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PROFORMA FOR FIRST LISTING

SECTION: XIV

The case pertains to (Please tick/check the correct box):

	Central Act: (Title)	The Wild Life (Protection) Act, 1972
	Section:	N/A
	Central Rule: (Title)	N/A
	Rule No(s):	N/A
	State Act: (Title)	N/A
	Section Rule: (Title)	N/A
	Rule No(s):	N/A
	Impugned Interim Order: (Date)	N/A
	Impugned Final order /Decree: (Date)	N/A
	High Court: (Name)	N/A
	Names of Judges:	N/A
	Tribunal/Authority: (Name)	N/A

1.	Nature of matter:	N/A
2.(a)	Petitioner/Appellant:	Avadh Bihari Kaushik
(b)	e-mail ID:	avadhkaushik@gmail.com
(c)	Mobile phone number:	9811455431

3.(a)	Respondent:	Union of India & Ors.
(b)	e-mail ID:	N/A
(c)	Mobile phone number:	N/A
4.(a)	Main category classification:	
(b)	Sub classification:	
5.	Not to be listed before:	N/A
6.	Similar/Pending matter:	N/A
7.	Criminal Matters:	N/A
(a)	Whether accused/ convicted has surrendered:	N/A
(b)	FIR No. Date:	N/A N/A
(c)	Police Station:	N/A
(d)	Sentence Awarded:	N/A
(e)	Sentence Undergone:	N/A
8.	Land Acquisition Matters:	N/A
(a)	Date of Section 4 notification:	N/A
(b)	Date of Section 6 notification:	N/A
(c)	Date of Section 17 notification:	N/A
9.	Tax Matters: State the tax effect:	N/A

10.	Special Category (first petitioner/ appellant only):	N/A
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- Senior citizen > 65 years SC/ST Woman/child Disabled
 Legal Aid case In custody

11.	Vehicle Number (in case of Motor Accident Claim matters):	N/A
12.	Decided cases with citation:	N/A

Date: 06.06.2020

AVADH BIHARI KAUSHIK
 Petitioner-in-Person
 Mobile- 9811455431/9911455431
E-mail: avadhkaushik@gmail.com

SYNOPSIS AND LIST OF DATES

*As tall as that tree
She walked,
Majestic!
Her trunk touched-
Those stars-
Blooming on the Acacia...
Her reflection,
Revamped that stream-
Yes,
She walked-
Majestic!
On this land-
Where lies her body-
Abandoned!*

Dr. Sanjeeta Sharma Pokharel, an elephant biologist, besides being a researcher, is also a poet and a cartoonist, who worked to understand the stress physiology in free-ranging Asian elephants, defined the elephant in her own style as to how magnificent this creature is before it dies.

But, the human, being inhumane, poaches and kills it in many ways *viz.* electrocution, poisoning, trapping, firing, arrowing and now by tempting it to eat the disguised fruit rigged with explosive firecrackers and it dies only because it has faith that a fruit, if natural, shall always be a fruit oblivious to the fact that the human has skill to kill it by feeding it a fruit even.

It is submitted that the Indian elephant is one of three extant recognised subspecies of the Asian elephant and native to mainland Asia. Since 1986, the Asian elephant has been listed as Endangered on the IUCN Red List as the wild population has declined by at least 50% since the 1930s to 1940s, i.e. three elephant generations. The pre-eminent

threats to Asian elephants today are habitat loss, degradation, and fragmentation, which are driven by an expanding human population, and lead in turn to increasing conflicts between humans and elephants when elephants eat or trample crops. Loss of significant extents of elephant range and suitable habitat continues; their free movement is impeded by reservoirs, hydroelectric projects and associated canals, irrigation dams, numerous pockets of cultivation and plantations, highways, railway lines, mining and industrial development.

Government of India, Ministry of Environment and Forests/respondent No. 1 herein launched Project Elephant in the year 1992 to provide financial and technical support of wildlife management efforts by states for their free ranging populations of wild Asian Elephants. The project aims to ensure long-term survival of viable conservation reliant populations of elephants in their natural habitats by protecting the elephants, their habitats and migration corridors. Other goals of Project Elephant are supporting research of the ecology and management of elephants, creating conservation awareness among local people, providing improved veterinary care for captive elephants.

