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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

THE WILDLIFE PROTECTION ACT, 1972 - PROTECTION OF FLORA & FAUNA

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ABSTRACT

The Biodiversity, encompassing wildlife such as animals, birds, and plants, is an invaluable asset to any nation. However, human activities, driven by progress and self-interest, are increasingly threatening forests and wildlife. As a vital component of nature, the decline in wildlife has serious environmental repercussions, underscoring the urgent need for its protection. The importance of wildlife conservation gained significant attention only after independence due to increasing environmental concerns about our flora and fauna. This paper explores the historical development and evolution of wildlife protection in India, including an analysis of explicit laws and regulations. It also reviews significant legal judgments that have influenced wildlife protection policies and assesses the current state, challenges, and potential areas for improvement in conservation efforts. The Wildlife Protection Act underscores the intrinsic link between wildlife conservation and human well-being, emphasizing that preserving biodiversity is not only crucial for ecological stability but also for sustaining human life. As the Act continues to evolve, its effectiveness in addressing contemporary challenges in wildlife conservation will be vital in preserving the rich biodiversity of India for future generations.

Key Words: Biodiversity, Wildlife Protection, Pollution, Environment, Flora & Fauna, Judgements, Legislations.

THE WILDLIFE PROTECTION ACT, 1972 - PROTECTION OF FLORA & FAUNA

“Wildlife is something which man cannot construct. Once it is gone, it is gone forever. Man can rebuild a pyramid, but he can't rebuild ecology, or a giraffe.” -Joy Adamson

SHIVA KUMAR KONNE**

INTRODUCTION

Wildlife holds a vital place in our cultural and spiritual heritage. However, our treatment of animals, including many species, leaves much to be desired. Preserving wildlife is essential not just for animals, but also for human survival. The significance of wildlife conservation only began to receive considerable attention after independence, driven by growing environmental concerns about our flora and fauna. The term "wildlife" falls under the broader concept of "biodiversity." Biodiversity encompasses the variety of life forms, ranging from genes and species to entire ecosystems. In essence, it refers to the diversity among living organisms, their genetic variations, and the ecosystems they inhabit. This living wealth of the Earth is the result of millions of years of evolutionary history.

The Wildlife Protection Act, 1972¹, provides for protection to listed species of flora and fauna and establishes a network of ecologically-important protected areas. The Act consists of 60 Sections and VI Schedules- divided into Eight Chapters. The Wildlife Protection Act, 1972 empowers the central and state governments to declare any area a wildlife sanctuary, national park or closed area. There is a blanket ban on carrying out any industrial activity inside these protected areas. It provides for authorities to administer and implement the Act; regulate the hunting of wild animals; protect specified plants, sanctuaries, national parks and closed areas; restrict trade or commerce in wild animals or animal articles; and miscellaneous matters. The Act prohibits hunting of animals except with permission of authorized officer when an animal has become dangerous to human life or property or as disabled or diseased as to be beyond recovery.

The Act underwent many amendments. An amendment to the Act in 1982, introduced provisions permitting the capture and transportation of wild animals for the scientific management of animal

¹ *India is the first country in the world to have made provisions for the protection and conservation of environment in its constitution.*

population. An amendment in the year 1991 resulted in the insertion of the special chapters dealing with the protection of specified plants and the regulation of zoos. This also recognized the needs of tribal and forest dwellers and changes were introduced to advance their welfare. The near-total prohibition on hunting was made more effective by the Amendment Act of 1991.²

Widespread changes have been made by the Wildlife (Protection) Amendment Act, 2002 and a new chapter has been incorporated as Chapter VI-A to deal with the forfeiture of property derived from illegal hunting and trade. Further, this amendment Act also introduced the concept of co-operative management through conservation reserve management committee and community reserve committees.

With this introduction now let us discuss the Wildlife (Protection) Act, 1972 in a detailed way.

EVOLUTION & DEVELOPMENT OF THE CONCEPT OF WILDLIFE PROTECTION IN INDIA:

India is endowed with an immense variety of natural resources in its rich animal and plant heritage. Wildlife is one of our basic and natural resources that satisfies the needs or wants of civilization. Therefore, this resource must be conserved, preserved and protected for the existence of mankind. Now let us see the chronological development of wildlife protection in India in different periods.

