

THE WILD LIFE (PROTECTION)
ACT
1972

History of wild life protection

- During British period
 - Wild Bird Protection Act 1887
 - Wild Birds and Animals(Protection) Act 1912
 - Amendments Act 1935

Law and Policy available for wildlife protection

1. **The Wildlife (Protection) Act, 1972**
 - i. The Wildlife (Transactions And Taxidermy) Rules, 1973
 - ii. Wildlife (Stock Declaration) Rules, 1973
 - iii. Wildlife (Protection) Licensing (Additional Matters For Consideration) Rules, 1983
 - iv. Wildlife (Protection), Rules 1995
 - v. Wildlife (Specified Plants- Conditions For Possession By Licensee) Rules, 1995
 - vi. Wildlife (Specified Plant Stock Declaration) Central Rules, 1995.

vii. The Recognition of Zoo Rules, 1992.

viii. National Zoo Policy, 1998

ix. National Wildlife Action Plan

WPA 1972 - Scheme and scope of the Act - 7 chapters

Chapter II	Sec 3 to 8	<u>Authorities to be appointed / constituted</u>
Chapter III, III-A	Sec 9 to 17	<u>Hunting</u>
Chapter IV, IV-A	Sec 18 to 38	<u>Protected Areas</u>
Chapter V, V-A	Sec 39 to 49	<u>Trade & commerce in wild animals, articles & trophies</u>
Chapter VI, VI-A	Sec 50 to 58	<u>Prevention & detection of offence</u>
Chapter VII	Sec. 59 to 66	<u>Miscellaneous</u>

Major amendments in WLPA

1986 - Notification on 24/11/1986

- ✓ Most of the species were transferred from Schedule III, IV and V to Schedule I and Part II of Schedule II
- ✓ Chapter V – A inserted
- ✓ Complete Prohibition in trade of Sch I and Part II of Sch II except trade in imported Ivory

- > 700 traders filed WP
- **Civil writ petition no. 2750 of 1987**

G R Simon & others Vs. UOI

Petitioner's contentions:

- i. As many items were transferred from Sch III, IV to Sch I and part II of Sch II, legal stocks of petitioners would be rendered unsalable in 2 months. These will become unlawful and hence it is deprivation of property without authority of law.

Petitioner's contentions:

- ii. There is no nexus between the object of preservation of animal life and banning and destroying trade/business in animal articles made therefrom.
- iii. The amendment was a colourable exercise of power. Parliament has been misled by by Minister. Parliament was made to believe that ban on trade was to apply to only specified animals and not to all animals.
- iv. Petitioners will be left jobless without any compensation even though they carried their business legitimately.

Petitioner's contentions:

- v. Petitioners questioned the proposition that protection of wildlife was in general interest of public
 - Certain animals like Black Bears, Jackal and otter were detrimental to cattle and fish etc.
 - Snakes are harmful and dangerous to human life
- ✓ Protection of large number of wild animals who had no utility for humans could not be said to be in public interest.

Respondent's contentions:

- i. Wild life forms part of our cultural heritage.
- ii. Every animal plays a role in maintaining the ecological balance
- iii. Its only when human beings tread their natural habitat that animals react
- iv. Argument that certain wild animals arc harmful to life and serve no useful purpose, is misconceived
- v. Depletion in numbers of endangered species has a strong nexus with large scale poaching of WL for trade.

Respondent's contentions:

- vi. It is necessary to ensure liquidation of the present stock and to stop further accumulation so as to discourage and prevent illegal poaching of wild animals.
- vii. The Amending Act was not a colorable exercise of power. The power to make necessary changes in the Schedule of Wild Life (Protection) Act vests in the Government under **Section 61** of the Act.

G R Simon & others Vs. UOI

✓ HC Delhi issued interim Order on 23 Jan 1987

Order :

- Permitted petitioners to make declaration of stocks
- Authorize petitioners to manufacture, sell or offer for sale or transfer to any authorized person the stocks held by them
- Government to consider renewal of licenses without prejudice to the respective rights and contentions of the parties
- Provision of Amendment act were stayed till disposal of WP

G R Simon & others Vs. UOI

- ✓ Division bench vacated the stay order on 09/02/1993
- ✓ SLP to SC was dismissed on 26/02/1993 with the direction that
 - No fresh prosecution would be launched against petitioners for possession of existing stocks till the WP finally disposed off.

G R Simon & others Vs. UOI

- ✓ Final order by 3 member bench on 20/03/1997:
 - Provision of chapter V-A introduced by Amending Act 1986 to WPA 1972 are **Valid and intra vires**
 - Petitioners have been given more than enough time to dispose of their stocks. Hence they are not entitled to any further time for disposal of stocks

Major amendments in WLPA contd..

1991(October) – Major amendments

- » Protection of specified plant - **Ch III-A; Sch VI**
- » For Zoo
- » Recognized the needs of tribal and forest dwellers
- » Non officials can directly take instances of violations to courts - **Sec 55 (c)**
- » Transportation of WL or WL products prohibited
- » Total ban on exports of birds
- » Prohibition of trade in animal articles including ban on imported ivory

Major amendments in WLPA contd..

➤ Ivory Traders & Manufacturing Association Vs. UOI ; HC Delhi

- Traders obtained a stay order
- Stay lifted on July 7, 1992
- Judgment by double bench on 20/03/1997
 - » Trade in imported ivory and articles made therefrom – prohibition under Amendment Act 1991- **VALID**

HC held that

“Prohibition on all International Trade in Ivory imported in to India or an article made therefrom, from specified date mentioned in Amending Act of 1991, is no violation of fundamental rights. This also includes **Mammoth Ivory.**”

Ivory Traders & Mfg. Association vs Union of India, AIR 1997, Del 267

“A mere perusal of the definition of ‘animal article’ in Section 2 (2) of the Act would show that the imported ivory falls within it. In that view of the matter the question as to whether the African Elephant is a scheduled animal or not is irrelevant. Dealing in trade in ivory is prohibited under Chapter V-A.

- Total Prohibition on trade in ivory under the WPA, held to be reasonable.

Indian Handicrafts Emporium and Others

VS

Union of India and Others (2003) 7 SCC 589

Balram Kumawat's case, (2003) 7 SCC 628

Issue - Whether 'mammoth ivory' imported in India answers the description of the words 'ivory imported in India' contained in Wild Life (Protection) Act, 1972'

Petitioner's case-

- WPA 1972 does not apply on Mammoth Ivory
- Mammoth belongs to an extinct species, while the ivory of the elephant is of an extant living animal.
- Mammoth ivory is distinguishable by visual and non-destructive means vis-a vis elephant ivory.

Supreme Court held:-

- What has been banned under the Act is ivory.
- 'Ivory' as per dictionary meaning is not confined to elephant ivory.
- It does not say that what is prohibited is trade in elephant ivory or either types of ivory.
- The parliament in the Act has used the term 'ivory' instead of elephant ivory and one cannot assume that the parliament used this term without being aware of existence of different types of ivory.

Supreme Court contd...

- If the intention of the parliament was to confine the subject matter of ban under Act to elephant ivory alone then it would have said so explicitly
- The purport and object of the Act is that nobody can carry on business activity in imported ivory.

Major amendments in WLPA contd...

2002 – Preamble changed,

-Addition :

- Chap VI –A - forfeiture of property derived from illegal hunting & trade

- power to remove encroachment; Sec 34-A

- conservation reserve & community reserve;

Sec 36–A to 36-D

2006– NTCA (National Tiger Conservation Authority)

- WCCB(wildlife Crime Control Bureau)

J & K

- Wild life (Protection) Act 1978
- Amendment 2002

THE WILDLIFE (PROTECTION) ACT, 1972

(No. 53 of 1972)

(9th September, 1972)

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

Preamble

An Act to provide for the protection of Wild animals, birds and plants and for matters connected therewith or ancillary or incidental thereto with a view to **“ensuring the ecological and environmental security of the country”**.

“” – added in 2002 amendment..

On the Preamble of WPA, Supreme Court says...

The preservation of the fauna and flora, some species of which are getting extinct at an alarming rate, has been a great and urgent necessity for the survival of the humanity and these laws reflect a last-ditch battle for the restoration, in part at least, a grave situation emerging from a long history of callous insensitiveness to the enormity of the risks to mankind that go with the deterioration of environment.

State of Bihar Vs. Murad Ali Khan, AIR

1989 SC of 1

CONTENTS

CHAPTER I

Preliminary

- Short title, extent, and commencement
- Definitions

CHAPTER 1

Preliminary

1. Short title, extent, and commencement, -

(1) This Act may be called the Wildlife (Protection) Act, 1972.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force in a State or Union Territory to which it extends, on such date as the Central Government may, by notification, appoint, and different dates may be appointed for different provision of this Act or for different States or Union Territories.

2. Definitions - In this Act, unless the

context otherwise requires, -

(1) 'animal' includes mammals, birds, reptiles, amphibians, fish, other chordates and invertebrates and also includes their young and eggs;

(2) "animal article" means an article made from any captive animal or wild animal, other than vermin, and includes an article or object in which the whole or any part of such animal has been used and **ivory imported into India** and an article made there from.

(3) Omitted 1991

(4) "Board" means a state board for Wildlife constituted under subsection (1) of Sec.6;

Definitions contd..

(5) “captive animal” means any animal, specified in Schedule 1, Schedule II, Schedule III or Schedule IV, which is captured or kept or bred in captivity;

(6) Omitted 1991

(7) **“Chief Wildlife Warden”** means the person appointed as such under C1. (a) of sub-section (1) of Sec.4;

(7A) “Circus” means an establishment, whether stationary or mobile where animals are kept or used wholly or mainly for the purpose of performing tricks or manoeuvres;

(8) Omitted in 2003

Definitions contd..

- (9) “Collector” means the Chief Officer in charge of the revenue administration of a district or any other officer not below the rank of a Deputy Collector as may be appointed by the State Government under section 18B in this behalf;
- (10) “commencement of this Act”, in relation to –
- (a) a State, means commencement of this Act in that State.
 - (b) any provision of this Act, means commencement of that provision in the concerned State;
- (11) **“dealer”** in relation to any captive animal, animal article, trophy, uncured trophy, meat or specified plant, means a person who, carries on the business of buying or selling any such animal or article, and **includes a person who undertakes business in any single transaction(2003);**

Definitions contd..

(12) “Director” means the person appointed as Director of Wildlife Preservation under Cl(a). of sub-section (1) of Sec. 3;

(12A) “**Forest Officer**” means the Forest Officer appointed under clause (2) of Sec.2 of the Indian Forest Act, 1927 (16 of 1927) or under any other Act for the time being in force in a state ;

(12B) “forest produce” shall have the same meaning as in sub- clause (b) of clause (4) of Sec. 2 of the Indian Forest Act, 1927 (16 of 1927);

Definitions contd..

(13) Omitted 1991

(14) “Government property” means property, referred to in
sec.39; [or sec. 17H]

(15) “**habitat**” includes land, water, or vegetation which is
the natural home of any wild animal;

Definitions contd..

