

**HIGH COURT OF UTTARAKHAND AT  
NAINITAL**

**THE HON'BLE SRI JUSTICE SHARAD KUMAR SHARMA  
AND**

**THE HON'BLE SRI JUSTICE PANKAJ PUROHIT**

**Writ Petition (PIL) No. 218 of 2023  
28<sup>th</sup> December, 2023**

Suo Motu PIL in the matter of Hunting  
Down the Man Eater Leopard in the  
Village Bhimtal Area .....Petitioner

Versus

Principal Secretary Forest and  
Environment, Govt. of Uttarakhand Civil Secretariat  
Dehradun and Others .....Respondents

Counsel for the suggested experts : Mr. Karthik Jayashankar, Advocate

Counsel for the respondents : Mr. S.N. Babulkar, Advocate General,  
assisted by Mr. Yogesh Chandra Tiwari and  
Mr. Gajendra Tripathi, learned Standing  
Counsel, for the State

**Hon'ble Sharad Kumar Sharma, J. (Oral)**

On an issue of three incidents, which had unfortunately chanced in village adjoining to Bhowali areas, because of which three human lives were lost, because of the unprecedented attacks made by a man-eater, which as per the Forest Department, was claimed to be an unidentified mammal, whether the man-eater was leopard or tiger.

2. The issue of concern for us was, that no doubt the man-eater, if identified, has had to be dealt with, but then strictly in accordance with the provisions contained under Section 11 of the Wild Life (Protection) Act, 1972 (hereinafter to be called as "the Act") and there cannot

be any irrational decision by the Chief Wild Life Warden the authority competent to direct to hunt a wildlife included in Schedule 1 of the Act, to issue a direction at the hands of the Chief Wild Life Warden, to hunt down the animal without the satisfaction being recorded by him, who is an authority designated by law as contemplated under Section 11 (1) (a) of the Act. Section 11 (1)(a) of the Act is extracted hereunder: -

“(1) Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of Chapter IV,—

(a) the Chief Wild Life 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 therefor, permit any person to hunt such animal or cause such animal to be hunted:

(1) Provided that no wild animal shall be ordered to be killed unless the Chief Wild Life Warden is satisfied that such animal cannot be captured, tranquilised or translocated:

(2) Provided further that no such captured animal shall be kept in captivity unless the Chief Wild Life Warden is satisfied that such animal cannot be rehabilitated in the wild and the reasons for the same are recorded in writing.

Explanation.—For the purposes of clause (a), the process of capture or translocation, as the case may be, of such animal shall be made in such manner as to cause minimum trauma to the said animal.]”

3. The legislature has specifically used the words, that it is the responsibility of the Chief Wildlife Warden, that before he issues any order or direction for any wild animal or man-eater to be killed or to be hunted, since it has caused threats to human being, he has to satisfy

himself, based on material placed before him, that the wild animal as specified in Schedule 1, which is inclusive of leopard and tiger, has become dangerous to human being or because of the disablement of the wild animal, he is required to be hunted which becomes inevitable. The decision of Chief Wildlife Warden, has to be on a rational basis, foundationed on credible material, and not because of any pressure being exhorted by local politicians or people.

4. The use of each and every word, in the provisions contained under Section 11(1)(a) of the Act, becomes relevant. The word 'satisfaction' in its literal meaning, means, that it has to be a self determination which is mandatorily required to be recorded and reached by the Chief Wildlife Warden, based on consideration of material by the Chief Wildlife Warden, who has been vested with an authority to pass an order of hunting down any wild animal, who has been declared to be a man-eater, posing threat to human survival.

5. 'Satisfy' in its literal meaning, means as given in Oxford Dictionary, that it means to meet the expectations, need or desire provided and backed with adequate information about a proof of something to determine wild life to be man-eater to comply with a condition or the obligation of demand as provided under Section 11(1)(a) of the Act.

6. Under Article 246 of the Constitution of India, it deals with the law making authority given to the Parliament and to the State Legislation and its under

Article 246, that the 7<sup>th</sup> Schedule of the Constitution of India has been framed and in its Entry 17B as it has been introduced by the 42<sup>nd</sup> amendment of the Constitution of India w.e.f. 31.01.1977. The responsibility more attracted was “**protection** of wild animals and birds”.

7. The prime concern as mandated by the Constitution's 42<sup>nd</sup> amendment was protection and that is why, the Act itself has been nomenclatured as the Wildlife **Protection** Act, 1972. Meaning thereby, the protection is an aspect which becomes a predominant element in its consideration, before any decision is taken by the competent authority to decide or direct to kill a wild animal i.e. man-eater herein.