However, all the efforts made by the Central and state Governments are failing for the simple reason that the poachers and killers are more committed to their job as compared to the agencies appointed to nab them and therefore, the incidents like the present one, are repeatedly occurring.

It is submitted that as per the information collected by the petitioner from his own search and according to the data provided by the Wildlife Crime Control Bureau/respondent No. 2 herein in January, 2019 in response to

some RTI query made by a Noida-based lawyer Ranjan Tomar, as many as 429 elephants were poached and killed in the country since the year 2008 and 642 poachers were arrested. As per the reports, maximum killings of 136 elephants have been reported from Kerala, followed by West Bengal (48), Karnataka (46), Tamil Nadu (44) and Odisha (41) during the period from 2008 to 2018, according to the data. However, as per unconfirmed data, more than 100 elephants are being killed in Kerala alone every year. As would clear from the facts below based on the statements made by locals, at least 17 elephants have brutally been killed in or around the Silent Valley National Park in Mannarkkad district of the state of Kerala in the last year.

It is submitted that by way of present petition, being filed in larger Public Interest, the petitioner herein brings to the notice of this Hon'ble Court a horrific, tragic, brutal, cruel and inhumane act of some villagers committed near Silent Valley National Park in Mannarkkad district of the state of Kerala wherein and whereby; a pregnant elephant has been killed by them by feeding her a pineapple stuffed with highly powerful and explosive firecrackers. It is submitted that as per the version of the forest officers published in various print and electronic media ('media'), this incident came to be noticed on 27th May, 2020 when the elephant was found standing in Velliyar River in Palakkad District of Kerala and ultimately, she drowned and died in the river water itself. It has widely been reported in the media that the wild elephant strayed into a village near Silent Valley National Park in south Kerala state when it ate the rigged fruit, believed to be a pineapple, which exploded and severely injured her mouth.

However, according to some other sources and media reports, particularly in the Prime Time program Daily News & Analysis (DNA) telecasted by Zee News on 05.06.2020 at 9.00 PM, the injured elephant was first spotted by the villagers on 25th May, 2020 and the matter was reported by the villagers of Palakkad District to the Forest Officers but no proper and timely medical aid and treatment could be provided to the elephant and ultimately, it succumbed to the injuries on 27th May, 2020 at around 4.00 PM when efforts were being made to evacuate the elephant from the river water. Some local wildlife activists and media persons of Kerala have disclosed on television that as many as 17 elephants have been killed in that area during last one year.

It is submitted that in a post-mortem carried out on the pregnant elephant's body, it has come to light that the elephant could not eat or drink anything for nearly two weeks before her death. The post-mortem report confirms that major wounds and injuries were caused in the oral cavity (mouth) of the pregnant elephant as a result of the explosive blast of the firecrackers. This resulted in excruciating pain and distress in the region and prevented the giant animal from taking food and water for nearly two weeks. The post-mortem report, as has been quoted in the media, discloses that 'drowning, followed by inhalation of water leading to lung failure' was the immediate cause of death of the female elephant.

It is submitted that a saddened writer and poet *San*, has described and depicted the exact true picture of the entire incident of the killing of the pregnant elephant with its yet to born infant and its faith on the human and inhumane act of the human in the following terms:-

“Pregnant Mother

I'm pregnant" she said with delightful eyes,
She couldn't wait to hear the baby's laughs & cries
Though it would tire her she would daily strive for the baby's food
Through all weather conditions & diseases strong she stood
We all know a mother can do anything for her baby
She too was waiting for the baby's arrival like crazy
Delivery time was almost near
Hunger & tiredness both were growing oh dear,
She loved fruits as they sure were healthy
They were also craved by the young one in her belly,
Her neighbor prepared her a special meal with fruit one day,
What happened after that has left everyone in dismay,
Whether she ate the meal by accident or it was intentionally done,
Animal cruelty to any animal AIN'T ANY FUN,
The baby & mother are both dead,
But what died much before was the human heart & head!!