(16) “**hunting**”, with its grammatical variations and cognate expressions, includes,

(a) **killing or poisoning** of any wild animal or captive animal and every **attempt** to do so;

(b) **capturing, coursing, snaring, trapping, driving or baiting** any wild or captive animal and every **attempt** to do so;

(c) **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;

Definitions contd..

(17) **“land” includes** canals, creeks, and other water channels, reservoirs, rivers, streams and lakes, whether artificial or natural, marshes and wetlands and also includes boulders and rocks;

(18) **“licence” means** a licence granted under this Act;

(18A) **“livestock” means** farm animals and includes buffaloes, bulls, bullocks, camels, cows, donkeys, goats, sheep, horses, mules, yaks, pigs, ducks, geese, poultry and their young but does not include any animal specified in Schedule I to V

Definitions contd..

- (19) “manufacturer” means a person who manufactures articles from any animal or plant specified in Schedule I to V and VI, as the case may be;
- (20) “meat” includes **blood, bones, sinew, eggs, shell or carapace, fat and flesh with or without skin**, whether **raw or cooked**, of any wild animal or captive, other than vermin;
- (21) “National Board” means the National Board for Wild Life Constituted under Sec.5A

Definitions contd..

- (22) “notification” means a notification published in the official Gazette;
- (23) “permit” means a permit granted under this Act or any rule made thereunder;
- (24) “Person” includes a firm;
- (24A) “protected area” means a national Park, a sanctuary, a conservation reserve or a community reserve notified under sections 18, 35, 36A and 36C of the Act;
- (25) “prescribed” means prescribed by rules made under this Act;
- (25A) “recognised zoo” means a zoo recognised under section 38H;

Definitions contd..

(25B) “reserve forest” means the forest declared to be reserved by the State Government under sec.20. of the Indian Forest Act, 1927 (16 of 1927); or declared as such under any other State Act;

(26)“sanctuary” means an area declared as a sanctuary by notification under the provisions of chapters IV of this Act shall also include a deemed sanctuary under sub- section (4) of Section 66:

(26-A) or sec 38, or deemed, under sub section (3) of Sec.66 to be declared. as a wildlife sanctuary:

Definitions contd..

- (27) “specified plant “means any plant specified in Schedule VI;
- (28) [Omitted 2002.]
- (29) “State Government”, in relation to a Union Territory, means the Administrator of that Union Territory appointed by the President under Art 239 of the Constitutions ;
- (30) “**taxidermy**”, with its grammatical variations and cognate expressions, means the curing, preparation or preservation or mounting of trophies;

Definitions contd..

(30A) “territorial waters” shall have the same meaning as in Sec.3.

of Territorial waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976);

(31) “**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,

(a) rugs, skins, and specimens of such animals mounted in whole or in part through a process of taxidermy, and

(b) antler, **bone**, **carapace**, shell, horn, rhinoceros horn, **hair**, feather, nail, tooth, musk, eggs, and nests and **honeycomb**;

Ashok kumar vs B S Jaiswal & others

CP No. 89/2001, J&K HC

- Question raised:
 - Whether Tibetan Antelope hair is an animal article/Trophy or not?

Definitions contd..

- (32) “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 ;
- (33) “vehicle” means any conveyance used for movement on land, water or air, and **includes** buffalo, bull, bullock, camel, donkey, elephant, horse, and mule;

Definitions contd..

- (34) “vermin” means any wild animal specified in Sch.V;
- (35) “weapon” includes ammunition, bows and arrows, explosives, firearms, hooks, knives, nets, poison, snares, traps, and any instrument or apparatus capable of anaesthetizing, decoying, destroying, injuring or killing an animal;
- (36) “wild animal” means any animal specified in Schedules I to IV and found wild in nature

Definitions contd..

- (37) “wildlife” includes any animal, aquatic or land vegetation which forms part of any habitat
- (38) “Wildlife Warden” means the person appointed as such under C1. (b) of sub-section (1) of Sec.4;
- (39) “zoo” means an establishment, whether stationary or mobile, where captive animals are kept for exhibition to the public and includes a circus and rescue centre but does not include an establishment of a licensed dealer in captive animals.

**The Act has been made applicable in various States
and Union Territories as under:**

1. Andaman and Nicobar, w.e.f. 1st July 1973, vide G.S. R.332 (E), dated 1st July, 1973.
2. Andhra Pradesh, w.e.f. 1st July 1973, vide G.S.R.371 (E), dated 1st August, 1973.
3. Arunachal Pradesh, w.e.f. 15th May 1973.
4. Assam, w.e.f. 25th January 1977, vide G.S.R.33 (E), dated 25th January, 1977.
5. Bihar, w.e.f. 1st February 1973, vide G.S.R.40 (E), dated 1st February, 1973.

6. Dadra and Nagar Haveli, w.e.f. 1st September 1973, vide G.S. R.441(E), dated 1st September, 1973.
7. Delhi, w.e.f. 1st June 1973,
8. Gao Daman and Diu, w.e.f. 16 July 1973, vide G.S.R.629 (E), dated 16th July, 1973.
9. Gujarat, w.e.f. 1st February 1973, vide G.S.R.62 (E), dated 1st February, 1973.
10. Haryana, w.e.f. 12th March July 1973, vide G.S.R.63 (E), dated 12 March, 1973.
11. Himachal Pradesh, w.e.f. 2nd April ly 1973, vide G.S.R.190 (E), dated 2nd April, 1973.
12. Kerala, w.e.f. 1st June 1973, vide G.S.R.293 (E), dated 1st June, 1973.

13. Lakshdweep, w.e.f. 1st November 1973, vide G.S.R.481(E), dated 1st November, 1973.
14. Madhya Pradesh, w.e.f. 25 January 1973, vide G.S.R.28 (E), dated 25 January, 1973.
15. Maharashtra, w.e.f. 1st June 1973, vide G.S.R.296 (E), dated 1st June, 1973.
16. Manipur, w.e.f. 15th May 1973, vide G.S.R.269 (E), dated 15th May, 1973.
17. Meghalaya, w.e.f. 1st April 1977
18. Mizoram, w.e.f. 1st October 1974, vide G.S.R.407 (E), dated 1st October, 1974.
19. Mysore, w.e.f. 1st July 1973, vide G.S.R.355 (E), dated 1st July, 1973.

20. Nagaland, w.e.f. 18th December 1981, vide G.S.R.668 (E), dated 18thDecember
21. Orissa, w.e.f. 14th August 1974, vide G.S.R.364 (E), dated 14th August, 1974.
22. Punjab, w.e.f. 1st April 1975.
23. Rajasthan, w.e.f. 1st September 1973, vide G.S.R.410 (E), dated 1st September, 1973.
24. Sikkim, w.e.f. 1st May 1976, vide G.S.R.311 (E), dated 1st May, 1976.
25. Tamil Nadu, w.e.f. 1st January, 1974.
26. Tripura, w.e.f. 2nd October 1973, vide GS.R.465 (E), dated 2nd October, 1973.

27. Union Territory of Chandigarh, w.e.f. 2nd December 1974, vide G.S.R.674 (E), dated 2 December, 1974.
28. Union Territory of Pondicherry, w.e.f. 1st March 1975, vide G.S.R.62 (E), dated 1st March, 1975
29. Uttar Pradesh, w.e.f. 1st February 1973.
30. West Bengal, w.e.f. 1st May 1973, vide G.S.R.224 (E), dated 1st May, 1973.

CHAPTER II

Authorities to be appointed or constituted under the Act

3. Appointment of Director and other officers
4. Appointment of Chief Wildlife Warden and other officers
5. Power to delegate
6. Constitution of the Wildlife Advisor-Y, Board
7. Procedure to be followed by the Board
8. Duties of the Wildlife Advisory Board

CHAPTER II

Authorities to be appointed or constituted under this Act

3. Appointment of Director another officers.–

(1) The Central Government may, for the purposes of this Act appoint

(a) a Director of Wildlife Preservation;

(b) Omitted 2003;

(c) such other officers and employees as may be necessary

Authorities to be appointed or constituted under this Act

contd..

(2) In the performance of his duties and exercise of his powers by or under this Act, the Director shall be subject to such general or special directions, as the Central Government may, from time to time, give.

(3) The officers and other employees appointed under this section shall be required to assist the Director.

Authorities to be appointed or constituted under this Act

contd.

4. Appointment of Chief Wildlife Warden and other officers –

(1) The State Government may, for the purposes of this Act, appoint –

(a) a Chief Wildlife Warden;

(b) Wild life Wardens;

(bb) Honorary Wildlife Warden

(c) such other officers and employees as may be necessary.

Authorities to be appointed or constituted under this Act

contd..

(2) In the performance of his duties and exercise of his powers by or under this Act, the Chief Wildlife Warden shall be subject to such general or special directions, as the State Government may, from time to time, give.

(3) The Wildlife Warden, the Honorary Wildlife Warden and other officers and employees appointed under this section shall be subordinate to the Chief Wildlife Warden.

Authorities to be appointed or constituted under this Act

~~contd.~~ 3. Power of delegate

- (1) The **Director** may, with the previous approval of the **Central Government**, by order in writing **delegate** all or any of his powers and duties under this Act to any officer subordinate to him subject to such conditions, if any, as may be specified in the order.
- (2) The **Chief Wildlife Warden** may, with the previous approval of the **State Government** by order in writing, **delegate** all or any of his powers and duties under this Act, except those under Cl.(a) of sub-section (1) of Sec.11, to any officer subordinate to him subject to such conditions, if any, be specified in the order.

Authorities to be appointed or constituted under this Act

contd..

(3) Subject to any general or special, direction given or condition imposed by the Director or the Chief Wildlife Warden, any person, authorised by the Director or the Chief Wildlife Warden to exercise any, powers, may exercise those powers in the same manner and to the same effect as if they had been conferred on that person directly by this Act and not by way of delegation.

Authorities to be appointed or constituted under this Act

contd..

5A. Constitution of the National Board for Wild Life. –

(1) The Central Government shall, within three months from the date of commencement of the Wild Life (Protection) Amendment Act, 2002, constitute the National Board for Wild Life consisting of the following members, namely: -

(a) the Prime Minister as Chairperson;

(b) the Minister in-charge of Forests and Wild Life as Vice-Chairperson;

(c) three members of Parliament of whom two shall be from the House of the People and one from the Council of States;

Authorities to be appointed or constituted under this Act

contd.

