo Operator explicitly recognized Zoos other than Zoos owned or controlled by the Central Government or the State Governments.

18. The 2nd respondent further contended that Section 2 (39) of the Wild Life Act defines a Zoo as an establishment, whether stationary or mobile, where captive animals are kept for exhibition to the public [and includes a circus and rescue centers but does not include an establishment]. The 2nd respondent further contended that the contention that the law and rules framed under the Act do not provide for operation of a private Zoo, is contrary to the National Zoo Policy, 1998 which calls for a synergy between various government agencies, non-government agency and people at large for achieving the objectives of the Act. In so far as the transfer of 1000 crocodiles from the 3rd respondent is concerned, it was contended by the 2nd respondent that under Rule 11 of the Recognition of Zoo Rules, 2009 every



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Zoo was required to submit an inventory of animals in collection to the Central Zoo Authority by the 30th day of April for the ensuing year in Form II

and that on an examination of the 4th respondent's inventory for the year 2019-20, it was observed that there was presence of exceptionally high number of Mugger (*Crocodylus Palustris*) in the 4th respondent Zoo. Based on the said examination the 3rd respondent addressed a letter dated 12.06.2020 to the 4th respondent to submit a comprehensive scientific proposal regarding possibility of exchange of excessive captive bred Mugger with other Zoos or their re-introduction in the wild.

19.The 4th respondent in it's reply expressed it's willingness for a possible acquisition of Marsh crocodiles in their collection by other Zoos. The 4th respondent's letter further contained some valuable suggestions regarding the CZA's Guidelines on minimum dimension of enclosures for housing animals of different species in Zoos. Thereafter the 2nd respondent revised the guidelines on stocking density of various crocodylian species in Indian Zoos. By virtue of the said guidelines the 2nd respondent as a one-time revision, permitted housing of 33 Muggers in 400 Sq.Mts. in rescue centres.

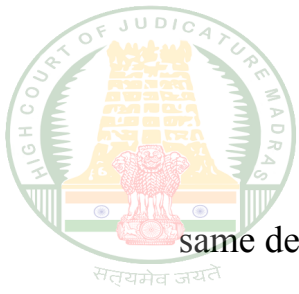


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20. In pursuance of the said revised guidelines the 2nd respondent issued advisory to all the Directors/Curators/Officer-Incharge of Zoos affording them an equal opportunity to acquire Muggers from the 4th respondent subject to the conditions set forth therein. In response to the said advisory few proposals were received from various Zoos including the proposal of the 3rd respondent. The said proposal of the 3rd respondent was scrutinized by the Central Zoo Authority Secretariat and the 2nd respondent granted approval for transferring of surplus 350:650 Muggers from the 4th respondent to the 3rd respondent Rescue Center under Section 38-I of the Wild Life (Protection) Act, 1972 vide letter dated 09.04.2021.

21. In so far as the area for housing the transferred/acquired Muggers at the 3rd respondent zoo was concerned, it was found that the approved Master (Layout) Plan of the satellite rescue facility of the 3rd respondent had earmarked a total area of 16847 Sq.Mts. for housing the 1000 crocodiles in the off-display satellite rescue facility which was well within the limit prescribed in the CZA Advisory. The 2nd respondent in the back drop of the legal as well as the factual averments contended that the petitioner's contentions were inaccurate and inconsistent with the existing laws and the



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same deserved to be rejected as fictitious and baseless.

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22.The 3rd respondent filed the counter giving a brief summary of itself. The 3rd respondent contended that a proposal was given by Reliance Industries Ltd (Zoo Operator) under Section 38(H) Sub Section 2 of the Wild Life (Protection) Act, 1972 for the proposed establishment of a Zoo in the Village Kalanus, Taluk Lalpur, District Jamnagar, Gujarat. The proposal was accepted by the 2nd respondent. After a detailed scrutiny and analysis of the proposal on 14.02.2019, the CZA granted approval to establish the Zoo, Rescue and Re-habitation Center under Section 38(H) (1A) of the said Act subject to certain conditions stipulated therein. The CZA evaluated the 3rd respondent facility on 08.08.2020 and being satisfied with the compliance of the norms and standards the CZA granted approval and recognition on 17.08.2020 with validity period of three years i.e. 16.08.2023. The 3rd respondent contended that there has been a strict compliance of the Act and the Rules and the contentions to the contrary deserved to be rejected.