WILDLIFE PROTECTION IN ANCIENT INDIA

In ancient India the environmental protection was a moral duty which is imposed on people by religious scriptures, seers, and other agencies. The scriptures of Hindu religion emphasize the protection of the environment and the living creatures. Some of the animals were considered as the vehicles of gods. Matsya was considered as the go since it is the first living organism existed in earth. Cow was considered as god. Certain birds and animals were considered as the vehicle of gods. Certain trees like Banyan, Tulsi etc. were considered as the dwelling place of the gods. Kautilya, one of the great political philosophers and the author of The Arthasasthra, prohibited and prescribed penalties for the killing of animals, cutting of trees and the excess exploitation of the

² The schedule VI has been added to include the specified plant species to be protected by the Wildlife (Protection) Amendment Act of 1991.

natural resources. The great Maurya king Ashoka banned the killing of wild animals, and later prohibited the killing of certain species of animals.

In the words of St. Thukharam, animals and plants are the kin and kith of human beings. These are some specimens to show the manner in which the ancient Indians took care for the protection of wildlife. Though it was a moral duty in the beginning later the kings started to impose it as a legal duty. In ancient India, as the moral duty, the destruction of heritage and richness of environment and the biodiversity was considered as an injury and insult to Gods. And now the wildlife protection is a legal duty.

WILDLIFE PROTECTION IN INDIA PRE-INDEPENDENCE

In the pre-constitutional period, there were a few legislations which are enacted to protect the wildlife from exploitation. The Cattle Trespass Act, 1871; The Elephants Preservation Act, 1879; some sections of Indian Penal Code, 1860; wild Birds and Animals Protection Act, 1912, The Indian Forest Act, 1927 are some pre-constitutional enactments on wildlife protection.

The Elephants Preservation Act prohibited killing, injuring or capturing, or any attempt at the same, unless it is in self-defence, permitted by a license, or when the elephant is found damaging house or cultivation, or immediate vicinity of public road, railway or canal. The Indian Penal Code, 1860,^{3,4} though it has no specific provision relating to wildlife, but it defines the term animal in Section 47 and declares maiming, killing of animals as an offence and punishable under Sections 428 and 429.⁵

The Indian Forest Act, 1927⁶ also included certain provisions for restricting hunting in reserved and protected forests and other authorized establishments or Sanctuaries. Under this Act, hunting, shooting, fishing, poisoning water or setting traps, etc. is an offence. These are the some of the wildlife protection legislations enacted in the British period.

³ *Bharatiya Nyaya Sanhita-2023(BSA-2023)*

⁴ *The law came into effect on July 1, 2024*

⁵ *Section-325 of BSA. Mischief by killing or maiming animal. Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.*

⁶ *The Indian Forest Act,1927 aimed to regulate the movement of forest produce, and duty leviable forest produce*

WILDLIFE PROTECTION IN INDIA POST-INDEPENDENCE

The Post- independence era witnessed a lot of changes in the policies and attitudes of the Governments with respect to environmental protection. There were many enactments to protect the Forest, Environment, Water, Air and Bio-Diversity. All these Acts are directly or indirectly give provisions to the protection of the wildlife. But let me specifically emphasis on Wildlife protection, since my topic is wildlife protection. The Indian Constitution gives ample provisions to protect the wildlife in its territory. Though there are many implied provisions on wildlife protection in the constitution like Art.21, Union, State and Concurrent list, the main Articles which specifically protects the wildlife are Art.48-A and Art. 51-A(g). Art. 48-A⁷ says that the state shall endeavour to protect and improve the environment and to safeguard the forest and wildlife of the country. Art. 51A (g)⁸ imposes fundamental duty on the every citizen of India to protect and improve the environment and have compassion for living creatures.