- ~~(d)~~ Member, Planning Commission in-charge of Forests and Wild Life;
- (e) five persons to represent non-governmental organizations** to be nominated by Central Government;
- (f) ten persons to be nominated** by the Central Government from amongst eminent **conservationists, ecologists and environmentalist**;
- (g)** the Secretary to the Government of India in-charge of the Ministry or Department of the Central government dealing with Forests and Wild Life;
- (h) the Chief of the Army Staff**;
- (i)** the Secretary to the Government of India in-charge of the Ministry of Defence;
- (j)** the Secretary to the Government of India in-charge of the Ministry of Information and Broadcasting;
- (k)** the Secretary to the Government of India in-charge of the Department of Expenditure, Ministry of Finance;
- (l)** the Secretary to the Government of India, Ministry of Tribal Welfare

Authorities to be appointed or constituted under this Act

- contd... the **Director-General of Forests** in the Ministry or Department of the Central Government dealing with Forests and Wild Life;
- (n) the Director-General of Tourism, Government of India;
 - (o) the **Director-General**, Indian Council for Forestry Research and Education, Dehradun;
 - (p) the **Director, Wild Life Institute of India**, Dehradun;
 - (q) the Director, Zoological Survey of India;
 - (r) the Director, Botanical Survey of India;
 - (s) the Director, Indian Veterinary Research Institute;
 - (t) the Member-Secretary, Central Zoo Authority;
 - (u) the Director, National Institute of Oceanography;
 - (v) one representative each from ten States and Union Territories by rotation, to be nominated by the Central Government;
 - (w) the **Director of Wild life Preservation** who shall be the **Member-Secretary** of the National Board.

Authorities to be appointed or constituted under this Act

contd. The term of office of the members other than those who are members *ex officio*, the manner of filling vacancies referred to in clauses (e), (f) and (v) of sub-section (1), and the procedure to be followed in the discharge of their functions by the members of the National Board shall be such, as may be prescribed.

(3) The members (except members *ex officio*) shall be entitled to receive such allowances in respect of expenses incurred in the performance of their duties as may be prescribed.

(4) Notwithstanding anything contained in any other law for the time being in force, the office of a member of the National Board **shall not be deemed to be an office of profit.**

Authorities to be appointed or constituted under this Act

507A. Standing Committee of the National Board. –

(1) The National Board may, in its discretion, constitute a Standing Committee for the purpose of exercising such powers and performing such duties as may be delegated to the Committee by the National Board.

(2) The Standing Committee shall consist of the **Vice-Chairperson, the Member-Secretary, and not more than ten members** to be nominated by the Vice-Chairperson from amongst the members of **the National Board.**

(3) The National Board may constitute committees, sub-committees or study groups, as may be necessary, from time to time in proper discharge of the functions assigned to it.]

Authorities to be appointed or constituted under this Act

contd..

5C. Functions of the National Board. –

(1) It shall be the duty of the National Board to promote the conservation and development of wild life and forests by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provision, the measures referred to therein may provide for –

(a) **framing policies and advising** the Central Government and the State Governments on the **ways and means of promoting wild life conservation and effectively controlling poaching and illegal trade of wild life and its products;**

Authorities to be appointed or constituted under this Act

contd.

(b) making recommendations on the setting up of and management of national parks, sanctuaries and other protected areas and on matters relating to restriction of activities in those areas;

(c) carrying out or causing to be carried out impact assessment of various projects and activities on wild life or its habitat;

(d) reviewing from time to time, the progress in the field of wild life conservation in the country and suggesting measures for improvement thereto; and

(e) preparing and publishing a status report at least once in

Added in 2002 amendment

Sec 5A : constitution of NBWL

Sec 5 B: standing committee

Sec 5 C : functions

Authorities to be appointed or constituted under this Act

contd..

6. Constitution of State Board for Wild Life. –

(1) The State Government shall, within a period of six months from the date of commencement of the Wild Life (Protection) Amendment Act, 2002 constitute a State board for Wild Life consisting of the following members, namely: -

(a) the Chief Minister of the State and in case of the Union Territory, either Chief Minister or Administrator, as the case may be – Chairperson;

(b) the Minister in-charge of Forests and Wild Life – Vice-Chairperson;

(c) three members of the State Legislature or in the case of an Union Territory with Legislature, two members of the Legislative Assembly of that Union Territory;

Authorities to be appointed or constituted under this Act

cond. (d) three persons to represent non-governmental organizations

dealing with wild life to be nominated by state Government;

(e) ten persons to be nominated by the State Government from amongst eminent conservationists, ecologists and

environmentalists including at least two representative of the Scheduled Tribes;

(f) the **Secretary** to the State Government or the Government of the Union Territory, as the case may be, in-charge of **Forests and Wild Life**;

(g) the **Officer in-charge of the State Forest Department**;

(h) the Secretary to the State Government, Department of Tribal Welfare;

(i) the Managing Director, State Tourism Development Corporation;

Authorities to be appointed or constituted under this Act

contd..

- (k) a representative of the Armed Force not below the rank of a Brigadier to be nominated by the Central Government;
- (l) the Director, Department of Animal Husbandry of the State;
- (m) the Director, Department of Fisheries of the state;
- (n) an officer to be nominated by the Director, Wild Life Preservation;
- (o) a representative of the Wild Life Institute of India, Dehradun;
- (p) a representative of the Botanical Survey of India;
- (q) a representative of the Zoological Survey of India;
- (r) the **Chief wild Life Warden**, who shall be the **Member-**

Secretary

Authorities to be appointed or constituted under this Act

contd..

(2) The term of the office of the members other than those who are members *ex officio* and the manner of filling vacancies referred to in clauses (d) and (e) of sub-section (1) and procedure to be followed shall be such, as may be prescribed.

(3) The member (except members *ex officio*) shall be entitled to receive such allowances in respect of expenses incurred in the performance of their duties as may be prescribed.

Authorities to be appointed or constituted under this Act

contd..

7. Procedure to be followed by the Board. –

(1) The Board shall meet **at least twice a year** at such place as the State Government may direct.

(2) The Board shall regulate its own procedure (including the quorum).

(3) No act or proceeding of the Board shall be invalid merely by reason of the existence of any vacancy therein or any defect in the constitution thereof or any irregularity in the procedure of the Board affecting the merits of the case.

Authorities to be appointed or constituted under this Act

10. Duties of the State Board for Wildlife. –

(1) It shall be the duty of the State Board for Wild Life to **advise** the State Government, -

(a) in the **selection and management** of areas to be declared as protected areas;

(b) in formulation of the policy of protection and conservation of Wildlife and specified plants;

(c) in any matter relating to any schedule;

(cc) in relation to the measures to be taken for harmonizing the needs of the tribals and other dwellers of the forest with the protection and conservation of wildlife; and

(d) in any matter that may be referred to it by the State gov.

CHAPTER III

Hunting of Wild Animals

9. Prohibition of Hunting

10. Maintenance of records of wild animals

killed or captured omitted

11. Hunting of wild animals to be permitted in certain cases

12. Grant of permit for special purposes

13. Suspension or cancellation of licence omitted

14. Appeals omitted

15. Hunting of young and female of wild

animals omitted

16. Declaration of closed time omitted

17. Restrictions on hunting omitted

CHAPTER III

Hunting of Wild Animals

9. Prohibition of Hunting. –

No person shall hunt any wild animal specified in Schedule, I, II, III and IV except as provided under section 11 and section 12.

Hunting of Wild Animals contd..

10. (Omitted 1991)

11. **Hunting of Wild animals to be permitted in certain cases.–**

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

(a) the **Chief Wildlife Warden** may, if he is satisfied that any wild animal specified in **Sch. 1** 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;

Provided that **no wild animal shall be ordered to killed unless the CWLW is satisfied that such animal cannot be captured, tranquilized or translocated.**

Provided further that **no such captured animal shall be kept in captivity unless the CWLW is satisfied that such animal cannot be rehabilitated in the wild and reasons for the same recorded in writing.**

Hunting of Wild Animals contd..

(b) the **Chief Wildlife Warden** or the **authorized officer** may, if he is satisfied that any wild animal specified in **Sch. II Sch, III or Sch. 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 group of animals in a specified area or cause such animal or group of animal in that specified area to be hunted.

Hunting of Wild Animals contd..

(2) The killing or wounding in **good faith** of any wild animal in defence of oneself or of any other person shall not be an offence;

Provided that nothing in this sub-section shall exonerate any person who, when such defence becomes necessary, was committing any act in contravention of any provision of this Act or any rule or order made there under.

(3) Any wild animal killed or wounded in defence of any person shall be **Government property**.

Permission for hunting WL(Sec 11)

– Sch I animal

i. Dangerous to human life

ii. Disabled or diseased beyond recovery

iii. CWLW to certify :

a. In case of killing :

» Such animal cannot be **captured, tranquilized or translocated**

b. In case of capturing

» Such animal cannot be rehabilitated in wild

Permission for hunting WL(Sec 11)

- Sch II, III, IV animal or group of animal in specified area
 - i. Dangerous to human life or to property
 - ii. Disabled or diseased beyond recovery

**No permission to kill Schedule I animal
in case of damage to property.**

**Does it violate Right of the citizen to
protect his property ?**

- No permission can be granted permission to hunt **Schedule I** wild animal if it becomes dangerous to property. It is not to say that it has abridged the right of the citizen to protect his property.
- The right to protect one's property from any wild animal specified in Sch I, need not necessarily be equated to a right to hunt that wild animal in protection of one's property.
- It is not permissible to advance a theory that only by hunting the wild animal specified in Sch I there could be protection of property.

-I R Coelho Vs. State of TN, 1992

Hunting of Wild Animals contd..

12. **Grant of permit for special purposes.** - Notwithstanding anything contained elsewhere in this Act, it shall be lawful for the **Chief Wildlife Warden**, to grant a 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;

(bb) scientific management;

Hunting of Wild Animals contd..

Explanation:- for the purposes of Cl. (bb), the expression, “**scientific management**” means

- (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.

(c) Collection of specimens

- (i) for recognised zoos subject to the permission under section
38-1 or
- (ii) for museums and similar institutions;

(d) derivation, collection or preparation of snake-venom for the

Hunting of Wild Animals contd..

Provided that no such permit shall be granted:

- (a) in respect of any wild animal specified in Sch.I
except with the previous permission of the Central
Government, and**
- (b) in respect of any other wild animal, except with
the previous permission of the State Government.**

Permit for hunting WL (Sec 12)

- Purpose (a, b, bb, c, d)
- Sch I animal
 - Central government
- Sch II, III, IV animal
 - State government

Hunting of Wild Animals contd..

(13) OMITTED 1991

(14) Omitted 1991

(15) Omitted 1991

(16) Omitted 1991

(17) Omitted 1991

CHAPTER-III A –

Protection of Specified Plants

- 17A Prohibition of picking, uprooting. etc., of specified plants
- 17B Grant of permit for special purposes
- 17C Cultivation of specified plants without licence prohibited
- 17D Dealing in specified plants without licence prohibited
- 17E Declaration of stock
- 17F Possession, etc., of plants by licensee
- 17G Purchase etc., of specified plants
- 17H Plants to be Government [property](#)

CHAPTER-III A

PROTECTION OF SPECIFIED PLANTS

17A. Prohibition of picking, uprooting, etc., of specified plants. –

Save, as otherwise provided in this Chapter, **no person shall –**

- (a) willfully pick, uproot, damage, destroy, acquire or collect any specified plant from any forest land and area specified, by notification, by the Central Government,**
- (b) possess, sell, offer for sale, or transfer by way of gift or otherwise, or transport any specified plant, whether alive or dead, or part or derivative thereof :**

PROTECTION OF SPECIFIED PLANTS contd..

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 **bona fide personal use.**

PROTECTION OF SPECIFIED PLANTS contd..

17B. Grant of permit for special purpose–.