23.According to the 3rd respondent, the Master Layout Plan annexed



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to the public interest litigation was an old plan and there were amendments made subsequently to the Master Plan. According to the 3rd respondent, the approval was for a large area of 425 acres, which encompasses within itself a Zoo , separate rescue & rehabilitation Center, satellite rescue and rehabilitation centers. The 3rd respondent further contended that it has employed a large number of personnel who have expertise in the field to man and run the Zoo. According to the 3rd respondent, it is not just a Zoo, but also a rescue, rehabilitation center and research center and the facilities dedicated there to are for the welfare of the animals which would not be open to visitors and public .

24. According to the 3rd respondent the entire public interest litigation was misconceived , in as much as the petitioner failed to note that the transferred crocodiles are to be rehabilitated in dedicated rescue centers and would not be a part of the Zoo. According to the 3rd respondent the transfer is not hit by Section 38 and the transfer is done in the interest of the welfare of the crocodiles and as such the transfer is governed by the Act. The 3rd respondent referred to various provisions of the Act and the Rules to counter the contention of the petitioner that a private organization cannot operate the



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Zoo and further that no approval for transportation of the crocodiles could have been granted as the same was contrary to the scheme of the Act and the Rules.

25. The 3rd respondent in reply to the contentions of the petitioner as regards the experience of the 3rd respondent contended that the same were baseless and that the 3rd respondent had an established and experienced staffing pattern with the staff meeting world class standards. The 3rd respondent also submitted that the housing and rehabilitation of the crocodiles were as per the approved plans and the crocodiles were not kept in any common enclosure. The 3rd respondent contended that the entire domain of Zoo operations and animal handling is an extremely sensitive and highly specialized expert domain. With regard to the transfer of crocodiles, the 3rd respondent reiterated the contentions of the 2nd respondent on the legal aspect of the transfer of 1000 crocodiles from the 4th respondent zoo to the 3rd respondent zoo. The 3rd respondent in paragraph 11 of its counter categorically stated that when no other Zoos or the rescue centers expressed a serious desire to rehabilitate the crocodile, it was the 3rd respondent which offered to house the crocodiles in its zoo.



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26. The 4th respondent in its counter contended that the 3rd respondent zoo was inspected thoroughly by the Trustee Mr. Romulus Whitaker and other experts and biologist working with the Trust and it was found that the 3rd respondent had earmarked an area of 15 acres with the state of the art facilities which were in the interest of the crocodiles and other reptiles. The 3rd respondent had further decided to engage 4th respondent's then Director, Assistant Curator and a few other staff who had vast experience in housing the crocodiles, feeding and handling them. It was only on the satisfaction of the facilities offered by the 3rd respondent, the 4th respondent by letter dated 21.11.2000 offered the transfer of crocodiles and other reptiles to the 3rd respondent Zoo at Jamnagar, Gujarat, after getting the permission from the 2nd respondent. The said offer was accepted by the 3rd respondent and a Memorandum of Understanding was executed between the 3rd and 4th respondents on 08.01.2021 for transfer of surplus animals from the 4th respondent to the 3rd respondent. According to the 4th respondent the entire purpose behind the said agreement was the welfare of the animals and no consideration or sale of the said animals had taken place. The 2nd respondent on an application made, after following due procedure granted permission on the said application and thereafter the process of transfer of the said



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crocodiles and other reptiles commenced. The 4th respondent contended that as on date of the counter 300 mugger crocodiles had been safely transferred under valid permission to the 3rd respondent zoo.

27.The 4th respondent also filed the photographs along with the counter to enable the comparison of the animals from their original home to the transferred home. The 4th respondent also reiterated that the transfer of the crocodiles to the 3rd respondent zoo was not essentially for display only and that display and off-display areas were to be separate and distinct. According to the 4th respondent the petitioner had made allegations casually without an understanding of the operations of zoos and rescue centers which are distinct and separate in nature. The 4th respondent further submitted that the writ petition deserved to be dismissed on the ground that it was speculative and made without any verification, research or study.

28.The learned counsel for the petitioner raised the following contentions at the time of hearing.

“1.That the Wild Life Protection Act and Rules made thereunder do not provide for operation of a private



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Zoo.

2.The recognition of the 3rd respondent as a mini zoo is contrary to the Act and the Rules in as much as the area of land and number of animals proposed in the Master Layout is more and this allows the respondent No.3 to breach the standards and norms provided in the Rules of 2009.