The Wildlife Protection Act, 1972 is the major legislation which specifically enacted for the protection of the wildlife in India. We will discuss this Act in detail in the following pages. Besides this, there are much legislation enacted for the protection and preservation of the wild life. Let us see them in a glance. They are The Wildlife Protection Act, 1972; The Wild Life (Transactions and Taxidermy) Rules, 1973; The Wild Life (Stock Declaration) Central Rules, 1973; The Wild life (Protection) Licensing (Additional Matters for Consideration) Rules, 1983; The Wild Life (Protection) Rules, 1995; The Wild Life (Specified Plants - Conditions for Possession by Licensee) Rules, 1995; Forest Conservation Act, 1980; Forest (Conservation) Rules, 1981; National Forest Policy, 1988; Biological Diversity Act, 2002; Besides these Acts, there are many legislations on Air, Water, Environment, Hazardous substance management, Solid waste management, Noise Pollution prevention, and so on. Such laws also have the provisions to protect the wildlife.

In 1973, a centrally sponsored scheme Project Tiger was launched to ensure the maintenance of

⁷ Article 48A of the Constitution of India is a directive principle that requires the state to protect and improve the environment and wildlife. It was added by the 42nd Amendment in 1976.

⁸ Article 51-A (g) which deals with Fundamental Duties of the citizens states: "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers, and wildlife and to have compassion for living creatures.

the population of tigers in India. In 1991-92, The Project Elephant was launched aiming at ensuring long term survival of identified viable population of Elephants and tackling the problematic decrease of the elephant population. This is the comprehensive description on the evolution and development of wildlife protection in India. Now let me to explain the Wildlife (Protection) Act, 1972 in a detailed way. The major provisions of the Wildlife (Protection) Act, 1972 are as following.

TERRITORIAL JURISDICTION OF WILDLIFE (PROTECTION) ACT, 1972

Wildlife (Protection) Act, 1972 has been accepted and adopted by all the states except Jammu and Kashmir. This is the first comprehensive legislation relating to protection of wild life was passed by the Parliament and it was assented by the President on 9th September, 1972 and came to be known as The Wild Life (Protection) Act, 1972 (53 of 1972).

DEFINITION OF WILDLIFE

The Section 2(37) of the Act defines wildlife as wildlife includes any animal, bees butterflies, crustacean, fish and moths; and aquatic or land vegetation which forms part of any habitat. So the meaning of the wildlife in this Act is very wide and inclusive of all kinds of flora and fauna.

AUTHORITIES CONSTITUTED UNDER WILDLIFE (PROTECTION) ACT

As per the Sec. 3 of the Act, the Central Government may appoint a Director of Wildlife Preservation, Assistant Directors of Wildlife Preservation and such other officers and employees as may be necessary. As per the Sec. 4, the State Government may, for the purpose of this Act, appoint Chief Wildlife Warden, Wildlife Warden, Honorary Wildlife Wardens and other officers and employees as may be necessary. As per Sec. 6, the State Governments and the Administrators in Union Territories shall constitute a Wildlife Advisory Board.

THE WILDLIFE ADVISORY BOARD (SEC. 6)

The Sec. 6 of this Act enforces and enables the state governments and the administrators of the Union Territories to constitute a Wildlife Advisory Board in each states and union territories. In *WWF v. Union of India*,⁹ Supreme Court directed the states which didn't constitute the Wildlife Advisory Board, to constitute within 2 months.

THE MEMBERS OF THE WILDLIFE ADVISORY BOARD

It shall consist of the Minister in charge of Forests in the State or Union territory as the Chairman. If there is no such minister, then the Chief Secretary will be the Chairman of the Board. The other members are, two members of the State Legislature or Legislature of Union Territory; Secretary to the state government or the government of the union territory, in charge of forests; the Forest Officer in charge of the State Forest Department; an officer nominated by the Director of Wildlife Preservation; Chief wildlife warden; officers of the state government not exceeding 5; and such other persons, not exceeding 10, who in the opinion of the state government, are interested in the protection of wildlife, including the representatives of tribal not exceeding 3.

DUTIES OF WILDLIFE ADVISORY BOARD (SEC. 8)¹⁰

The Wildlife Advisory Board mainly constituted to advise the state government in the following matters.