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

- (a) education;
- (b) scientific research.,
- (c) collection, preservation and display in a herbarium of any scientific institutions; or
- (d) propagation by a person or an institution approved by the Central Government in this regard.

PROTECTION OF SPECIFIED PLANTS contd..

17C. Cultivation of specified plants without license prohibited. –

(1) **No person shall cultivate** a specified plant except under, and in accordance with a license granted by the Chief Wild Life Warden or any other officer authorized by the State Government in this behalf :

Provided that nothing in this section shall prevent a person, who, immediately before the Commencement of the Wild Life (Protection) Amendment Act, 1991, was cultivating a specified plant, from carrying on such cultivation for a Period of **six months** from such commencement, or where he has made an **application** within that period for the grant of a **license** to him, until the license is granted to him, or he is informed in writing that a license cannot be granted to him.

PROTECTION OF SPECIFIED PLANTS contd..

(2) Every licence granted under this section shall specify the area in which and the conditions, if any, subject to which the licensee shall cultivate a specified plant.

PROTECTION OF SPECIFIED PLANTS contd..

17D. Dealing in specified plants without license prohibited. –

(1) **No person** shall, except under and in accordance with a license granted by the Chief Wild Life Warden or any other officer authorized by the State Government in this behalf, **commence or carry on business or occupation as a dealer** in a specified plant or part or derivative thereof :

Provided that nothing in this section shall prevent a person, who, immediately before that commencement of the Wild Life (Protection) Amendment Act, 1991, **was carrying on such business or occupation for a period of sixty days from such commencement**, or where he has made an **application** within that period for the grant of a **license** to him, until the license is granted to him or he is informed in writing that a licence cannot be granted to him

PROTECTION OF SPECIFIED PLANTS contd..

(2) Every license granted under this section shall specify the premises in which and the conditions, if any, subject to which the licensee shall carry on his business.

PROTECTION OF SPECIFIED PLANTS contd..

17E. Declaration of stock. –

(1) Every person cultivating, or dealing in, a specified plant or part or derivative thereof shall, **within thirty days**, from the date of commencement of the Wild Life (Protection) Amendment Act, 1991, **declare to the Chief Wild Warden or any other officer authorized by the State Government in this behalf, his stocks** of such plants and part or derivative thereof, as the case may be, on the date of such commencement.

PROTECTION OF SPECIFIED PLANTS contd..

(2) The provisions of sub-section (3) to (8) (both inclusive) of section 44, section 45, section 46 and section 47 shall, as far as may be, apply in relation to an application and a license referred to in section 17C and section 17D as they apply in relation to the license or business in animals or animal articles.

PROTECTION OF SPECIFIED PLANTS contd..

17F. Possession, etc., of plants by licensee. - No licensee under this chapter shall

(a) keep in his control or possession

(i) any specified plant, or part or derivative thereof in respect of which a **declaration** under the provisions of section 17E has to be made, but **has not been made**;

(ii) **any specified plant**, or part or derivative thereof which has **not been lawfully acquired** under the provisions of this Act or any rule, or order made there under;

PROTECTION OF SPECIFIED PLANTS contd..

- (b) (i) pick, uproot, collect or acquire any specified plant, or
- (ii) acquire, receive, keep in his control, custody or possession, or sell, offer for sale or transport, any specified plant or part or derivative thereof, **except in accordance with the conditions subject to which the license has been granted** and such rules as may be made under this Act.

PROTECTION OF SPECIFIED PLANTS contd..

17G. Purchase, etc., of specified plants.–

No person shall **purchase, receive or acquire** any specified plant or part or derivative thereof **otherwise than from a licensed dealer**: Provided that nothing in this section shall apply to any person referred to in section of 17B.

PROTECTION OF SPECIFIED PLANTS contd..

17H. Plants to be Government property. –

(1) Every specified plant or part or derivative thereof, in respect of which any offence against this Act or any rule or order made there under has been committed, **shall be the property of the State Government**, and, where such plant or part or derivative thereof has been collected or acquired from a **sanctuary or National Park** declared by the Central Government, such plant or part or derivative thereof shall be the **property of the Central Government**.

PROTECTION OF SPECIFIED PLANTS contd..

(2) The provisions of sub-sections (2) and (3) of section 39 shall, as far as may be, apply in relation to the specified plant or part or derivative thereof as they apply in relation to wild animals and articles referred to in sub-section (1) of that section.

CHAPTER-III A –

Protection of Specified Plants

- 17A Prohibition of picking, uprooting. etc., of specified plants
- 17B Grant of permit for special purposes
- 17C Cultivation of specified plants without licence prohibited
- 17D Dealing in specified plants without licence prohibited
- 17E Declaration of stock
- 17F Possession, etc., of plants by licensee
- 17G Purchase etc., of specified plants
- 17H Plants to be Government property

**Only 6 species of plant have been included in the VI
schedule.**

CHAPTER-IV

Protected Areas

Sanctuaries

18. Declaration of Sanctuary
19. Collector to determine rights
20. Bar of accrual of rights
21. Proclamation by Collector
22. Inquiry by Collector
23. Powers of Collector
24. Acquisition of rights
25. Acquisition proceedings

Sanctuaries contd..

26. Delegation of Collector's powers

26A Declaration of area as Sanctuary

27. Restriction on entry in sanctuary

28. Grant of permit

29. Destruction, etc., in a sanctuary prohibited without a permit

30. Causing fire prohibited

31. Prohibition of entry into sanctuary with weapon

32. Ban on use of injurious substances

33. Control of sanctuaries

33A Immunization of live stock

34 Registration of certain persons in possession of arms

National Parks

35. Declaration of National Parks

36. Declaration of Game Reserve

Closed area

37. Declaration of closed area

Sanctuaries or National Parks declared by Central Government

38. Power of Central Government to declare areas as

Sanctuaries or National Parks

CHAPTER IV

PROTECTED AREAS

Sanctuaries

18. Declaration of Sanctuary.–

(1) 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, geo-morphological, natural or zoological significance**, for the purpose of protecting, propagating or developing wildlife or its environment.

PROTECTED AREAS

Sanctuaries

(2) The notification referred to in sub-section (1) shall specify, as nearly as possible, the situation and limits of such area.

Explanation. - For the purposes of the this section, it shall be sufficient to describe the area by roads, rivers, ridges, or other well-known or readily intelligible boundaries

Sec 18 : Sanctuary: declaration of intention

- State government
- Any area other than area comprised with any reserve forest or the territorial waters
- Private area can be declared
- Notification to mention the area
- With immediate effect

Acquisition of land under Sec 18 – challengable ?

1. Statute doesn't envisage lodging of any objection by any person in the declaration of sanctuary. There is no scope for the court to go into the justification of any declaration of any area to be included in sanctuary provided it satisfies the test of Sec 18(1). Once these test are satisfied the grievance of a person having right over any such property included in sanctuary is limited to the determination of his rights as envisaged in sec 19 read with Sec 21,24 & 25.
2. The claim is confined in " specifying the nature & extent of right ... and the amount and particulars of compensation".
 - Nagar Palika parishad, mussorie Vs. State of UP, 1998

Sanctuaries contd..

18A. Protection of sanctuaries. –

(1) When the State government declares its intention under sub-section (1) of Sec. 18 to constitute any area, not compromised within any reserve forest or territorial waters under that sub-section, as a sanctuary, the provisions of **Secs. 27 to 33A (both inclusive) shall come into effect forthwith.**

(2) Till such time as the rights of affected persons are finally settled under Secs. 19 to 24 (both inclusive), the State Government shall make **alternative arrangements** required for making available fuel, fodder and other forest produce to the persons affected, in terms of their rights as per the Government records

Sanctuaries contd..

18B. Appointment of Collectors. –

The State Government shall **appoint**, an officer to act as Collector under the Act, within ninety days of coming into force of the Wild Life (protection) Amendment Act, 2002, or **within thirty days** of the issue of notification under Sec. 18, **to inquire** into and determine the existence, nature and extent of **rights** of any person in or over the land comprised within the limits of the sanctuary which may be notified under sub-section (1) of Sec. 18.

Sanctuaries contd..

19. Collector to determine rights.–

When a notification has been issued under Sec.18, the collector shall **inquire** into, and determine the existence, nature and extent of the **rights of any person in or over the land** comprised within the limits of the sanctuary.

Sanctuaries contd..

20. Bar of accrual of rights.–

After the issue of a notification under Sec.18, **no right shall be acquired** in, or over the land comprised within the limits of the area specified in such notification, except by succession, testamentary or intestate.

Sanctuaries contd..

21. Proclamation by Collector. – When a notification has been issued under Sec.18 the Collector shall **publish** in the regional language in every town and village in or in the neighborhood of the area comprised therein, a proclamation:

- (a) specifying, as nearly as possible, the situation and the limits of the sanctuary; and
- (b) requiring any person, claiming any right mentioned in Sec. 19, to prefer before the collector” **within two months** from the date of such proclamation, a **written claim** in the prescribed form specifying the nature and extent of such right, with necessary details and the **amount and particulars of the compensation, if any, claimed** in respect thereof.

❑ Proclamation by Collector (21)

- In local vernacular

- Two months for claim

Sanctuaries contd..

22. Inquiry by Collector. – The Collector shall, after service of the prescribed notice upon the claimant, expeditiously **inquire** into

(a) the claim preferred before him under Cl. (b) of Sec.21, and

(b) the existence of any right mentioned in Sec.19 and not claimed under Cl.(b) of Sec.21,

so far as the same may be ascertainable **from the records** of the State Governments and the **Evidence of any person** acquainted with the same.

Sanctuaries contd..

23. Powers of Collector. – For the purpose of such inquiry, the Collector may exercise the following powers, namely

(a) the power to **enter** in or upon any land and to **survey**, demarcate, and make a map of the same or to authorise any other officer to do so;

(b) the same powers as are vested in a **civil court** for the trial of suits.

Sanctuaries contd..

24. Acquisition of rights. –

(1) In the case of a claim to a right in or over any land referred to in Sec.19, the Collector shall pass an order admitting or rejecting the same in whole or in part.

Sanctuaries contd..

(2) If such claim is **admitted** in whole or in part, the Collector may either

(a) **exclude** such land from the limits of the proposed sanctuary, or

(b) proceed to **acquire** such land or rights, except where by an **agreement** between the owner of such land or the holder of rights and the Government, the owner or holder of such rights has agreed to **surrender his rights to the Government**, in or over such land, and **payment of such compensation**, as is provided in the Land Acquisition Act, 1894 (1 of 1894)

(c) **allow**, in consultation with the Chief Wildlife Warden, the continuance of any right of any person in, or over any land within the limits of the sanctuary.

➤ Acquisition of rights (24)

1. Claim to right in or over any land

- Admission/rejection

2. If claim admitted

a. Exclusion

b. Surrender of right / Acquisition as per LA Act

c. Allow continuation

Sanctuaries contd..

25. Acquisitions proceedings. –

(1) For the purpose of acquiring such land, or rights in or over such land,

(a) the Collector shall be deemed to be a Collector, proceeding under the **Land Acquisition Act, 1894** (1 to 1894)

:

(b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under sec.9 of that Act.