8. The “protection” in its logical connotation is a shelter provided by the State, to the subject covered under an Act, which herein would mean the wild animal provided under Schedule 1 of the Act of 1972, which is inclusive of leopard and tiger. The term protection in its literal meaning means to guarantee a safety to wildlife or a human being for its upbringing in order to balance the ecology and a cohesive coexistence.

9. When the matter was initially taken up and there had been number of deliberations made on this issue of grave concern, in the presence of the Chief Wildlife Warden, they were called for to submit a response and ultimately a response has been submitted under the affidavit of Dr. Samir Sinha, Principal Chief Conservator of Forest Wildlife Uttarakhand, Dehradun & Chief Wildlife Warden, Uttarakhand, Dehradun, wherein, in para 17,

18, 20 and 21, they have now come up with the case, that the issue because of which the cognizance has been taken, has now been diluted, because the allegedly identified man-eater tiger has been tranquilised and has now been translocated, and another man-eater leopard has been trapped. Thus the issue may not be of much concern, as of now which may require to be deliberated upon.

10. But, still we cannot shy-away from our responsibility to lay down the basic guidelines, which have been provided under the Act itself, before a Chief Wildlife Warden takes a call to issue any directions to kill a man-eater and that too particularly it has to strictly governed as provided under its first proviso to Section 11 of the Act. Section 11 of the Act itself is not a mandatory condition to issue a direction to hunt because it uses the word "may". The interpretation of word "may" herein means a strict adherence of subsequent expression of a "satisfaction", i.e. the satisfaction which has to be based on material placed before him, there has to be an order in writing based on material and more importantly stating the logical and satisfactory reasons to permit a hunting of a man-eater or a wild animal which has been thus identified as a man-eater by the self-contained mechanism of the department identification of a wild animal as a man-eater is a condition precedent, and until and unless the said determination is made, a Chief Wildlife Warden, he cannot, by a cursory order without giving any reasons merely basing on departmental communication should not issue any directions to hunt a

wild animal, merely because of public or political agitation. Based on the provisions contained under Section 11 of the Act, the policy named as "Standard Operating Procedure to Deal with Emergency Arising Due to Straying of Tigers in Human Dominated Landscapes" has already been trapped which requires its strict adherence before issuance of any direction to hunt a wildlife, until and unless it has been identified as to be a man-eater by various measures provided under the Act.

11. Thus, it is hereby directed by way of writ of mandamus, that hereinafter, before the Chief Wildlife Warden, who is an authority competent under Section 11(1)(a) of the Act, to issue any such direction to hunt a wild animal, he will have to satisfy himself based on credible material placed before him to be considered in relation to the animal included in Schedule 1, the decision has to be backed with logical reasons assigned to it in writing based on material placed before him, before he issues any such direction of hunt a wild animal which would be only upon its identification and declaration as being dangerous to human life and particularly, he will have to follow with the stages and procedures as prescribed under the first proviso to Section 11(1)(a) of the Act, which has to be chronologically followed, that the animal has to be first attempted to be 'captured', 'tranquilised' or 'translocated'. It is only in an event of failure to succeed in any of these three stages, and that only after a written satisfaction recorded, the Chief Wildlife Warden can issue directions to hunt the animal and that too by specific

compliance of the guidelines issued which are called as "Standard Operating Procedure to Deal with Emergency Arising Due to Straying of Tigers in Human Dominated Landscapes".

12. The learned Advocate General had submitted, there are situations which become inevitable, where a wild animal is necessarily required to be hunted, because of a consequence of a sudden attack, and where situation is such that they cannot wait for a direction of the Chief Wildlife Warden. In that situation, and in extreme contingencies, the legislature itself has provided with the provisions contained under sub-Section (3) of Section 11 of the Act, that if a contingency arises, that there is a wild animal attack on a human being, obviously, a decision cannot be awaited to be taken from the Chief Wildlife Warden as contemplated under Section 11 of the Act, in that contingent situation, the same is protected under sub-Section (3) of Section 11 of the Act, the ambit of which is wide enough to include public at large.

13. A categorical statement has been made by Dr. Samir Sinha, Principal Chief Conservator of Forest Wildlife Uttarakhand, Dehradun & Chief Wildlife Warden, Uttarakhand, Dehradun, that the wild animal, which has been tranquillised was the identified man-eater by the team of experts headed by him, who had been alleged to have killed three females.

14. Owing to the fact that now the issue stands closed because of the department having succeeded to tranquillise the identified man-eater, and trap the man-

eater, no further deliberations are required to be made. But, the guidelines before deciding to hunt wild animal has to be mandatorily followed by the competent officials in future.

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**Sharad Kumar Sharma, J.**

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**Pankaj Purohit, J.**

Dt: 28<sup>th</sup> December, 2023

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