- a) In the selection of areas to be declared as Sanctuaries, National Parks and Closed areas and the administration thereof;
- b) In formulation of the policy for protection and conservation of wildlife and specified plants;
- c) In any matter relating to the amendment of any schedule;
- d) In relation to the measure to be taken for harmonizing the needs of the tribals and other dwellers of the forests with the protection and conservation of wildlife;
- e) In any other matter connected with the protection of wildlife which may be referred to it by the state government.

⁹ *The court directed states and union territories to comply with the issuance of proclamations under Section 21 of the Wildlife (Protection) Act, 1972*

¹⁰ *SEC-8. Duties of State Board for Wild Life.*

HUNTING OF WILD ANIMALS (SEC. 9)¹¹

Sec. 2(16)(a) (b) (c) defines the word hunting as follows Hunting, with its grammatical variations and cognate expressions, includes; capturing, killing, poisoning, snaring, and trapping or any wild animal and every attempt to do so; driving any wild animal for any of purposes specified in sub clause; injuring or destroying or taking any part of the body of any such animal, or in the case of wild birds or reptiles, damaging the eggs of such birds or reptiles, or disturbing the eggs or nests of such birds or reptiles;

Sec. 9 of the Act prohibits hunting of any wild animal specified in Schedules 1, 2, 3, and 4. Any person who hunts any wild animal shall be punishable with imprisonment for a term which may extend to 3 years or with fine which may extend to Rs. 25000/- or with both. However if any person commits the offence in the sanctuary or national park, with respect any animal specified in Schedule 1, he shall be punishable with imprisonment which shall not be less than 1 year but may extend to 6 years and also with fine which shall not be less than 5000/-.

HUNTING OF WILD ANIMALS TO BE PERMITTED IN CERTAIN CASES

The Chief Wildlife Warden may permit hunting of wild animals in certain situations. They are;

- (a) The Chief Wildlife Warden may, if he is satisfied that any wild animal specified in Schedule I has become dangerous to human life or is so disabled or diseased as to be beyond recovery, by order in writing and stating the reasons therefore, permit any person to hunt such animal or cause animal to be hunted;
- (b) The Chief Wildlife Warden or the authorized officer may, if he is satisfied that any wild animal specified in Schedule. II or III or IV has become dangerous to human life or to property (including standing crops on any land) or is so disabled or diseased as to be beyond recovery, by order in writing and stating the reasons therefore, permit any person to hunt such animal or cause such animal to be hunted.
- (c) The killing or wounding in good faith of any wild animal in defense of oneself or of any other person shall not be an offence; Provided that nothing in this sub-section shall

¹¹ **SEC-9.** *Prohibition of hunting. - No person shall hunt any wild animal specified in [Schedules I and II] except as provided under section 11 and section 12.*

exonerate any person who, when such defense becomes necessary, was committing any act in contravention of any provision of this Act or any rule or order made there under.

(d) Any wild animal killed or wounded in defense of any person shall be Government property.

Grant of permission for hunting for special purposes. The Chief Wildlife Warden, permit, by an order in writing stating the reasons therefore, to any person, on payment of such fee as may be prescribed, which shall entitle the holder of such permit to hunt, subject to such conditions as may be specified therein, any wild animal specified in such permit, for the purpose of,

- (a) Education;
- (b) Scientific research;
- (c) Scientific management; means and includes
 - (i) Translocation of any wild animal to an alternative suitable habitat; or
 - (ii) Population management of wildlife, without killing or poisoning or destroying any wild animals.
- (d) Collection of specimens
 - (i) For recognised zoos subject to the permission under section 38-1 or
 - (ii) For museums and similar institutions;
- (e) Derivation, collection or preparation of snake-venom for the manufacture of life saving drugs.

PROTECTION OF SPECIFIED PLANTS

Sec. 17A of the Act prohibits picking, uprooting, etc., of specified plants. as otherwise provided in this Chapter, no person shall: (a) willfully pick, uproot, damage destroy, acquire or collect any specified plant from any forestland and area specified, by notification, by the Central Government, (b) possess, sell, other for sale, or transfer by way of gift or otherwise, or transport any specified plant, whether alive or dead, or part or derivative thereof: Provided that nothing in this section shall prevent a member of a scheduled tribe, subject to the provisions of Chapter IV, from picking, collecting or possessing in the district he resides any specified plant or part or derivative thereof for his bonafide personal use.