(c) the provisions of the sections preceding Sec.9 of that Act shall be deemed to have been complied with;

Sanctuaries contd..

- (d) where the claimant does not accept the award made in his favour in the matter of compensation, he shall be deemed, within the meaning of Sec.18 of that Act, to be a person interested who has not accepted the award, and shall be entitled to proceed to claim relief, against the award under the provision of Part III of that Act;
- (e) the Collector, **with the consent of the claimant**, or the Court, with the consent of both the parties, may award **compensation in land or money or partly in land and partly in money**, and
- (f) in the case of the stoppage of a **public way** or a **common pasture**, the Collector may, with the previous sanction of the State Government provide

Sanctuaries contd..

(2) The acquisition under this Act of any land or interest therein shall be deemed to be acquisition for a public purpose.

Sanctuaries contd..

25A. Time limit for completion of acquisition proceedings.

–

(1) The Collector shall, as far as possible, complete the proceedings under Sec. 19 to 25 (both inclusive), within a period of two years from the date of notification of declaration of sanctuary under Sec. 18.

(2) The notification shall not lapse if, for any reason, the proceedings are not completed within a period of two years.

Sanctuaries contd..

26. Delegation of Collector's powers. –

The **State Government** may, by general or special order, direct that the powers exercisable or the functions to be performed by the Collector under Sec. 19 to 25 (both inclusive) may be exercised and performed by such other officer as may be specified in the order.

Sanctuaries contd..

(26A) Declaration of area as Sanctuary. –

(1) When –

(a) a notification has been issued under sec.18 and the period for preferring claim has elapsed, and all claims, if any, made in relation to any land in an area intended to be declared as a sanctuary, have been disposed of by the State Government; or

Sanctuaries contd..

(b) any area comprised **within any reserve forest or any part of the territorial waters**, which is considered by the **State Government** to be of adequate ecological, faunal, geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wildlife or its environment, is to be included in a sanctuary, **the State Government shall issue a notification** specifying the **limits of the area** which shall be comprised within the sanctuary and **declare** that the said area shall be **sanctuary** on and from such date as may be specified in the notification.

Sanctuaries contd..

Provided that where any part of the **territorial waters** is to be so included, **prior concurrence of the Central Government** shall be obtained by the State Government.

Provided further that the limits of the area of the **territorial waters** to be included in the sanctuary shall be determined in consultation with the **Chief Naval Hydrographer of the Central Government** and after taking adequate measures to protect the occupational interests of the local Fishermen.

Sanctuaries contd..

- (2) Notwithstanding anything contained in sub-section (1) , **the right of innocent passage of any vessel or boat** through the territorial water shall not be affected by the notification issued under sub-section(1).
- (3) **No alteration of the boundaries of a sanctuary shall be made by State government except on a recommendation of the National Board.**

Order of putting restriction on use of private property within proposed sanctuary pending final notification- violation of fundamental right?

- K Rangaraju Vs. govt of AP, AIR 1998

Facts of the case :

- Notification u/s 18 issued in 1995
- Pending final notification, CWLW AP ordered petitioners to not to convert their agriculture land in to fish tanks.
- Petitioners contention:**
 - i. Notification is pending for last 3 years.
 - ii. it will deprive them of their livelihood and government cannot deprive enjoyment of property except in accordance with law.

Court observations:

- Final notification has not been issued although 3 years have elapsed.
- To keep petitioners away from their land for all these years, it would be harsh and hard and indirectly denying their livelihood itself.
- It would not be open for State that having issued notification u/s 18, it can prohibit entry or restrain agriculture or fishing operations in their land for years together.

ORDER:

- Respondents shall come out with final notification within a period of 6 months.
- Petitioners shall be permitted to continue the fishing operations. However they shall not further construct any fish tanks nor make any preparations in this regard.

- K Rangaraju Vs. govt of AP, AIR 1998

Effect of repealing a notification in exercise of the power under sec 21 of General Clause Act 1897 ?

Notification of 1981 of declaring Narayan Sarovar Sanctuary, Gujrat was sought to be repealed under sec 21 of General Clause Act?

“Once the power to declare a sanctuary has been exercised, then the state gov is left with no power to alter its boundaries, whether by reducing or by cancelling the earlier notification, wherby the area was declared as a sanctuary.”

**- Consumer Education & Research
Society Vs. UOI, 1995**

Centre for Environment Law Vs. UOI, 2000

(Order date 13/11/2000)

**Prohibition on de-reservation of NP,
Sanctuaries and Forests without the
approval of SC .**

Sanctuaries contd..

27. Restriction on entry in sanctuary. – (1) No person other than,
- (a) a public servant on duty;
 - (b) a person who has been permitted by the Chief Wildlife Warden or the authorized officer to reside within the limits of the sanctuary;
 - (c) a person who has any right over immovable property within the limits of the sanctuary;
 - (d) a person passing through the sanctuary along a public highway, and
 - (e) the dependents of the person referred to in Cl. (a), (b) or (c).

shall **enter or reside** in the sanctuary, except under and in accordance with the conditions of a permit granted under-sec 28.

Sanctuaries contd..

(2) Every person shall, so long as he resides in the sanctuary, be bound

(a) to **prevent** the commission, in the sanctuary, or an offence against this Act;

(b) where there is reason to believe that any such offence against this Act has been committed in such sanctuary, to **help** in discovering and arresting the offender;

(c) to **report** the death of any wild animal and to safeguard its remains until the Chief Wildlife Warden or the authorised officer takes charge thereof;

Sanctuaries contd..

(d) to **extinguish any fire** in such sanctuary of which he has knowledge or information and to prevent from spreading by any lawful means in his power , any fire within the vicinity of such sanctuary of which he has knowledge or information;
and

(e) to **assist** any forest officer, Chief Wildlife Warden, Wildlife Warden or police officer **demanding his aid** for preventing the commission of any offence against this Act or in the investigation of any such offence.

Sanctuaries contd..

- (3) No person shall, with intent to cause damage to any boundary- mark of a sanctuary or to cause any wrongful gain as defined in the Indian Penal Code (45 of 1860), **alter, destroy, move ,Or deface** such **boundary-mark**.
- (4) No person shall **tease or molest any wild animal or litter** the **grounds of sanctuary**.

A person is having any private right over the estate which is within the limits of the sanctuary.

Can such private right is subject to the permission by CWLW ?

Even though the petitioner has any private right over the estate which is within the limits of the sanctuary, such private right is subject to the permission by CWLW. Restriction imposed that they should ply their vehicles between 6 a.m. to 6 p.m. in order to achieve conservative objective, cannot be complained as arbitrary, unreasonable or innocuous.

- **Bombay Burmah Trading Corporation Vs. field**

director, AIR 2000

Sanctuaries contd..

28. Grant of permit.

- (1) The Chief Wildlife Warden may, on application, grant to any person a permit to enter or reside in a sanctuary for all or any of the following purposes, namely:
 - (a) Investigation or study of wildlife and purposes ancillary or incidental thereto;
 - (b) Photography;
 - (c) Scientific research;
 - (d) **Tourism;**
 - (e) Transaction of lawful business with any person residing in the sanctuary.

- (2) A permit to **enter or reside** in a sanctuary shall be issued subject to **such conditions** and on payment of such fee as may be prescribed.

Sanctuaries contd..

29. Destruction, etc., in a sanctuary prohibited without a permit. – No person shall destroy, exploit or remove any wildlife including Forest Produce from a sanctuary or **destroy or damage or divert the habitat of any wild animal** by any act whatsoever or **divert, stop or enhance the flow of water** into or outside the sanctuary except under and in accordance with a **permit** granted by the Chief Wildlife Warden and **no such permit shall be granted unless** the State Government being satisfied in consultation with the **Board** that such removal of wildlife from the sanctuary or the change in flow of water into or outside the sanctuary is necessary for the **improvement and better management of wildlife therein**, authorises the issue of such permit.

Sanctuaries contd..

Provided that where the forest produce is removed from a sanctuary the same may be used for meeting the **personal *bona fide* needs of the people living in and around the sanctuary and shall not be used for any commercial purpose.**

Explanation: For the purposes of this section, grazing or movement of livestock permitted under clause (d) of Sec.33 shall not be deemed to be an act prohibited under this section.]

Analysis...

1. **CWLW permit is required for :**
 - **Destroy, exploit or remove any WL including Forest Produce**
 - **destroy or damage or divert the habitat of any wild animal**
 - **change in flow of water into or outside the sanctuary**
2. **CWLW will take prior permission of (State govt + Board)**

T. N. Godavarman Vs. UOI, 2000

(Order date 14/02/2000)

**Prohibition on removal of grasses, dead and
decaying trees, drift wood, etc., from
National Park & Sanctuaries.**

Validity of granting permits for fishing to 305 tribal families in reservoirs within the Pench National Park (Madya Pradesh) ?

The Supreme Court adopted humanitarian approach keeping in mind the economic sustainability and environment protection. SC 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.

- Animal and Environment Legal Defence Fund

Vs.

UoI, WP SC , 1997

Sanctuaries contd..

30. Causing fire prohibited. – No person shall set fire to a sanctuary, or kindle any fire, or leave any fire burning, in a sanctuary, in such manner as to **endanger such sanctuary.**

Sanctuaries contd..

31 Prohibition of entry into sanctuary with weapon. –

No person shall enter a sanctuary with any weapon except with the previous permission in writing of the **Chief Wildlife Warden** or the **authorised officer**.

Sanctuaries contd..

32. Ban on use of injurious substances. –

No person shall use in a sanctuary, chemicals, explosives or any other substances which may cause injury to, or endanger, any wildlife in such sanctuary.

Sanctuaries contd..

33. Control of sanctuaries. – The Chief Wildlife Warden shall be the authority who shall **control, manage and maintain** all sanctuaries and for that purpose, within the limits of any sanctuary,

(a) may **construct** such roads, bridges, buildings, fences or barrier gates, and carry out **such other works as he may consider necessary** for the purposes of such sanctuary;

Provided that no construction of **commercial tourist lodges, hotels, zoos and safari parks** shall be undertaken inside a sanctuary except with the **prior approval of the National Board,**

Sanctuaries contd..

- (b) shall take such steps as will ensure the **security of wild animals** in the sanctuary and the **preservation of the sanctuary and wild animals**, therein;
- (c) may take such measures, in the interests of **wildlife**, as he may consider necessary for the **improvement of any habitat**.
- (d) may **regulate, control or prohibit**, in keeping with the interests of **wildlife**, the **grazing or movement of livestock**.
- (e) omitted 1991

Sanctuaries contd..

33A. Immunization of livestock. –

(1) The Chief Wildlife Warden shall take such measures in such manner as may be prescribed, for immunization against communicable diseases of the livestock kept **in or within five kilometers** of a sanctuary.

(2) No person shall take, or cause to be taken or graze, any livestock in a sanctuary without getting it immunized.

Sanctuaries contd..