- San

It is also significant to mention that the above narrated incident has brought on surface an earlier similar incident wherein another female elephant had met with similar fate in April, 2020 in Pathanapuram forest range area under Punalur division in Kollam district of state of Kerala. It is reported in the media based on the statement of a forest officer that the said elephant was also found injured in a serious condition as its jaw was

broken and it was unable to eat and thus, was very weak and it also succumbed to the wounds.

It is submitted that the Forest officials have been quoted in media stating that investigation into such cases is very tough inasmuch as it is very difficult to gather information in such incidents and locating the place where the wild animals meet with such fate is not easy as the herd of wild elephants travels several kilometres a day and the incident comes to the notice of forest officials after the ill fated elephants are found alienated from their herds and that too weeks later and this, makes the probe tough.

It is submitted that these are two incidents brought into public domain but the menace appears to be deep rooted, huge and serious and, prima facie, it appears to be a well calculated and organized killing racket to kill the giant animal. However, the authorities concerned/respondents herein have failed to prevent such killing of the protected animals despite the laws in place and therefore, it has become necessary that a Court Monitored investigation of the above two cases of killings of elephants, as noted above, as also of other similar cases, being reported from time to time from various other states, is directed by this Hon'ble Court to be conducted through the Central Bureau of Investigation (CBI) or/ alternatively, the investigation is directed to be conducted by a Special Investigating Team (SIT) consisting of experts from various departments and agencies headed by a Retired Judge of this Hon'ble Court. Such SIT, besides investigating the cases of illegal and brutal killing of elephants, is also required to examine the entire issue on a larger scale and to suggest requisite steps to be taken in order to curb the menace.

LIST OF DATES

April, 2020: As per the reports published in media, an elephant was found with mouth injuries in Pathanapuram forest range area under Punalur division in Kollam district of state of Kerala and its jaw was broken and thus, it was unable to eat and ultimately, it succumbed to the wounds. It has been reported that the elephant was fed with firecrackers which exploded in its mouth.

25.05.2020: A pregnant elephant was spotted by the villagers with mouth injuries standing in Velliyar River in Palakkad District of Kerala on 25.05.2020. It has been reported that it was fed a pineapple stuffed with highly powerful and explosive firecrackers by some villagers near Silent Valley National Park in Mannarkkad district of the state of Kerala.

26.05.2020: Despite having been informed, no proper and adequate medical steps to save the animal was taken by the forest officers rather efforts were made by the forest officials to make the elephant run into forest on 26.05.2020 but it could not come out of the River water being seriously injured.

27.05.2020: Efforts were made to evacuate the elephant from the River but failed and in the mean time, the elephant succumbed to the injuries and drowned in the River itself at around 4.00 PM on 27.05.2020.

03.06.2020: After about a week, the news of killing of the pregnant elephant was flashed on the social, print and electronic

media on 03.06.2020 which made the citizens of the entire country agonized and social media flooded with anger and anguish from all corners be it common men or a celebrity.

04.06.2020: The post mortem report of the body of misfortune pregnant elephant was published in the media on 04th and 5th June, 2020 according to which the elephant could not eat or drink anything for nearly two weeks before her death. The post-mortem report confirmed that major wounds and injuries were caused in the oral cavity (mouth) of the pregnant elephant as a result of the explosive blast of the firecrackers which resulted in excruciating pain and distress in the region and prevented the giant animal from taking food and water for nearly two weeks. The post-mortem report also disclosed that ‘drowning, followed by inhalation of water leading to lung failure’ was the immediate cause of death of the female elephant.

05.06.2020: A program ‘Daily News & Analysis’ (DNA) was broadcasted on Zee News television at 9.00 PM on 05.06.2020 from which it was revealed that despite having been informed by the villagers, no proper and timely medical treatment was provided to the elephant and further that such brutal killing of elephants is prominently prevailing in the said area and as many as 17 elephants have been killed in the similar fashion in that area during last one year.