The Chief Wild Life Warden may with the previous permission of the State Government, grant to any person a permit to pick, uproot, acquire or collect from a forest land or the area specified under

section 17A or transport, subject to such conditions as may be specified therein, any specified plant for the purpose of education; scientific research., collection, preservation and display in a herbarium of any scientific institutions; or propagation by a person or an institution approved by the Central Government in this regard.

SANCTUARIES

Section 18 provides that the State Government may, by notification, declare its intention to constitute any area other than area comprised with any reserve forest or the territorial waters as a sanctuary if it considers that such area is of adequate ecological, faunal, floral, geomorphological, natural or zoological significance, for the purpose of protecting, propagating or developing wildlife or its environment. For the purposes of this section, it shall be sufficient to describe the area by roads, rivers, ridges, or other well-known or readily intelligible boundaries.

The Chief Wildlife Warden may, on an application, grant to any person a permit to enter or reside in a sanctuary for the following purposes;

- a) Investigation or study of wildlife and any purpose ancillary or incidental thereto;
- b) Photography
- c) Scientific research
- d) Tourism
- e) Transaction of lawful business with any person in the sanctuary

Only a public servant on duty or permit holder or a person having a right over immovable property within the limits of a sanctuary, person passing through pathway in the sanctuary and dependants of the above can also enter or reside in the sanctuary.

In *Gujarat Navodaya Mandal V. State*¹², the Gujarat High Court observed that there is nothing illegal in giving permission to lay down pipeline in and through the Marine National Park/ Sanctuary, Jamnagar. Because all the possible measures are taken to protect the ecology and environment. An more over there were conditions on permission to proper management as well as for the improvement of wildlife.

¹² AIR 1998 Guj 141

NATIONAL PARK

The state government, for the purpose of protecting, propagating or developing wildlife may by a notification declare that an area, by reason of its ecological, faunal, floral, geomorphological or zoological association or importance, needed to be constituted as a National Park. Once a National Park is declared, no alteration of the boundaries shall be made except on the resolution passed by the legislature of the state. In a National Park, the following activities are strictly prohibited;

- a) Destroying, exploring or removing any wildlife,
- b) Destroying, damaging the habitat of any wild animal,
- c) Deprive any wild animal of its habitat,
- d) Grazing of any livestock

In *Animal and Environment Legal Defence Fund V. Union of India*¹³, which was a writ petition came to Supreme Court; the petitioners filed the petition challenging the validity of granting permits for fishing to 305 tribal families in reservoirs within the Pench National Park (Madya Pradesh). But the Supreme Court adopted humanitarian approach keeping in mind the economic sustainability and environment protection. The Supreme Court directed the forest authorities and wildlife authorities to take adequate measures to protect the environment and at the same time keep watch on the villagers. The villagers were also directed not to enter other areas other than the reservoir.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS

The central government shall constitute the Central Zoo Authority, consisting of a chair person, ten members and a member secretary. They shall hold office for a period of three years. The Central Zoo Authority shall perform the following functions

- (a) Specify the minimum standards for housing, unkeep and veterinary care of the animals kept in a zoo;
- (b) Evaluate and assess the functioning of zoos with respect to the standards or the norms as may be prescribed;
- (c) Recognize or derecognize zoos;
- (d) Identify endangered species of wild animals for purposes of captive breeding and

¹³ AIR 2000 Del 449

- assigning responsibility in this regard to a zoo;
- (e) Co-ordinate the acquisition, exchange and loaning of animals for breeding purposes;
 - (f) Ensure maintenance of stud-books of endangered species of wild animals bred in captivity;
 - (g) Identify priorities and themes with regard to display of captive animals in a zoo;
 - (h) Co-ordinate training of zoo personnel in India and outside India;
 - (i) Co-ordinate research in captive breeding and educational programmes for the purposes of zoos;
 - (j) Provide technical and other assistance to zoos for their proper management and development on scientific lines;
 - (k) Perform such other functions as may be necessary to carry out the purposes of this Act with regard to zoos.