3.The grant of permission by the 2nd respondent to the 4th respondent to transfer 1000 crocodiles to the 3rd respondent zoo is illegal and illogical because the 3rd respondent zoo as per the Master Layout did not have the requisite area for housing the transferred crocodiles.”

29.The learned counsel referred to the provisions of the Wild Life Protection Act and Rules in support of his contentions.

30.The learned counsel for the 2nd respondent submitted that there was no bar to the establishment and operation of a private Zoo under the Wild Life Protection Act and Rules. The learned counsel further submitted that



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though the 3rd respondent Rescue Center is categorised as a Mini Zoo the permission was granted for operating only the rescue center which is very much permissible under the Act and Rules. The learned counsel further submitted that it was found on examination of the annual report of the 4th respondent that there was a surplus of crocodiles in the 4th respondent Zoo and therefore in the interest and welfare of the crocodiles a decision was taken to transfer 1000 crocodiles to the 3rd respondent facility and the transfer was permitted strictly in accordance with the Act and Rules. The counsel further submitted that only on satisfaction of the facilities provided in the 3rd respondent Zoo particularly with reference to the area the permission was granted.

31.The 3rd respondent counsel supported the submissions of the 2nd respondent. The 3rd respondent counsel submitted that the entire domain of Zoo operations and animal handling is an extremely sensitive and highly specialized expert domain. Under the registration scheme of the chapter IV A of the Wild Life Protection Act, 1972 , the Central Zoo Authority is the competent authority entrusted in law to deal with all the issues relating to Zoo, such as the present one. The 3rd respondent counsel in his written

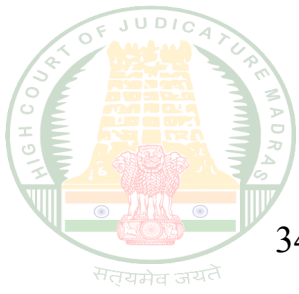


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submission raised objections on the maintainability of the writ petition stating that the petitioner had failed to exhaust the alternate remedy before the competent authority and had filed this writ petition before this Hon'ble High Court.

32.The learned counsel for the 3rd respondent submitted that the transfer of the crocodiles was an arrangement between the 3rd and 4th respondents duly sanctioned by the 2nd respondent and absolutely legal and justified in as much as it was in accordance with law.

33.The 4th respondent counsel also supported the submissions of the 2nd respondent and the 3rd respondent on the transfer of 1000 crocodiles from the 4th respondent zoo to the 3rd respondent zoo. According to the counsel the 3rd respondent's Rescue Center was inspected thoroughly by its Trustee Mr.Romulus Whitaker and other experts and biologist working with the Trust and it was found by all concerned that the 3rd respondent had earmarked an area of 15 acres with state of the art facilities which were in the interest of the crocodiles and therefore the transfer was supported.



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34. The learned counsel further submitted that the photographs annexed to the typed set of papers would pellucidly reveal that the surplus crocodiles in the 4th respondent zoo were comfortably housed in the 3rd respondent's center and therefore the welfare of the animals which is the paramount concern should alone be considered, moreso, when the legal requirements were fully satisfied.

35. We have heard the learned counsel for the respective parties and we have perused the records.

36. The moot questions to be decided in this writ petition which is filed as a Public Interest Litigation is whether the transfer of 1000 crocodiles to the 3rd respondent center from the 4th respondent center is legally valid or not. Further whether the grant of permission to the 3rd respondent to establish and operate the Zoo is valid and in consonance with the Wild Life Protection Act and the Rules made there under.

37. The object of the Wild Life Protection Act is as follows:

“The Act to provide for the protection of wild



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animals, birds and plants and for matters connected therewith or ancillary or incidental thereto with a view to ensuring the ecological and environmental security of the country.”

38.The Act provides inter alia for the legal frame work for the protection of various species of wild animals and management of the habitation and regulation among others. The Act further provides that no zoo shall be operated unless an application for recognition is made to the Central Zoo Authority in the prescribed form and the same is approved by the authority. Therefore there is a total bar to the operation of a zoo without previous recognition by the authority.

39.In this context Section 38 H (1) which provides for recognition of zoos is extracted hereunder.

“(1) No zoo shall be operated without being recognised by the Authority: Provided that a zoo being operated immediately before the date of commencement of the Wild Life (Protection) (Amendment) Act, 1991 may continue to operate without being recognised for a period



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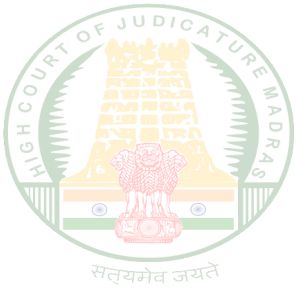
of 1[eighteen months from the date of such commencement] and if the application seeking recognition is made within that period, the zoo may continue to be operated until the said application is finally decided or withdrawn and in case of refusal for a further period of six months from the date of such refusal.