HENCE, THIS PUBLIC INTEREST LITIGATION

IN THE SUPREME COURT OF INDIA
(EXTRA-ORDINARY ORIGINAL JURISDICTION)

WRIT PETITION (PIL) NO. OF 2020

[PUBLIC INTEREST LITIGATION]

(Petition under Article 32 of the Constitution of India and in terms of Order XXXVIII of the Supreme Court Rules, 2013 read with Guideline No. 8 framed by the Hon'ble Supreme Court based on full Court decision dated 01.12.1988 and subsequent modifications therein)

IN THE MATTER OF:

AVADH BIHARI KAUSHIK

Aged about 49 years

Son of Shri Sita Ram Kaushik

Occupation: Advocate (AoR)

260, Aggarwal City Plaza, Manglam Place,

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Phone No. 011-27945758/98114455431

E-mail: avadhkaushik@gmail.com

.....Petitioner

VERSUS

1. **UNION OF INDIA**
Ministry of Environment, Forest and Climate Change
(Through the Secretary)
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Telephone No.: 011-24695406

2. **WILDLIFE CRIME CONTROL BUREAU**
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4. THE SECRETARY
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7. CENTRAL BUREAU OF INVESTIGATION
(Through its Director)
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Plot No. 5-B, 6th Floor, CGO Complex,
Lodhi Road, New Delhi-110003Respondents

To,
Hon'ble the Chief Justice of India
And his other Companion Judges
of the Hon'ble Supreme Court Of India

The Humble Petition of the
Petitioner above named

The Writ Petition of the Petitioner most respectfully showeth:

1. **Particular of the cause/order against which the petition is made:**

By way of present petition, being filed in larger Public Interest, the petitioner herein brings to the notice of this Hon'ble Court a horrific, tragic, brutal, cruel and inhumane act of some villagers committed near Silent Valley National Park in Mannarkkad district of the state of Kerala wherein and whereby; a pregnant elephant has been killed by them by feeding her a pineapple stuffed with highly powerful and explosive firecrackers. It is submitted that as per the version of the forest officers published in various print and electronic media ('media'), this incident came to be noticed on 27th May, 2020 when the elephant was found standing in Velliya River in Palakkad District of Kerala and ultimately, she drowned and died in the river water itself. It has widely been reported in the media that the wild elephant strayed into a village near Silent Valley National Park in south Kerala state when it ate the rigged fruit, believed to be a pineapple, which exploded and severely injured her mouth.

However, according to some other sources and media reports, particularly in the Prime Time program 'Daily News & Analysis' (DNA) broadcasted by Zee News on 05.06.2020 at 9.00 PM, the injured elephant was first spotted by the villagers on 25th May, 2020 and the matter was reported by the villagers of Palakkad District to the Forest Officers but no proper and timely medical aid and treatment could be provided to the elephant and ultimately, it succumbed to the injuries on 27th May, 2020 at around 4.00 PM when efforts were being made to evacuate the elephant from the river water. Some local wildlife activists and media persons of Kerala have disclosed on television that as many as 17 elephants have been killed in that area during last one year.

It is submitted that in a post-mortem carried out on the pregnant elephant's body, it has come to light that the elephant could not eat or drink anything for nearly two weeks before her death. The post-mortem report confirms that major wounds and injuries were caused in the oral cavity (mouth) of the pregnant elephant as a result of the explosive blast of the firecrackers. This resulted in excruciating pain and distress in the region and prevented the giant animal from taking food and water for nearly two weeks. The post-mortem report, as has been quoted in the media, discloses that 'drowning, followed by inhalation of water leading to lung failure' was the immediate cause of death of the female elephant.

It is also significant to mention that the above narrated incident has brought on surface an earlier similar incident wherein another female elephant had met with similar fate in April, 2020 in

Pathanapuram forest range area under Punalur division in Kollam district of state of Kerala. It is reported in the media based on the statement of a forest officer that the said elephant was also found injured in a serious condition as its jaw was broken and it was unable to eat and thus, was very weak and it also succumbed to the wounds.

It is submitted that the Forest officials have been quoted in media stating that investigation into such cases is very tough inasmuch as it is very difficult to gather information in such incidents and locating the place where the wild animals meet with such fate is not easy as the herd of wild elephants travels several kilometres a day and the incident comes to the notice of forest officials after the ill fated elephants are found alienated from their herds and that too weeks later and this, makes the probe tough.