33B. Advisory Committee. –

(1) The State Government shall constitute an Advisory Committee consisting of the **Chief Wildlife Warden or his nominee** not below the rank of Conservator of Forests as its head and shall include **a member of State Legislature within whose constituency the sanctuary is situated, three representatives of Panchayati Raj institutions, two representatives of non-governmental organisations and three individuals active in the field of wildlife conservation, one representative each** from departments dealing with Home and Veterinary matters, **Honorary Wildlife Warden**, if any, and the **officer-in-charge of the sanctuary as Member –Secretary.**

Sanctuaries contd..

(2) The Committee shall render **advice** on measures to be taken for better **conservation and management** of the sanctuary **including participation of the people** living within and around the sanctuary.

(3) The Committee shall regulate its own procedure including quorum.

Sanctuaries contd..

34. Registration of certain persons in possession of arms. –

(1) Within three months from the declaration of any area as a sanctuary, every person **residing in or within ten kilometers** of any such sanctuary and holding a license granted under the Arms Act, 1959 (54 of 1959), for the possession of arms or exempted from the provisions of that Act and possessing arms, **shall apply in such form**, on payment of such fee, and within such time as may be prescribed, to the **Chief Wildlife Warden or the authorised officer**, for the registration of his name.

Sanctuaries contd..

(2) On receipt of an application under sub-section (1), the Chief Wildlife Warden or the authorised officer shall register the name of the applicant in subject manner as may be prescribed.

(3) **No new licences** under the Arms Act, 1959 (54 of 1959), shall be granted within a radius of **ten kilometer** of a sanctuary **without the prior concurrence** of the **Chief Wildlife Warden**.

Sanctuaries contd..

34A. Power to remove encroachment. –

(1) Notwithstanding anything contained in any other law for the time being in force, any officer not below the rank of an **Assistant Conservator of Forests** may –

(a) evict any person from a sanctuary or National Park, who **unauthorisedly occupies** Government land in contravention of the provisions of this Act;

Sanctuaries contd..

(b) **remove any unauthorised structures, buildings, or constructions erected** on any Government land within any sanctuary or National Park and **all the things, tools and effects** belonging to such person shall be **confiscated**, by an order of an officer not below the rank of the **Deputy**

Conservator of Forests:

Provided that no such order shall be passed unless the affected person is given an opportunity of being heard.

(2) The provisions of this section shall apply notwithstanding any other penalty which may be inflicted for violation of any other provision of this Act.

National Parks

35. Declaration of National Parks. –

(1) Whenever it appears to the State Government that an area, whether **within a sanctuary or not**, is, by reason of its ecological, faunal, floral, geomorphological or zoological association or importance, needed to be constituted as a National Park for the purpose of protecting & propagating or developing wildlife therein or its environment, it may, by notification, declare its **intention** to constitute such area as a National Park.

National Parks contd..

Provided that where any part of the territorial waters is proposed to be included in such National Park, the provisions of Sec.26A shall, as far as may be, apply in relation to the declaration of a National Park as they apply in relation to the declaration of a sanctuary.

(2) The notification referred to in sub-section (1) shall define the limits of the area which is intended to be declared as a National Park.

National Parks contd..

(3) Where any area is intended to be declared as a National Park, the provisions of Sec. 19 to 26-A (both inclusive except clause (c) of **sub-section (2) of section 24**) shall, as far as may be, apply to the investigation and determination of claims and extinguishment of rights, in relation to any land in such area as they apply to the said matters in relation to any land in a sanctuary.

National Parks contd..

(4) When the following events have occurred, namely

(a) the period for preferring claims has elapsed, and all claims, if any, made in relation to any land in an area intended to be declared as a National Park, have been disposed of by the State Government, and

(b) **all rights in respect of lands** proposed to be included in the National Park have **become vested in the State Government** the **State Government shall publish** a notification specifying the limits of the area which shall be comprised within the National Park and declare that the said area shall be a **National Park** on and from such date as may be specified in the notification.

National Parks contd..

(5) No alteration of the boundaries of a National Park shall be made except on a recommendation of the National Board.

National Parks contd..

(6) No person shall **destroy, exploit or remove any Wildlife** including forest produce from a National Park or **destroy or damage or divert the habitat** of any wild animal by any act whatsoever or **divert, stop or enhance the flow of water** into or outside the National Park, except under and in accordance with a permit granted by the **Chief Wildlife Warden**, and **no such permit shall be granted** unless the **State Government** being satisfied in consultation with the **National Board** that such **removal of wild life** from the National Park or the **change in the flow of water into or outside** the National Park is **necessary for the improvement and better management** of wild life therein, authorises the issue of such permit:

National Parks contd..

Provided that where the forest produce is removed from a National Park, the same may be used for meeting the personal *bona fide needs of the people living in and around the National Park and shall not be used for any commercial purposes.*

National Parks contd..

(7) **No grazing** of any livestock shall be permitted in a National Park and **no livestock shall be allowed to enter** except where such livestock is used as a vehicle by a person authorised to enter such National Park.

(8) The provisions of secs. 27 and 28, secs.30 to 32 (both inclusive), and CIS, (a), (b) and (c) of Sec.33, Sec 33A and sec.34 shall, as far as may be, apply in relation to a National Park as they apply in relation to a sanctuary.

National Parks contd..

Explanation – for the purpose of this section, in case of an area , whether within a sanctuary or not, where the rights have been extinguished and the land has become vested in the state government under any Act or otherwise, such area may be notified by it, by a notification, as a national park and the proceedings under sections 19 to 26 (both inclusive) and the provisions of sub sections (3) and (4) of this section shall not apply.

National Parks contd..

36. [Omitted 1991.]

36A. Declaration and management of a conservation reserve.

—

(1) The **State Government** may, after having consultations with the local communities, declare any area owned by the Government, particularly the areas adjacent to national Parks and sanctuaries and those areas which link one protected area with another, as a conservation reserve for protecting landscapes, seascapes, flora and fauna and their habitat:

Provided that where the conservation reserve includes any land by the Central Government, its Prior concurrence shall be obtained before making such declaration

National Parks contd..

(2) The provisions of **sub-section (2) of Sec.18**, sub-sections **(2), (3) and (4) of Sec.27**, **Secs.30, 32** and **Cls. (b) and (c) of Sec.33** shall, as far as may be, apply in relation to a conservation reserve as they apply in relation to a sanctuary.

National Parks contd..

36B. Conservation reserve management committee. –

(1) The State Government shall constitute a conservation reserve management committee **to advise the Chief Wildlife Warden** to conserve, manage and maintain the conservation reserve.

(2) The committee shall consist of **a representative of the forest or Wild Life Department**, who shall be the **Member-Secretary** of the Committee, one representative of each Village Panchayat in whose jurisdiction the reserve is located, three representatives of non-governmental organisations working in the field of wild life conservation and one representative each from the Department of Agriculture and Animal Husbandry.

(3) The Committee shall regulate its own procedure including the quorum.

National Parks contd..

36C. Declaration and management of community reserve. –

(1) The **State Government** may, where the community or an individual has volunteered to conserve wild life and its habitat, declare **any private or community land** not comprised within a national park, sanctuary or a conservation reserve, as a community reserve, for protecting fauna, flora and traditional or cultural conservation values and practices.

(2) The provisions for **sub-section (2) of sec. 18, sub-sections (2), (3) and (4) of Sec.27, Sec.30, 32 and Cls. (b) and (c) of Sec. 33** shall, as far as may be, apply in relation to a community reserve as they apply in relation to a sanctuary

National Parks contd..

(3) After the issue of notification under sub-section (1), **no change in the land use pattern** shall be made within the community reserve, **except** in accordance with a resolution passed by the management committee and approval of the same by the State Government.

National Parks contd..

36D. Community reserve management committee. –

(1) The State Government shall constitute a Community Reserve management committee, which shall be the authority responsible for conserving, maintaining and managing the community reserve.

(2) The committee shall consist of five representatives nominated by the Village Panchayat or where such Panchayat does not exist by the member of the Gram Sabha and **one representative of the State Forests or Wild Life Department** under whose jurisdiction the community reserve is located.

National Parks contd..

(3) The committee shall be the competent authority to prepare and implement the **management plan** for the community reserve and to take steps to ensure the protection of wild life and the habitat in the reserve.

(4) The committee shall elect a Chairman who shall also be the honorary Wild Life Warden of the community reserve.

(5) The committee shall regulate its own procedure including the quorum.

National Parks contd..

Closed Area

37. [Omitted 2002.]

Sanctuaries or National Park declared by Central Government

38. Power of Central Government to declare areas as Sanctuaries or National Park, -

(1) Where the State Government **leases** or otherwise **transfers** any area under its control, **not being an area within a Sanctuary**, to the **Central Government**, the Central government may, if it is satisfied that the conditions specified in Sec.18 are fulfilled in relation to the area so transferred to it, **declare such area, by notification, to be a sanctuary** and the provisions of [Sec.18 to 35 (both inclusive)], 54 and 55 shall apply in relation to such sanctuary as they apply in relation to a sanctuary declared by the State Government.

(2) The Central Government may, if it is satisfied that the conditions specified in Sec.35 are fulfilled in relation to any area referred to in sub-section (1), whether or not such area has been declared, to be a sanctuary by the Central government, or the State Government, declare such area, by notification, to be a **National Parks** and the provisions of Secs. 35, 54 and 55 shall apply to such National Park as they apply in relation to National Park declared by the State Government.

(3) In relation to a sanctuary or a National Park declared by the Central Government, the **powers and duties** of the **Chief Wildlife Warden** under the Section referred to in subsection (1) and (2), shall be exercised and discharged by the **Director** or by such other officer as may be **authorised by the Director** in this behalf and references in the sections aforesaid to the **State Government**, shall be construed as reference to the **Central Government**, and reference therein to the **Legislature of the State** shall be construed as reference to **Parliament**.

CHAPTER IVA

Central Zoo Authority and Recognition of Zoos

- 38A Constitution of Central Zoo Authority
- 38B Term of office and condition of service of chairperson and members etc.
- 38C Functions of the Authority
- 38D Procedure to be regulated by the Authority
- 38E Grants and loans to Authority and constitution of Fund
- 38F Annual report
- 38G Annual report and audit report to be laid before Parliament
- 38H Recognition of Zoos
- 38I Acquisition of animals by a Zoo
- 38J Prohibition of teasing, etc., in a [Zoo](#)

CHAPTER –IV A

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS

38A. Constitution of Central Authority. –

(1) The **Central Government** shall constitute a body to be known as the **Central Zoo Authority** (hereinafter in this Chapter referred to as the **Authority**), to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

.

(2) The Authority shall consist of

(a) Chairperson;

(b) such number of members not exceeding ten; and

(c) Member - Secretary;

to be appointed by the Central government.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

38B. Term of office and conditions of service of chairperson and members etc. –

(1) The chairperson and every member shall hold office for such period, **not exceeding three years**, as may be specified by the Central Government.