TRADE OR COMMERCE IN WILD ANIMALS, ANIMAL ARTICLES AND TROPHIES

The term trophy means the whole or any part of any captive animal or wild animal, other than vermin, which has been kept or preserved by any means, whether artificial or natural, and includes, rugs, skins, and specimens of such animals mounted in whole or in part through a process of taxidermy, and antler, horn, rhinoceros horn, feather, nail, tooth, musk, eggs, and nests. And uncured trophy means the whole or any part of any captive animal, other than vermin, which has not undergone a process of taxidermy, and includes a [freshly killed wild animal ambergris, musk and other animal products];

Sec. 39 of the Act, declares that every wild animal other than vermin, which is hunted or kept or bred in captivity or found dead or killed by mistake, shall be the property of the State Government. Likewise, animal articles, trophy or uncured trophy, meat derived from any wild animal, ivory imported to India, article made from such ivory, vehicle vessel weapon, trap or tool that has used for committing an offence and has been seized shall be the property of the state government. If any of the above is found in the sanctuary or a National Park declared by the Central Government

then it shall be property of the Central Government. In *Rajendra Kumar V. Union of India*,¹⁴ the petitioner challenged the vis of the above clause which imposed a complete ban on import of ivory and articles made from it. It affected his livelihood and freedom of trade and business provided under Article 19(1). Moreover, he contended that ivory derived from a mammoth was not ivory derived from a scheduled animal, therefore, any article made out of such fossil ivory could not be brought within the purview of the Act. But the Court observed that, the Chapter V-A of this Act, is incorporated in accordance with the direction of Convention on International Trade in Endangered Species of Wild Fauna and Flora [CITES]. The object and reasons of the Amendment Act, 1991 make it amply clear that trade in African ivory is proposed to be banned after giving due opportunity to traders to dispose of the existing stocks. So this Section cannot be void.

PREVENTION AND DETECTION OF OFFENCES

Sec. 50 of this Act confers power of entry, search, arrest and detention on the Director or any other officer authorized by him or the chief wildlife warden or Officer authorized by him or any Police Officer not below the rank of Sub-inspector. Officer not below the rank of Assistant Director of Wildlife Preservation or Wildlife Warden shall have the powers to issue a search warren, to enforce the attendance of witnesses, to compel the discovery and production of documents and material objects and to receive and record evidence.

COGNIZANCE OF OFFENCE

No court shall take cognizance of any offence against the Wildlife Protection Act except on a complaint by: The Director of wildlife preservation or any other officer authorized in this behalf by the Central Government or; The Chief Wildlife Warden¹⁵(CWLW) or any other officer authorized by the State Government; or, any person who has given notice of not less than 60 days, in the manner prescribed, of the alleged offence and of his intention to make a complaint to the Central Government or the State Government or the officer authorised as aforesaid.

¹⁴ AIR 1998 Raj 165

¹⁵ (CWLW) is a statutory authority in India who heads the Wildlife Wing of the department and has administrative control over Protected Areas (PAs) within a state

PUNISHMENTS

Provided that where the offence committed is in relation to any animal specified in Scheduled I or Part II of Schedule. II, or meat of any such animal, animal article, trophy, or uncurled trophy derived from such animal or where offence [relates to hunting in, or, altering the boundaries of] a sanctuary or a National Park, such offence shall be punishable with imprisonment for a term which shall not be less than [one year] but may extend to six years and also with fine which shall not be less than five thousand rupees. Provided further that in the case of a second or subsequent offence of the nature mentioned in this sub-section, the term or imprisonment may extend to six years and shall not be less than two years and the amount of fine shall not be less than ten thousand rupees .Any person who contravenes any provisions of Chapter VA,¹⁶ shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to seven years and also with fine which shall not be less than five thousand rupees. Any person who contravenes the provisions of Section 38J [tease, molest, injure or feed any animal or cause disturbance to the animals by noise or otherwise, or litter the grounds in a zoo] shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both. Provided that in case of second or subsequent offence the term of imprisonment may extend to one year or the fine may extend to five thousand rupees As per section 52, whoever attempts to contravene, or abets the contravention of, any of the provisions of this Act or of any rule or order made hereunder shall be deemed to have contravened that provision or rule or order, as the case may be. If any person, exercising powers under this Act, vexatiously and unnecessarily seizes the property of any other person on the pretence of seizing it for the reasons mentioned in sec. 50, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