It is submitted that these are two incidents brought into public domain but the menace appears to be deep rooted, huge and serious and, prima facie, it appears to be a well calculated and organized killing racket to kill the giant animal. However, the authorities concerned/respondents herein have failed to prevent such killing of the protected animals despite the laws in place and therefore, it has become necessary that a Court Monitored investigation of the above two cases of killings of elephants, as noted above, as also of other similar cases, being reported from time to time from various other states, is directed by this Hon'ble Court to be conducted through the Central Bureau of Investigation (CBI) or/ alternatively, the investigation is directed to be conducted by a Special

Investigating Team (SIT) consisting of experts from various departments and agencies headed by a Retired Judge of this Hon'ble Court. Such SIT, besides investigating the cases of illegal and brutal killing of elephants, is also required to examine the entire issue on a larger scale and to suggest requisite steps to be taken in order to curb the menace.

2. **The antecedents of the Petitioner:**

2.1 That the petitioner herein is an advocate by profession duly enrolled with Bar Council of Delhi and practicing in this Hon'ble Court as also before the Hon'ble Delhi High Court having his office at 260, Aggarwal City Plaza, Manglam Place, Sector-3, Rohini, Delhi-110085 and residing at Flat No. 221, Guru Apartment, Sector-14, Rohini, Delhi-110085.

A true copy of the Identity Card of the petitioner issued by the Bar Council of Delhi is annexed herewith and marked as **ANNEXURE-P-1 (Page No. 21 to 22)**.

A true copy of Aadhaar Card of the petitioner issued by the appropriate authority is annexed herewith and marked as **ANNEXURE-P-2 (Page No. 23 to 24)**.

2.2 It is submitted that the petitioner is an income tax assessee and he is filing his annual return of income regularly.

A true copy of Permanent Account Number (PAN) Card of the petitioner issued by the Income Tax Department is

annexed herewith and marked as **ANNEXURE-P-3 (Page No. 25 to 26)**.

A true copy of latest Income tax Return of the petitioner filed for the A.Y 2019-2020 is annexed herewith and marked as **ANNEXURE-P-4 (Page No. 27 to 28)**.

2.3 It is submitted that the petitioner, being a practicing advocate, is also a public spirited person and thus, he has, solely in the larger public interest, earlier filed the following Public Interest Litigations before the Delhi High Court detail and status thereof are as under:-

<u>Sl. No.</u>	<u>W.P. (C) No.</u>	<u>Title</u>	<u>Present Status</u>
1.	8774 of 2009	Avadh Bihari Kaushik Vs. Delhi High Court & Anr.	Decided on 06.05.2009
2.	7230 of 2013	Avadh Kaushik Vs. Govt. of NCT of Delhi & Ors.	Decided on 21.08.2014
3.	1757 of 2014	Avadh Kaushik Vs. Union of India & Ors.	Decided on 19.03.2014
4.	1074 of 2014	Avadh Kaushik Vs. Union of India & Ors.	Decided on 21.05.2014
5.	4320 of 2014	Avadh Kaushik Vs. Union of India & Ors.	Decided on 21.07.2015

6.	6677 of 2014	Avadh Kaushik Vs. National Zoological Park & Ors.	Decided on 25.05.2016
7.	8257 of 2014	Avadh Kaushik Vs. Delhi High Court & Ors.	Decided on 10.12.2014
8.	4514 of 2015	Avadh Kaushik Vs. Govt. of NCT of Delhi & Anr.	Decided on 12.12.2017
9.	4143 of 2016	Avadh Kaushik Vs. Govt. of NCT of Delhi & Ors.	Decided on 14.09.2016
10.	10536 of 2016	Avadh Kaushik Vs. Union of India & Ors.	Decided on 12.12.2017
11.	13009 of 2019	Avadh Kaushik Vs. Govt. of NCT of Delhi & Ors.	Decided on 10.12.2019

2.4 That the present petition under Article 32 of the Constitution of India is being filed by way of public interest litigation and the petitioner has no personal interest in the present litigation and the present petition is not guided by or for any self gain or for gain of any other person/ institution/ body and that there is no motive other than of public interest in filing the present writ petition.

2.5 That the petitioner is filing the present petition on his own and not at the instance of someone else. The litigation cost, including the all fee and the travelling expense etc. are being

borne by the petitioner himself and he is not required and willing to engage any lawyer being himself a practicing advocate.