2[(1A) On and after the commencement of the Wild Life (Protection) Amendment Act, 2002 a zoo shall not be established without obtaining the prior approval of the Authority.]”

40. According to the petitioner there cannot be a private zoo and the zoos are usually operated either by the Central Government or the State Government. As far as the operation of the zoo by a private operator is concerned Rule 2 (m) of the Recognition of the Zoo Rules, 2009 states as follows:

“2(m) “Zoo Operator” means the person who has ultimate control over the affairs of the zoos provided that

I. in the case of a firm or other association of



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individuals, any one of the individual partners or members thereof; or

II. in the case of a company, any director, manager, secretary or other officer, who is in-charge of and responsible to the company for the affairs of the zoo; or

III. In case of zoo owned or controlled by the Central Government or any State Government or Union Territory Administration or any Trust or Society funded by the Central Government or a State Government or a Union Territory Administration, the Secretary of the concerned Department of that Government, or as the case may be the Union Territory Administration, shall be deemed to be the Zoo Operator.”

41. Therefore from the definition of zoo operator it is explicit that there can be a private zoo apart from the zoos operated by the State Government or the Central Government. Rule 2(m) r/w Section 2(39) of the Wild Life Act would make it clear that the parliament did not intent to curtail the operation of zoo by the private firms/companies. It is pertinent to note here the



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National Zoo Policy of 1998 which calls for the synergy between various government agencies, non-government agency and people at large for achieving the objectives of the Act, which is inter alia the protection of the Wild Life. The relevant provision of the National Zoo Policy is extracted hereunder for better appreciation of the above statement.

“The amendment of the Wildlife (Protection) Act, in 1991, provided for the enforcement of mandatory standards and norms for management of Zoos through the Central Zoo Authority. However, it is realised that the objectives of the Act can be achieved only through co-operation and participation of various government agencies, non-governmental organisations and people at large.”

We are therefore of the view that the contention of the petitioner that the the Act does not provide for private zoos cannot be accepted.

42.The definition of Zoo is given in Section 2(39) of the Wild Life Protection Act, 1972, wherein the Zoo is defined as follows:

“[(39) “zoo” means an establishment, whether



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stationary or mobile, where captive animals are kept for exhibition to the public [and includes a circus and rescue centres but does not include an establishment] of a licensed dealer in captive animals.]”

43.From the above definition it is clear that even a rescue center is included in the definition of a Zoo. It is to be noted here that it is the categorical stand of the 2nd respondent that the 3rd respondent is permitted to establish a Zoo, but approval for operation is given only for the rescue center vide permission letter dated 17.08.2020 for a period of three years from the date of recognition.

44.It is relevant to refer to Rule 9 here:

Classification of zoos.....(1) For the purposes of deciding standards and norms for recognition of zoo and monitoring and evaluating its performance, the zoo, on the basis of area, number of visitors, number of species and animals, endangered species and number of animals of endangered species in its collection shall be taken into consideration and the zoo shall accordingly be classified into following four categories as specified



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in the Table, namely:-

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45.The category and the criteria for qualifying to the category are as follows:

SI. No.	Category of Staff	Criteria for Qualifying to the category					
		3	4	5	6	7	8
		Area of the Zoo (hectares)	No. of visitors in a year (in lakhs)	No. of species	No. of animals	No. of endangered species	No. of animals of endangered species
1	Large	75	7.5	75	750	20	100
2	Medium	35	3.5	35	350	10	50
3	Small	10	1	10	100	3	15
4	Mini	Less than 10	Less than 1.0	Less than 10	Less than 100	---	---

46.A rescue center is covered by the definition of zoo under sec 2 (39) of the Wild Life Act. There is no specific category assigned to rescue center so by default the rescue center is covered by the category of mini zoo and that too as a temporary measure . In the light of the categorical stand taken by the 2nd respondent it is clear that the 3rd respondent is permitted to



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operate only as a rescue and rehabilitation center and no category as such is assigned the 3rd respondent Zoo. It is the case of the respondents that the research centers are facilities dedicated for the animals welfare and care only and as such not open to visitors. The counsel for the 2nd respondent reaffirmed the said statement by relying on Rule 1(8) of the Schedule to the Recognition of Zoo Rules 2009. It is therefore clear that 3rd respondent Zoo is only a Rescue Center and display is prohibited under the above rule. Therefore the contentions No.1 & 2 of the petitioner are untenable and rejected.

