

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No.844/2018

WITH

Original Application No. 1031/2018

News item published in “The Times of India” Authored by
RiyanRamanath

Titled

“Hanging live wire kills 7 jumbos in Odisha”

WITH

News item published in “The Times of India”

Titled

“Electrocuted at Meghamalai Forest”

Date of hearing: 20.12.2018

CORAM:

**HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. Amit A. Pal, Advocate

For Respondent(s): Mr. V. Mowli, Advocate for State of Tamil
Nadu

ORDER

1. The Issue taken up for consideration arises out of an incident of death of seven elephants in Odisha as reported in the Times of India dated 28.10.2018 under the heading “Hanging live wire kills seven jumbos in Odisha”¹.
2. On the last date on 30.10.2018, after considering the matter, the Tribunal directed constitution of a Joint Team having representative of and coordinated by Ministry of Environment, Forest and Climate Change (MoEF & CC), apart from representative from the Director, Project Elephant, Wild Life Institute of India, Dehradun, and Chief Wild life Warden, Odisha to visit the site and suggest remedial measures. The Central Electricity Supply Utility (CESU) which was found to be prima

¹<https://newsjizz.com/57238-hanging-up-live-wire-kills-7-jumbo-s-in-odisha.html>

facie responsible was required to deposit a sum of Rs. 1 crore with Chief Wild life Warden, Odisha and abide by further directions after consideration of the Report.

3. The Tribunal also noted that 42 elephants had died due to sagging of live wires and 18 were killed in Dhenkanal Division itself. Non-rectification of sagging electric lines and non-cabling of transmission lines was the major issue apart from taking other precautions including those referred to in orders of the Hon'ble Supreme Court of India in *Shakti Prasad Nayak vs. Union of India*² and *Vidya Athreya & Anr. Vs Union of India*³ as well as the instructions of the MoEF & CC dated 29.06.2018, in view of the fact that there were instances of such accidental death of elephants in other States also.

4. An affidavit has been filed before this Tribunal on behalf of the MoEF& CC on 12.12.2018 stating that in compliance of order of the Tribunal, the Joint Team visited the site on 30.11.2018 and made inquiries from the nearby inhabitants, forest staff and also sought report from Chief Executive Officer, CESU, Criminal Investigation Department Crime Branch (CID CB), Odisha and Odisha Forest Department. The Report dated 12.12.2018 by the Mr. Noyal Thomas, Inspector General of Forest and Director, Project Elephant holds that the main cause of death of elephant was electric line near village Kamalanga which was in a sagging condition since long. It was as low as 5 feet 6 inch. No steps were taken by the CESU to rectify the situation. Concerned employees were arrested and investigation was going on. The recommendations of the Committee are as follow :

"1). The major cause of the deaths of elephants and human beings is due to the conflict arising out of the fragmentation of the elephant habitats due to the various developmental, agricultural and other economic activities. The Securing of the

² (2014) 15 SCC 514

³ WP(C) No. 275/2015

safe elephant corridors by the states has been advised by the Ministry of Environment, Forests and Climate Change by its various advisories. National Board of Wildlife has also advised the states to ensure safe passages for elephants as suggested in the Gaja Report released by the Ministry. The various options were advised like declaring ecological sensitive zones, acquisition of the lands, increasing the protected area by including the corridors and also by declaring community or conservation reserve where ever feasible.

- 2). The Human Elephant conflict management guidelines issued by the Ministry on 6th October 2017 may be followed and complied with by the States to prevent the conflicts and the resultant deaths of elephants and humans in the country.*
- 3). An animal passage plan has to be prepared and incorporated in the new linear infrastructure proposals before submitting the same for approval by Government of India. Mitigation plans also to be prepared and implemented in the existing railway lines, power lines, roads, irrigation structures expeditiously by mobilizing funds from different sources including own funds.*
- 4). All the linear infrastructure agencies including the Electricity distribution companies/utilities should adhere to the guidelines for linear infrastructures being taken up in Forest & Wildlife areas, prepared by the Wildlife Institute of India and released by the Ministry of Environment, Forests and Climate Change. States shall ensure compliance of the same.*
- 5). Strict compliance of the provisions of the Indian Electricity Rules, 1956 in erection & maintenance of the lines especially the rules 29, 46, 63 & 65, is the fore most requirements in prevention of electrocution deaths of elephants in Odisha and in all other elephant areas of the country.*
- 6). The minimum clearance in forest areas may be kept at 20 feet as recommended by the Karnataka Elephant Task Force report 2012. The clearance between trees and conductors shall not be less than 2.6 metres for 11 KV & 2.8 metres for 33 KV lines. The sag & swing of conductors are to be kept in view while working out minimum clearances.*
- 7). The recommendations of the A.K. Biswal Committee report of 2010 may be complied with by the State Electricity Distribution companies/entities to prevent the deaths of elephants Odisha and also in other parts of the country.*
- 8). The Central Electricity Authority guidelines on erection and maintenance of electricity lines should invariably be complied with by all the electricity distribution companies/utilities and the same shall be ensured by the State Governments.*
- 9). The poles/towers should be strengthened with cement concrete along with suitable stay wires to keep the poles in place. Barbed wires may be placed on poles and transformers to prevent elephant and other wild animals touching the poles so as to prevent the sagging of the poles and lines.*
- 10). Inspection of lines to ensure use of approved material & ground clearance of the lines may be undertaken regularly at least*

twice a year. A joint inspection of the lines may be taken up with the Electricity and Forest Department in the Forests and adjoining areas.