(2) The chairperson or a member may, by writing under this hand, addressed to the Central Government, resign from the office of chairperson or, as the case may be, of the Member.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

- °
- (3) The Central Government shall remove a person from the office of chairperson or member referred to in sub-section (2) if that person.
- (a) becomes an un discharged insolvent,
 - (b) gets convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude;
 - (c) becomes of unsound mind and stands so declared by a competent court;
 - (d) refuses to act or becomes incapable of acting;
 - (e) is, without obtaining leave or absence from the authority, absent from three consecutive meetings of the Authority; or

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

- (f) in the opinion of the Central Government has so abused the position of chairperson or member as to render that person's continuance in office detrimental to the public interest:

Provided that no person shall be removed under this clause unless that person has been given a reasonable opportunity of being heard in the matter.

- (4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh appointment.
- (5) The salaries and allowances and other conditions of appointment of chairperson members and Member-Secretary of the Authority shall be such as may be prescribed.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

.

(6) The Authority shall, with the previous sanction of the Central Government, employ such officer and other employees as it deems necessary to carry out the purposes of the Authority.

(7) The terms and conditions of service of the officers and other employees of the authority shall be such as may be prescribed.

(8) No act or proceeding of the Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancies or defect in the constitution of the Authority

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

- **38C. Functions of the Authority.** – The Authority shall perform the following functions, namely:
 - (a) specify the minimum standards for housing, upkeep 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 derecognized zoos;
 - (d) identify endangered species of wild animals for purposes of captive breeding and assigning responsibility in this regard to a zoo;

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

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(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;

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

.

(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.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

.

38D. Procedure to be regulated by the Authority. –

(1) The Authority shall meet as and when necessary and shall meet at such time and place as the chairperson may think fit.

(2) The Authority shall regulate its own procedure.

(3) All orders and decisions of the Authority shall be authenticated by the Member-Secretary or any other officer of the Authority duly authorised by the Member-Secretary in this behalf.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

.

38E. Grants and loans to Authority and constitution of fund. –

(1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants and loans of such sums of money as that Government may consider necessary.

(2) There shall be constituted a Fund to be called the Central Zoo Authority Fund and there shall be credited thereto any grants and loans made to the Authority by the Central Government all fees and charges received by the Authority under this Act and all sums received by the Authority from such other sources as may be decided upon by the Central Government.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

- (3) The Fund referred to in sub-section (2) shall be applied for meeting salary, allowances and other remuneration of the members, officer and other employees of the Authority and the expenses of the Authority in the discharge of its functions under this Chapter and expenses on objects and for purposes authorised by this Act.

- (4) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

• (5) The accounts of the Authority shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(6) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

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(7) The accounts of the Authority as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government by the Authority.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

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38F. Annual report. –

The Authority shall prepare in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

38G. Annual report and audit report to be laid before Parliament. –

The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Central Government, and the reasons for the non-acceptance, if any, of any of such recommendations and the audit report to be laid as soon as may be after the reports are received before each House of Parliament.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

• 38H. Recognition of Zoos. –

(1) No zoo shall be operated without being recognized by the Authority. Provided that a zoo being operated immediately before the date of commencement of the Wild Life (Protection) Amendment Act, 1991 may continue to operate without being recognized for a period of eighteen months from the date of such commencement and if the application seeking recognition is made within that period, the zoo may continue to be operated until the said application is finally decided or withdrawn and in case of refusal for a further period of six months from the date of such refusal.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

- (2) Every application for recognition of a zoo shall be made to the Authority in such form and on payment of such fee as may be prescribed.
- (3) Every recognition shall specify the conditions, if any, subject to which the applicant shall operate the zoo.
- (4) No recognition to a zoo shall be granted unless the Authority, having due regard to the interests of protection and conservation of wild life, and such standards, norms and other matters as may be prescribed, is satisfied that recognition should be granted.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

.

(5) No application for recognition of a zoo shall be rejected unless the applicant has been given a reasonable opportunity of being heard.

(6) The Authority may, for reason to be recorded by it, suspend or cancel any recognition granted under subsection (4):

Provided that no such suspension or cancellation shall be made except after giving the person operating the zoo a reasonable opportunity of being heard.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

- (7) An appeal from an order refusing to recognise a zoo under sub-section (5) or an order suspending or canceling a recognition under sub-section (6) shall lie to the Central Government:
- (8) An appeal under sub-section (7) shall be preferred within thirty days from the date of communication to the applicant, of the order appealed against:

Provided that the Central Government may admit any appeal preferred after the expiry of the period aforesaid if it is satisfied that the appellant had sufficient cause for not preferring the appeal.

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

.

38I. Acquisition of animals by a zoo. –

(1) Subject to the other provisions of this Act, no zoo shall acquire, sell or transfer any wild animal or captive animal specified in Schedules I and II except with the previous permission of the Authority.

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

CENTRAL ZOO AUTHORITY AND RECOGNITION OF ZOOS contd.

.

38J. Prohibition of teasing& etc., in a zoo. –

No person shall tease, molest, injure or feed any animal or cause disturbance to the animals by noise or otherwise, or litter the grounds in a zoo.

Naveen Raheja v/s Union of India, SC

(order date : 20.11.2000)

No new zoos to be established without the permission of the **Central Zoo Authority** and the **SC**.

wild life (Protection)Amendment Act, 2006

Chapter IV B

- National Tiger Conservation Authority (**Sec 38 K to 38 X**)
- Steering committee at the State level (**Sec 38 U**)
- Tiger conservation plan (**Sec 38 V**) – by State Govt
 - **Tiger Reserve** by State govt on recommendation of NTCA
 - **Core & buffer area**
 - **Settlement of rights of ST & OTFD**
- Alteration and de-notification of tiger reserve(**Sec 38 W**)

wild life (Protection)Amendment Act, 2006

Chapter IV C

- ‘Tiger and Other Endangered Species Crime Control Bureau’ known as “Wild Life Crime Control Bureau” (Sec 38 y & 38 Z)

CHAPTER V

Trade or Commerce in Wild Animals, Animal Articles and Trophies

39. Wild animals, etc., to be Government property

40. Declarations

41. Inquiry and preparation of inventories

42. Certificate of ownership

43. Regulation of transfer of animal etc.

44. Dealings in trophy and animal articles without licence prohibited

45. Suspension or cancellation of licences

46. Appeal

47. Maintenance of records

48. Purchase of animal, etc. by licensee

48A Restriction on transportation of Wildlife

49. Purchase of captive animal, etc. by a
person other than a licensee

CHAPTER V

Trade or Commerce in Wild Animals, Animal Articles and Trophies

39. Wild Animal, etc. to be Government property. –

(1) Every –

(a) wild animal, other than vermin, which is hunted under Sec. 11 or sec.29 or sub-section (6) of sec 35 or kept or bred in captivity or hunted in contravention of any provisions of this Act or any rule or order made there under, or found dead, or killed by mistake;

Trade or Commerce cotnd..

- (b) **animal article, trophy or uncured trophy or meat** derived from any wild animal referred to in Cl.(a) in respect of which any offence against this Act or any rule or order made there under has been committed;
- (c) **ivory** imported into India and an article made from such ivory in respect of which any offence against this Act or any rule or order made there under has been committed.

Trade or Commerce cotnd..

(d) **vehicle, vessel, weapon, trap or tool** that has been used for committing an offence and has been seized under the provision of this Act.

shall be the **property of the State Government** and, where such animal is hunted in a **sanctuary or National Park declared by the Central Government** such animal or any article, trophy, uncured trophy or meat derived from such animal or any vehicle, vessel, weapon, trap, or tool used in such hunting, shall be the **property of Central Government.**

Trade or Commerce(Sec 39) cotnd..

(2) Any person who obtains, by any means, the possession of Government property, shall, within **forty-eight hours** of obtaining such possession, **report** it to the nearest **police station or authorised officer** and shall, if so required, **hand over** such property to the officer in charge of such police station or such authorised officer, as the case may be.

Trade or Commerce cotnd..

(3) No person shall, without the previous permission in writing of the Chief Wildlife Warden or the authorised officer.

(a) acquire or keep in his possession, custody, or control, or

(b) transfer to any person, whether by way of gift, sale or otherwise, or

(c) destroy or damage

such Government property.

State of MP Vs. Sayed YahyaAli , 1995

Facts of the case :

1. Session court on 10-02-1992 ordered interim release of vehicle(Jeep) furnishing security.
2. **State appealed to HC**
3. **HC allowed revision and ordered interim release to be cancelled and vehicle (Jeep) to be returned to Forest Dept.**

Single Judge I.P. Rao in State of M.P. v. Syed Yahya Ali (1995)

and

Division Bench at Gwalior consisting of

Justice S. Dwivedi and Justice S.S. Jha

in its judgment in L.P.A. 152/99 (State of M.P. v. Asad Amin)

- ✓ **After omission of Section 50(2) read with Section 39(1)(d) of the Act power to release any seized vehicle for alleged commission of the offence under the Act no longer exists in any Court.**

CHAPTER VI

Prevention and Detection of Offences

50. Power of entry, search, arrest and detention. –

(1) Notwithstanding anything contained in any other law for the time being in force, the **Director or any other officer authorised** by him in this behalf or the **Chief Wildlife Warden or the authorised officer or any forest officer or any police officer not below the rank of a sub-inspector** may, if he has **reasonable grounds for believing** that any person has committed an offence against this Act,

Sec 50

(c) **seize** any captive animal, wild animal, animal article, meat, trophy or uncured trophy, or any specified plant or part or derivative thereof **in respect of which an offence against this Act appears to have been committed**, in the possession of any person together **with any trap, tool, vehicle, vessel, or weapon** used for committing **any such offence** and unless he is satisfied that such person will appear and answer any charge which may be preferred against him **arrest him without warrant and detain him.**

Sec 50

(2) Omitted 1991

(3A) Any officer of a rank not inferior to that of an Assistant Director of Wildlife Preservation or an Assistant Conservator of Forests, who, or who's subordinate, has **seized any captive animal or wild animal** under Cl. (c) of sub-section (1) may give the same for **custody** on the execution by any person of a bond for the **production of such animal** if and when so required, **before the Magistrate** having jurisdiction to try the offence on account of which the seizure has been made.

Repealed/ommitted

Sub-section (2) of the Section 50

- **Original Section prior to amendment reads as under :--**
(2) Any officer of a rank not inferior to that of an Assistant Director of Wild Life Preservation or **Wild Life Warden**, who, or whose sub-ordinate, has seized any trap, tool, vehicle, vessel or weapon under Clause (c) of Sub-section (1), **may release** the same, on the execution by the owner thereof of a **bond** for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.”

Sec 50

(4) Any **person detained, or things seized** under the foregoing power, shall forthwith be **taken before a Magistrate** to be dealt with according to law.

Sec 51- sub section (2)

(2) When any person is **convicted** of an offence against this Act, the **Court** trying the offence **may order** that any captive animal, wild animal, animal article, trophy, uncured trophy, meat, ivory imported into India or an article made from such ivory, any specified plant or part or derivative thereof in respect of which the offence has been committed, any **trap, tool, vehicle, vessel, or weapon** used in the commission of the said offence be **forfeited** to the State Government and that any **licence or permit**, held by such person under the provisions of this Act, be **cancelled**.