47.The learned counsel for the petitioner strenuously argued that the 2nd respondent ought not to have approved the transfer of 1000 crocodiles from the 4th respondent zoo to the 3rd respondent zoo.

48.It is relevant to extract here Rule 38-I of the Wild Life (Protection) Act, 1972.

“[38-I.Acquisition of animals by a zoo.-(1) Subject to the other provisions of this Act, no zoo shall acquire, sell or transfer any wild animal or captive animal specified in



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Schedules I and II except with the previous permission of the

(2)No zoo shall acquire, sell or transfer any wild or captive animal except from or to a recognised zoo.]”

From the above it is clear that the previous permission of the Authority is a *sine quo non* for transfer. The procedure adopted by the 2nd respondent for granting approval/permission under Section 38(I) is given hereunder

“[11.Maintenance of records and submission of inventory.-(1) Every zoo shall maintain record of the births, acquisitions, deaths and disposals of animals of each species in its collection in the manner and in the format determined by the Central Zoo Authority and the inventory of the animals in the collection of each zoo, along with the details mentioned above for each financial year shall be submitted to the Central Zoo Authority by 30th day of April of the ensuing year in Form II.]”

It is seen that the Rule 11 of RZR, 2009 requires even recognized zoo to submit an inventory of animals in its collection to the Central Zoo Authority by the 30th day of April for the ensuing year in Form II. On an examination



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of the 4th respondent's inventory for the year 2019-20, it was observed that there was a presence of exceptionally high number of Mugger (Crocodylus Palustris) in the 4th respondent Zoo. The 2nd respondent addressed a letter dated 12.06.2020 to the 4th respondent to submit a comprehensive scientific proposal regarding the possibility of exchange of excessive captive bred Mugger with other Zoos or their re-introduction in the wild. The 4th respondent in its reply dated 26.06.2020 expressed its willingness for a possible acquisition of Marsh crocodiles in their collection by other Zoos.

49. In the said letter some valuable suggestions regarding the CZA's Guidelines on minimum dimension of enclosures for housing animals of different species in Zoos was also shared. In answer to the 4th respondent's communication the 2nd respondent vide the memorandum dated 22.12.2020 issued revised guidelines on stocking density of various crocodylian species in Indian Zoos. By virtue of the said guidelines the 2nd respondent as a one-time revision, permitted housing of 33 Muggers in 400 Sq.Mts. in rescue centres.

50. On the basis of the revised guideline the 2nd respondent addressed a



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letter dated 09.10.2020 to all the Directors/curators and the officer in charge

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of zoos giving them an equal opportunity to acquire muggers from the 4th respondent zoo subject to the conditions set forth therein. A few proposals were received from different zoos. The proposal of the 3rd respondent dated 06.04.2021 regarding the acquisition of the surplus muggers from the 4th respondent was scrutinized by the CZA Secretariat and thereafter the approval was granted for transfer of surplus 350:650 Muggers from the 4th respondent to the 3rd respondent Rescue Center under Section 38-I of the Wild Life (Protection) Act, 1972 vide letter dated 09.04.2021.

51. It is pertinent to note here that as per the revised guidelines the area to house the muggers in rescue centre is 33 individuals for 400 sq.mts. But the 3rd respondent Centre had earmarked a total area of 16847 sq.mt for housing 1000 crocodiles in the off-display satellite rescue facility which is well within the limit prescribed in the CZA Advisory. It is also to be pointed out here that the decision to transfer 1000 muggers from the 4th respondent zoo to the 3rd respondent zoo was studied even by the 4th respondent whose trustee Mr. Romulus Whitaker inspected the 3rd respondent centre with other experts and biologist working in the trust and only after satisfaction with the



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3rd respondent facilities which were found to be state of art facilities the proposal was accepted, that too, in the interest of the welfare of the crocodiles Even otherwise the competent authority has found that the total area of 16847 sq.mt earmarked for housing 1000 crocodiles in the off-display satellite rescue facility is well within the limit prescribed in the CZA Advisory. Therefore when the experts in the field have expressed their satisfaction on the facilities provided by the 3rd respondent rescue centre, we do not propose to interfere with the same, moreso when no materials to contravert the same are placed before us.