- 11). A third party independent audit of the compliance of the erection & maintenance of lines as per Indian Electricity Rules, 1956 and related guidelines of the Central Electricity Authority may be taken up every year without fail.*
- 12). The line span to be appropriate to prevent sagging considering the topography, wind speed and possibility of wildlife movement. The spans should be invariably be kept to the minimum in forest areas.*
- 13). Fast acting protection relays/releases may be provided for the distribution lines. Auto reclosures must not be used in distribution lines passing through the wildlife areas. Circuit breakers to be appropriate and invariably be provided as per the norms.*
- 14). Use of insulation particularly for conductors of 11 KV and below shall be ensured & all old transmission lines shall be replaced with insulated cables on war footing. In the existing lines passing through forest & wildlife areas shall be converted into insulated cables within six months.*
- 15). The Energy Department of Odisha to report the compliance of the decisions taken in the meeting held on 03.11.2018 by Chief Secretary of Odisha regarding cabling and prevention of sagging of lines by 31st December, 2018.*
- 16). States shall report the progress of the conversion of the lines into insulated cables and underground insulated cables to the Ministry of Environment, forest & Climate Change, and Government of India on a monthly basis. (Copy of photo of model insulated cables in WL areas in Karnataka is at Annexure 1 (a).*
- 17). No new line should be charged in forest and adjoining areas without a clearance certificate from Forest Department after inspection so as to ensure safety of wild life moving in the area.*
- 18). The State Electrical Inspectorate should not give permission to charge new lines without ensuring compliance of the mandatory provisions of Indian Electricity Act and Rules. Further the electrical inspectors shall also conduct frequent inspections in the lines passing through forest areas without waiting for remittance of mandatory fees.*
- 19). Forest & Wildlife Department of the States should ensure that the field staff at Range and section level carry out regular patrolling in elephant movement areas and alert the electricity department and other agencies like Railways, Highways and Irrigation Departments etc. All elephant movement should be taken serious by lower staff and ensure preventive action by the concerned agencies.*
- 20) The huge vacancy in the field staff positions prevents the forest department from taking up regular patrolling and coordination activities. Hence these posts shall be filled up urgently and a*

report to be submitted to the Government of India every six months on the progress. All vacant posts shall be filled up by March 2020.

- 21). There should be coordination committees with Forest & Electricity Departments and other agencies like Railways, Highways etc. for taking up various preventive activities to prevent elephant deaths. The State Governments shall ensure effective functioning of these committees and a report be furnished to the Government of India at regular intervals.*
- 22). Regular patrolling to prevent deaths due to poisoning, retaliation etc. to be taken up by the Forest Departments involving communities and other agencies to ensure that elephants are allowed to pass safely into their habitats.*
- 23). Capacity building and sensitization of the field staff of all linear infrastructure departments may be taken up by the concerned departments with the help of the State Forest Departments.”*

5. CESU in its Report dated 03.12.2018 submitted in compliance of the order of this Tribunal states that there was no negligence on the part of CESU. A receipt of deposit of Rs. 1 crore has been annexed. It is also stated that the CESU does not have adequate financial resources to upgrade their distribution system to higher technical standards in the wild life area.
6. The Odisha Police has also furnished its report dated 06.12.2018 to the MoEF & CC stating that during investigation negligence of CESU was found for not remedying the sagging transmission line at a low level. Further investigation was in progress.
7. We have perused further new item dated 28.11.2018 relating to electrocution of two females animal in Meghamalai forest in Tamil Nadu. Though no Notice has been issued, Mr. V. Mowli, Advocate, appearing for the State of Tamil Nadu states the matter is being looked into by the Madurai Bench of Madras High Court.
8. We are unable to accept the stand of CESU that it was not negligent. The amount deposited may be transferred to Forest Department of Odisha so that the Forest Department can utilize the amount for remedial measures for protection of elephant

corridors. The amount will not be utilized for any other purpose and will be kept in a separate account.

9. The CESU will be liable to pay further amount of Rs. 4 crores which will also be dealt with in a same manner as the amount of Rs. 1 crore for spending as per an appropriate action plan to be prepared by the Forest Department. The CESU must do regular maintenance work to avoid sagging of electric wires so that no such incidents take place in future. The CESU will also comply with all other recommendations quoted above referable to CESU by reducing the sagging of wires. The Forest Department will keep a vigil and take preventive steps, including coordination with the concerned Departments from time to time.
10. The CESU may take steps within three months in the light of above recommendations and submit a compliance report to the MoEF & CC by e-mail. The MoEF & CC may forward the same to this Tribunal by e-mail at ngt.filing@gmail.com along with its comments. The Forest Department may also sent a compliance report about the preparation of Action Plan and follow up action within three months to the MoEF & CC which may also forwarded to the Tribunal by e-mail.
11. MoEF & CC may issue revised guidelines on the subject to all the States/ Union Territories in the Country and monitor the same at appropriate intervals to avoid recurrence of such incidents in future.
12. The application is disposed of.
13. The Report received may be put up for consideration on 15.05.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

December 20, 2018
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