2.6 That the institutions/departments/agencies/persons likely to be affected by the orders sought in the writ petition have been impleaded as respondents in the writ petition and as per the knowledge of the petitioner, no other persons/ bodies/ institutions are likely to be affected by the orders sought in the writ petition.

2.7 That the petitioner has means to pay cost, if any, imposed by this Hon'ble Court.

3. **Facts constituting the cause of action:**

3.1 That news of killing of a pregnant elephant were prominently flashed on the social, print and electronic media on 03.06.2020. As per the different reports published and emerged in the media, a pregnant elephant was spotted by the villagers with mouth injuries standing in Velliyar River in Palakkad District of Kerala on 25.05.2020. It has been reported that it was fed a pineapple stuffed with highly powerful and explosive firecrackers by some villagers near Silent Valley National Park in Mannarkkad district of the state of Kerala. The matter was reported to the forest authorities on 26.05.2020 but despite having been informed, no proper and adequate medical steps to save the animal was taken by the forest officers rather efforts were made by the

forest officials to make the elephant run into forest on 26.05.2020 but it could not come out of the River water being seriously injured. Subsequently, efforts were stated to be made to evacuate the elephant from the River but failed and in the mean time, the elephant succumbed to the injuries and drowned in the River itself at around 4.00 PM on 27.05.2020. It was also reported that an FIR against unknown person was registered under the provisions of Wildlife Protection Act, 1972.

A true copy of news paper 'Times of India' dated 03.06.2020 publishing the news in respect of the killing of the elephant is annexed herewith and marked as **ANNEXURE-P-5 (Page No. 29 to 32)**.

- 3.2 That, as per the reports published in media on the next day i.e. 04.06.2020, yet another elephant was reported to have been killed in the similar fashion in Pathanapuram forest range area under Punalur division in Kollam district of state of Kerala in April, 2020 which was also found with mouth injuries and its jaw was broken and thus, it was unable to eat and ultimately, it also succumbed to the wounds. It was reported that this elephant was also fed with firecrackers which exploded in its mouth and thus, was killed.

A true copy of news paper 'Economic Times dated 04.06.2020 publishing the news in respect of the killing of

another elephant in April, 2020 is annexed herewith and marked as **ANNEXURE-P-6 (Page No. 33 to 37)**.

- 3.3 That the brutal and cruel act of killing of an innocent pregnant elephant triggered nationwide outrage making the citizens of the entire country agonized and social media flooded with anger and anguish from all corners; be it a common man or a celebrity.

A true copy of news paper 'Times of India' dated 04.06.2020 publishing the news in respect of the nationwide outrage and anger and reproducing the anguished comments of some prominent persons and the noted celebrities from different fields of the society is annexed herewith and marked as **ANNEXURE-P-7 (Page No. 38 to 47)**.

- 3.4 The post mortem report of the body of misfortune pregnant elephant was published in the media on 4th and 5th June, 2020 according to which the elephant could not eat or drink anything for nearly two weeks before her death. The post-mortem report confirmed that major wounds and injuries were caused in the oral cavity (mouth) of the pregnant elephant as a result of the explosive blast of the firecrackers which resulted in excruciating pain and distress in the region and prevented the giant animal from taking food and water for nearly two weeks. The post-mortem report also disclosed that 'drowning, followed by inhalation of water leading to

lung failure' was the immediate cause of death of the female elephant.

A true copy of news paper 'Times of India' dated 05.06.2020 publishing the news in respect of the post-mortem report of the killed elephant is annexed herewith and marked as **ANNEXURE-P-8 (Page No. 48 to 51)**.

3.5 That a program 'Daily News & Analysis' (DNA) was broadcasted on Zee News television at 9.00 PM on 05.06.2020 from which it was revealed that despite having been informed by the villagers, no proper and timely medical treatment was provided to the elephant and further that such brutal killing of elephants is prominently prevailing in the said area and as many as 17 elephants have been killed in the similar fashion in that area during last one year.

3.6 That, as per latest reports, the local police has arrested one person in connection with the said killing of pregnant elephant but rest of them are still wandering scot-free.