FORFEITURE OF PROPERTY DERIVED FROM ILLEGAL HUNTING & TRADE

A new chapter, Chapter VI-A, had been incorporated by the Wildlife (Protection) Amendment Act of 2002. According to this new chapter, if any person or associate of persons or trust acquires

¹⁶ [Prohibition of Trade or Commerce in Trophies, Animal Articles, etc. derived from Certain Animals.]

property from illegal hunting or trade of wildlife, it shall be forfeited to the State Government by the competent authority. Such property can be forfeited after taking all necessary steps¹⁷ and after tracing and identifying any such property. During the investigation and proceeding of forfeit the property, if the competent authority finds that only a part of the acquired property is proved illegal, the authority shall make orders, giving an opportunity to the person affected, to pay a fine equal to the market value of such part of property in lieu of forfeiture.

CASE LAWS

- In *State of Bihar v. Murad Ali Khan, Farukh Salauddin (1988)* is a case that dealt with poaching and hunting of elephants for the smuggling of ivory tusks where the court observed that the “largest single factor in the depletion of the wealth of animal life in nature has been the civilised man operating directly through excessive commercial hunting”.
- In *Balram Kumawat v. UOI (2003)*, the court re-emphasised that the act puts a complete ban on the trade of African elephant ivory and there cannot be a legitimate claim of violation of the right to freedom of trade under Article 14 and Article 19(1)(g) since the ban is a reasonable restriction under Article 19(2).
- In *Sansar Chand v. State Of Rajasthan (2010)* highlighted the detrimental effect legal trading and commerce of wildlife has caused to the environment and the same is not effectively curbed despite the prohibition under the Wildlife Act. These organised crimes are transnational because there is apparently no trade taking place within India but the same is smuggled outside India to meet the demands of other countries such as poaching of tigers for the Chinese medical industry.
- In *Mahaveer Nath v. UOI (2019)*¹⁸, the constitutional validity of Sections 9 and 11 was challenged on the ground that the restrictions mentioned under those Sections deprived the petitioner of his right to livelihood.
- The petitioner is a member of the Nath/Sapera community who is deprived to carry out the vocation of snake charming for his livelihood except on certain days where snakes

¹⁷ (inquiry, investigation or survey in respect of any person, place, property, documents institution, etc.)

¹⁸ AIR 2019 MADHYA PRADESH 193, (2019) 3 MPLJ 103

are worshipped. This community was referred to as “barefoot conservative educators” to highlight their vital role in sensitizing people to reptiles.

- The petition was challenged on the ground that Section 9 has resulted in the prohibition of keeping of snakes and thus, it violates the fundamental right to trade under Article 19(1)(g) and Article 21 of the Constitution. The Court observed that Article 19(1)(g) is not an absolute right but a qualified right and reasonable restrictions can be imposed on the same for the general welfare of the public.

CONCLUSION

The key environmental challenges that the country faces relate to the nexus of environmental degradation with poverty in its many dimensions, and economic growth. These challenges are intrinsically connected with the state of environmental resources, such as land, water, air, and their flora and fauna. The proximate drivers of environmental degradation are population growth, inappropriate technology and consumption choices, and poverty, leading to changes in relations between people and ecosystems, and development activities such as intensive agriculture, polluting industry, and unplanned urbanisation. The status of wildlife in a region is an accurate index of the state of ecological resources, and thus of the natural resource base of human well-being. This is because of the interdependent nature of ecological entities, in which wildlife is a vital link. Moreover, several charismatic species of wildlife embody Incomparable Values, and at the same time, comprise a major resource base for sustainable development. Conservation of wildlife, accordingly, involves the protection of entire ecosystems.

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