52.The Hon'ble Supreme Court in catena of cases has laid down the contours of judicial review in expert matters. We would refer to just one judgment as it was also a case under Wildlife Protection Act. The apex court in the case of *Centre for Environmental Law, World Wide Fund-India Vs. Union of India* reported in *2013 (8) SCC 234*, while dealing with the necessity of a second home for Asiatic lions of Gir forests held as follows.

“57)..... Statutorily, therefore, it is the duty of NBWL to promote conservation and development of



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Wildlife with a view to ensuring ecological and environmental security in the country. We are, therefore, of the view that the various decisions taken by NBWL that Asiatic Lion should have a second home to save it from extinction, due to catastrophes like epidemic, large forest fire, etc., which could result in extinction, is justified. This Court, sitting in the jurisdiction, is not justified in taking a contrary view from that of NBWL.”

53. We are therefore of the opinion that the objections of the petitioner to the transfer of the 1000 crocodiles from the 4th respondent to the 3rd respondent rescue centre is devoid of merits and without any factual basis and as such rejected as untenable.

54. We would like to mention here that the Hon'ble Supreme Court in the above referred case has held that the approach to such issues should be Ecocentric and not Antropocentric. The Court has held that egocentric is life centered, nature centered where nature includes both human and non-humans. Anthropocentric on the other hand is always human interest

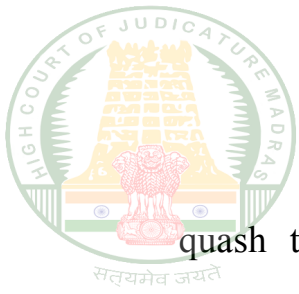


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focused. The rescue and rehabilitation of the crocodiles in issue have to be viewed from Ecocentric angle. Wild animals are not the property of state or central governments, any organization or persons, they are the wealth of the nation and so no one can claim ownership of them. The fauna and flora are to be protected for the environmental security of the nation for future generations. The welfare of the animals should be the prime concern and the guiding light in matters concerning them. In the present case the 4th respondent has submitted that it does not have the funds to look after the surplus crocodiles and it has also vouched for the welfare of the crocodiles in the 3rd respondent rescue center. Further we have perused the photographs produced by the 4th respondent to show how comfortably the crocodiles are housed in the 3rd respondent's Rescue centre compared to the cramped way in which they were kept in the 4th respondent zoo.

55. Before parting with the case we would like to record our displeasure on the frame of the prayer in the Writ Petition. We are perplexed at the prayer in the writ petition. The petitioner has made a vague prayer for quashing the permission granted for transfer of the 1000 crocodiles and the permission granted to the 3rd respondent to operate the zoo without praying to



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quash the specific orders passed in this regard and of which he had knowledge. The amended master plan was also ignored. As pointed out by the respondents there is lack of verification, research and study of the case and yet made a prayer to refer the matter to CBI, CID or Special SIT for investigation. In spite of the said shortcomings we have entertained the PIL only because of our concern for the welfare of the animals in question and to reject the prayer for investigation by CBI, CID or Special SIT.

56. In the light of the above discussion we are of the considered view that the writ petition has no merit and hence the same is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are dismissed.

(M.N.B., CJ)

(N.M.,J.)

10.08.2022

Index : Yes / No

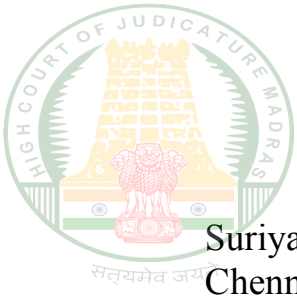
Internet : Yes / No

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To

1. Chief Wild Life Warden,
No.1, Jennis Road,

37/40



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Suriyammamet Saidapet,
Chennai – 600 015.

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2. Central Zoo Authority,
B-1 Wing, 6th Floor,
Pt. Deendayal Antyodaya Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110 003.
3. GREENS ZOLOGICAL, RESCUSE &
REHABILITATION CENTRE,
SSO, A5, Village Moti Khavdi District,
Jamnagar,
Gujarat – 361280.
4. Madras Crocodile Bank Trust,
Post Bag No.4,
Mahabalipuram,
Tamil Nadu – 603 104.



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MUNISHWAR NATH BHANDARI, C.J.

and

N.MALA, J.

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PRE-DELIVERY ORDER IN

W.P.No.15230 of 2022

and W.M.P.Nos.14406 & 14407 of 2022



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10.08.2022