4. **Source of information:**

That the sources of knowledge of the facts pleaded in the Public Interest Litigation are the news being published in print and electronic media. Further, information so received and collected by petitioner has been verified by him, upto all possible extent, through his own research and enquiries made on the subject matter

on internet and literature published in that regard. Petitioner has also interacted with the experts of the wildlife.

5. **Details of remedies exhausted:**

That the petitioner has not made any representations to the authorities concerned for remedial action inasmuch as no relief whatsoever, as sought by the petitioner in the present petition, is likely to be granted by any of the respondents. Further, respondents have failed to discharge their duties diligently and therefore, the representations to them would be inconsequential.

6. **Nature and extent of injury caused or likely to be caused to the public:**

It is submitted that the elephant is a protected wildlife animal listed at item No. 12-B in the name of 'Indian Elephant (*Elephas maximus*)' in scheduled-I of the Wildlife Protection Act, 1972 and as such killing thereof as also trade in its any of the articles/organs is punishable offence and therefore, irreparable loss and injury has been caused to the wildlife as also to the public at large due to killing of an innocent pregnant elephant in a barbaric and brutal act. Further, continuous loss to the wildlife and for that matter, to the entire nation, is being caused inasmuch as the elephants are continuously being killed in the State of Kerala and in various other parts of the country.

7. **Nature and extent of personal interest, if any, of the petitioner.**

That the petitioner has no personal interest in the present litigation and the present petition is not guided by or for any self gain or for

gain of any other person/ institution/ body and that there is no motive other than of public interest in filing the present writ petition.

8. **Details regarding any civil, criminal or revenue litigation, involving the petitioner or any of the petitioners, which has or could have a legal nexus with the issue(s) involved in the Public Interest Litigation.**

That the petitioner has not filed any civil, criminal or revenue litigation involving the petitioner or any of his family members which has or could have directly or indirectly legal nexus with the issue involved in the Public Interest Litigation.

9. **Whether issue was raised earlier; if so, what result?**

That the issue raised in the present Public Interest Litigation was neither dealt with nor decided by this Hon'ble Court or by any other Court of law at the instance of the petitioner and/or to the best of his knowledge, at the instance of any other person. Further, no cost has been awarded to or imposed upon the petitioner in any of the PIL filed by him and no appreciation or stricture has been passed against the petitioner. However, suggestions made by the petitioner though PILs have been accepted and necessary directions for compliance thereof have been issued by Hon'ble Delhi High Court in various matters.

10. **Whether concerned Government Authority was moved for relief(s) sought in the petition and if so, with what result:**

That the petitioner has not made any representations to the authorities concerned for remedial action inasmuch as no relief

whatsoever, as sought by the petitioner in the present petition, is likely to be granted by any of the respondents. Further, respondents have failed to discharge their duties diligently and therefore, the representations to them would be inconsequential.

11. **Grounds:**

- A. BECAUSE a protected wildlife animal has been killed for no reasons.
- B. BECAUSE the authorities concerned/respondents have failed to take requisite and appropriate measures to curb the menace of illegal poaching and brutal killing of the wild elephant in various states including Kerala, Karnataka, Odisha, Bihar, West Bengal and Assam.
- C. BECAUSE the incidents of such deliberate killing of innocent protected animals are occurring time and again without any restriction and the respondents particularly the state authorities including the local police have failed to nab the culprits in time.
- D. BECAUSE despite being law in place and agencies to act, there is no mechanism and coordination amongst the investigating agencies and therefore, a proper mechanism is required to be put in place.
- E. BECAUSE no fair, impartial and uninfluenced investigation and prosecution at the hands of the local State police is possible inasmuch as the matter involves political and

money powers and therefore, the investigation is required to be conducted from an impartial, independent central agency in a fair and transparent manner under the monitoring of this Hon'ble Court or by an SIT to be constituted by this Hon'ble Court headed by a Retired Judge of this Hon'ble Court.

F. BECAUSE, as evident, the prosecution agencies have failed to take the prosecutions in such cases upto their logical conclusion and it is reported that in most of the cases, the investigation and trial is proved to be futile exercise.

12. **Grounds for interim relief:**

That the petitioner is seeking interim relief on the following grounds:-

- (i) FOR THAT the matter requires immediate investigation by an independent central agency.
- (ii) FOR THAT there is great apprehension that the witnesses and evidences of the case may be won over and destroyed by the culprits who are still wandering scot-free.
- (iii) FOR THAT the incidents like the present one are being repeated time and again in the said area and inasmuch as, admittedly, two elephants have been killed in two consecutive months, by the miscreants and there is every likelihood that they may take away the life of yet another innocent wild elephant, if immediately not intervened by this Hon'ble Court.

13. **Main prayer:**

It is, therefore, prayed that this Hon'ble Court may graciously be pleased to:-

- (i) Issue a writ of *Certiorari* or any other writ, order or direction thereby calling for the entire record of the cases mentioned above and other similar cases, if any, regarding killing of the elephants in the state of Kerala and/or in other parts/states of the country including Kerala, Karnataka, Odisha, Bihar, West Bengal and Assam., for perusal;
- (ii) Issue a writ of *Mandamus* or any other writ, order or direction thereby directing the transfer of the FIR registered in the matter of killing of the pregnant elephant, as mentioned above, and/or other similar cases, if any, in other parts of Kerala or any other States to the Central Bureau of Investigation (CBI) under the constant monitoring of this Hon'ble Court; OR/ALTERNATIVELY:
- (iii) Issue a writ of *Mandamus* or any other writ, order or direction thereby constituting a Special Investigating Team (SIT) headed by a Retired Judge of this Hon'ble Court to probe into the cases of repeated killing of elephants including the two cases mentioned herein above in various parts of the country including in the states of Kerala, Karnataka, Odisha, Bihar, West Bengal and Assam and at the same time, to suggest proper mechanism to curb the

menace of killing of elephants and to nab and punish the culprits in order to avoid such incidents in future;

- (iv) Any other writ/order or direction, as this Hon'ble Court may deem fit and proper, may also be issued under the facts and circumstances of the case and in the interest of justice.

14. **Interim relief, if any:**

It is prayed that this Hon'ble Court may graciously be pleased to issue necessary directions to the local police/respondent No. 6 herein to collect, protect and preserve all the evidences and to keep them intact to be handed over to CBI or SIT, as the case may be, and provide necessary protection to the witnesses in order to keep them away from any kind of intimidation and threat from the accused persons, for the fair and just investigation and trial and not to conclude the investigation till the final decision of the instant writ petition (PIL) and in the interest of justice.

DRAWN BY & FILED BY:

AVADH BIHARI KAUSHIK
Petitioner-in-Person

Place : New Delhi
Drawn on : 06.06.2020
Filed on : 06.06.2020

5. That I have done whatever inquiry/investigation which was in my power to do, to collect all data/material which was available and which was relevant for this Court to entertain the present petition. I further confirm that I have not concealed in the present petition any data/material/ information which may have enabled this court to form an opinion whether to entertain this petition or not.
6. That I myself have drafted the contents of the accompanying Public Interest Litigation/Writ Petition under Article 32 of the Constitution of India containing Para No. 01 to 14 (Page 01 to 20), List of Dates B to I and M.A. Facts stated therein and legal submissions made therein are true and correct to the best of my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.
7. That the contents of the accompanying petition may please be read as part and parcel to this affidavit which have not been reproduced herein again for the sake of brevity.
8. That I have not filed any other petition before this Hon'ble Court or before any High Court seeking same or similar relief.

DEPONENT

VERIFICATION:

Verified at New Delhi on this the 6th day of June, 2020 that the contents of the above affidavit are correct and true to the best of my knowledge and belief. No part of it is false and nothing has been concealed there from.

DEPONENT

therefore, he is the most appropriate person to argue the matter being aware with the facts of the case.

3. That no prejudice would be caused to any of the parties in case the petitioner is allowed to appear and argue the matter in person.
4. That the application is being filed *bonafide* and in the interest of justice.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble court may graciously be pleased to:-

- (i) Permit the applicant/petitioner to appear and argued the matter in person;
- (ii) Pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case and in the interest of justice.

DRAWN AND FILED BY:-

Place : New Delhi

Dated : 06.06.2020

(AVADH BIHARI KAUSHIK)
Petitioner-in-person
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