Madhukar Rao Vs. State of MP

Facts of the case :

On March 12, 1997 at about 3.30 a.m., in course of checking a **Sub-Inspector of Excise** found a **Tata Sumo** vehicle, bearing Registration No.MH.31-H/6919, **carrying 206 kgs. of antlers.**

The vehicle was owned by **Madhukar Rao**, but he was not in it at the time of checking. The Excise Sub- Inspector informed the officers of the Forest Department who registered a case being Offence No.6527/97 under Sections 39, 42, 43, 44, 49 and 51 of the Act. **The four persons occupying the vehicle were arrested and the vehicle and the antlers were seized u/s 50(1)(c) of the Act.**

Further action taken :

1. The Judicial Magistrate, Raipur, was duly informed about the institution of the case on March 13, 1997.
2. The respondent, being the owner of the vehicle, moved the Judicial Magistrate, First Class, Raipur on May 12, 1997 for its release on Supurdnama. It was stated by him that he was not an accused in the case and he had no concern with the commission of any offences. It was further stated that his neighbour Shri Lohiya, one of the accused in the case, had borrowed the vehicle on the pretext of going to see his ailing father.
3. The Magistrate allowed the petition and directed for release of the vehicle on Supurdnama by order, dated May 12, 1997.

4. Against the order of the Magistrate, the State Government filed a revision before the Sessions Judge, Raipur.

5. Point raised in Revision-

- the Magistrate had erred in allowing the release of the vehicle in disregard of Section 39(d) of the Act in terms of which the seized vehicle became the property of the Government and hence, the court had no power to release it on Supurdnama.
- Power of release under Section 451 of the CrPC could be exercised only in respect of vehicles seized by a police officer.

6. The Sessions Judge by order, dated June 5, 1997 allowed the revision.

7. After the revision was allowed and the order of release passed by the Magistrate was set aside,
 - Wild Life Warden and DFO, Raipur passed an order on June 16, 1997 declaring the seized vehicle as Government property in terms of Section 39(d) of the Act.

8. The respondent went to the High Court, Jabalpur, in WP No.4421 of 1997,
 - i. Challenging the decision of the Sessions Judge
 - ii. Seeking a direction for release of the vehicle on Supurdnama.

Madhukar Rao Vs. State of MP, 1999

(Order date 28/10/1999)

Bench: D Dharmadhikari, D Misra, S

Kulshrestha

Question raised :

- There exists no power with the Authorities under the Act to release any vehicle used in the course of alleged commission of an offence under the Act .

1. The object and reasons for Amendment Act of 44/91 which resulted in omission of **Sub-section (2) of Section 50** of the Act and introduction of **Sub-clause (d) of Sub-section (1) to Section 39** deserve to be noticed.

Petitioner claimed :

- Provisions of Section 39(1)(d) and Section 50, even after omission of Sub-section (2) thereof, read harmoniously with the above quoted provisions of the Act, **empower the Magistrate**, who has to try the suspected offender for the charge of committing offence under the Act, **to release the property seized pending trial**, in exercise of his powers under Section 451 of the Code of Criminal Procedure, 1973.

State claimed :

- Omission of Sub-section (2) from Section 50 which empowered the Authorities to release seized property pending trial, leaves **no power under the Act to the Magistrate to direct any interim release.**
- Amendment Act No. 44 of 1991 clearly show that power of interim release of property for vehicles involved in commission of the offence has been taken away to make the provision more deterrent.

Question before HC :

- ✓ Whether the withdrawal of power of interim release conferred on the Authorities under the Act can be construed as taking away such power of the Magistrate of the Criminal Court, competent to try the offence to impose punishment or acquit the accused of the charge?

HC observation :

1. we are unable to accept the interpretation placed and submission made on behalf of the State that every property seized merely on accusation or suspicion of commission of an offence under the Act would become property of the State.
2. In order that the seized property may be treated as property of the State, there should be a finding by the competent Court that vehicle seized has been used for committing an offence.

HC observation contd :

3. The omission of Sub-section (2) of Section 50 cannot, however, be construed to hold that the power to grant interim release already available to an established Criminal Court, meaning the Magistrate under Section 451 of the Code of Criminal Procedure, has also been taken away.

HC observation contd :

4. If the seizure of a property was enough to declare it as the property of the Government, there was no necessity to provide under Sub-section (2) of [Section 51](#) that on proof of commission of the offence, the properties including vehicle, vessel, or weapon used in the commission of the offence would be forfeited to the State Government.

HC observation contd :

5. Such interpretation Clause (d) of Section 39(1) of the Act would suffer from the vice of unconstitutionality.
6. This would be a serious encroachment on the fundamental right of a citizen under Article 19(1)(g) of the Constitution to carry on his trade, occupation or business.

**Observations of the Supreme Court in
Kedarnath v. State of Bihar (AIR 1962 SC):**

"It is well settled that if certain provisions of law, construed in one way, would make them consistent with the Constitution, and another interpretation would render them unconstitutional, the Court would lean in favour of the former construction."

Supreme Court of India
State Of M.P. & Ors vs Madhukar Rao
(order date : 9 January, 2008)

1. Unable to accept the submission that Section 50 and the other provisions in Chapter VI of the Act exclude the application of any provisions of the CrPC.
2. It is indeed true that Section 50 of the Act has several provisions especially aimed at prevention and detection of offences under the Act. But it does not mean that **Section 50 in itself or taken along with the other provisions under Chapter VI constitutes a self-contained mechanism so as to exclude every other provision of the other Code.**

3. Full bench of the High Court has correctly taken the view that the deletion of sub-section (2) and its replacement by sub-section (3-A) in Section 50 of the Act had no effect on the powers of the Magistrate to release the seized vehicle during the pendency of trial under the provisions of the CrPC.
4. High Court has taken a perfectly correct view and the provisions of Section 39(1)(d) cannot be used against exercise of the Magisterial power to release the vehicle during pendency of the trial.

State of Uttar Pradesh v. Lalloo Singh 2007, SC,

- Dealing with the application for the release of a tractor trolley, the court held that :
 1. *In view of the language of Section 50 of the Act, Section 457 of the CrPC had no application to it, but that Section 451 of the CrPC was applicable.*
 2. *Mere seizure of the property without any material to show that the same has been used for committing an offence does not make the seized property, the property of the Government.*

3. Simply because a court has the power to order the interim release of property to its owner, does not mean that it is bound to do so.

State of Maharashtra v. Gajanan D Jambhulkar 2002

HC Bombay,

- Bombay High Court struck down the order of a Judicial Magistrate allowing release of a jeep to its owner, when it was alleged to have been used in the commission of an offence under the Act.

- High court held that :

1. *Casual and liberal approach in the matter of releasing the seized property or the vehicle by the Courts which is subject to forfeiture at the conclusion of the trial, is uncalled for as the release of the vehicle, is likely to frustrate the provisions of the Act.*
2. *Before the Courts allow the application of the accused for releasing the vehicle on Supratnama, the Courts have to give sound reasons which justify such release of the vehicle.*

3. *If the material prima facie does indicate involvement of the vehicle in the commission of the offence, the Magistrate would not be justified in ordering the release of the vehicle.*

All wild animals are property of the State Government ?

- CASE :
 - Petitioner is claiming compensation for damage done to crops since the petitioner was unable to take care of his agricultural land due to the presence of tigers.

All wild animals are property of the State Government ?

- ✓ *Baburao v. State of Maharashtra and Others* (Judgment dated 15 March 2012 in Writ Petition No. 5764 of 2011)
- High Court held that the petitioner was eligible for compensation because of Section 39 of the WPA.
- The Court observed that:
 - *“Though the provision declares that the wild animals are Government property, in the context of their protection from being hunted, we are of the view that the wild animals should be treated as Government property for all purposes.”*

Issues

1. Can a jeep trespassing inside sanctuary / NP be seized?
2. Can a truck carrying illicit timber be seized inside a sanctuary? Inside a National Park?

Trade or Commerce cotnd..

40. Declaration. –

(1) **Every person** having at the commencement of this Act the control, custody or possession of **any captive animal** specified in **Sch.1 or Part II o Sch. II**, or animal article, trophy or uncured trophy derived from **such animal** or salted or dried **skin of such animal** or the **musk of a musk deer** or the **horn of a rhinoceros**, shall, within **thirty days** from the commencement of this Act, **declare to the Chief Wildlife Warden or the authorised officer** the number and description of animal, or article of the foregoing description under his control, custody or possession and the place where such animal or article is kept.

Declarations under Sec 40 :

SS (1) : any animal or animal article, trophy,
uncured trophy in Sch.1 or Part II of
Sch. II/ musk of a musk deer or the
horn of rhinoceros

Trade or Commerce cotnd..

(2) **no person shall, after the commencement of this Act, acquire, receive, keep in his control, custody or possession, sell, offer for sale, or otherwise transfer or transport any animal specified in Sch.I or Part II of Sch. II, any uncured trophy or meat derivative from such animal, or the salted or dried skin of such animal or the musk of a musk deer or the horn of a rhinoceros, except with the previous permission in writing of the Chief Wildlife Warden or the authorised officer.**

Declarations under Sec 40 :

SS (2) : no person shall

- acquire, receive, keep in his control, custody or possession, sell, offer for sale, or otherwise transfer or transport animal, trophy, meat, skin of **any Such animal**

Trade or Commerce cotnd..

(2A) **No person** other than a person having a certificate of ownership, shall, after the commencement of the Wild Life (Protection) Amendment Act, 2002 **acquire, receive, keep in his control, custody or possession any captive animal, animal article, trophy or uncured trophy specified in Sch. I or Part II of Sch. II, except by way of inheritance.**

Trade or Commerce cotnd..

(2B) Every person inheriting any captive animal, animal article, trophy or uncured trophy under sub-section (2A) shall, within **ninety days of such inheritance** make a declaration to the Chief wildlife Warden or the authorised officer and the provisions for Sec.41 and 42 shall apply as if the declaration had been made under sub-section (1) of Sec.40:

Provided that nothing in sub-sections (2A) and (2B) shall apply to the live elephant.

(3) Nothing in sub-section (1) or sub-section (2) shall apply to a recognised zoo subject to the provisions of Sec.38I or to a public museum.

Declarations under Sec 40 :

SS (2-A) : acquisition by inheritance of Sch.1 or
Part II of Sch. II

: captive animal and animal article, trophy or
uncured trophy

SS (2-B) : 90 days for declaration of inheritance

Trade or Commerce cotnd..

(4) The **State Government** may, by notification, **require any person to declare** to the Chief Wildlife warden or the authorised officer **any** animal or animal article or trophy **other than the musk of a musk deer or the horn of rhinoceros, or salted or dried skin derived from an animal specified in Sch. I or Part II of Sch. II** in his control, custody or possession in such form, in such manner, and within such time as may be prescribed.

Declarations under Sec 40 :

**SS (4) : State gov may by notication require
declaration of other scheduled animals/articles
or trophy**

Trade or Commerce cotnd..

40A. Immunity in certain cases. –

(1) Notwithstanding anything contained in sub-sections (2) and (4) of Sec.40 of this Act, the **Central Government** may, by notification, **require any person to declare** to the Chief Wildlife warden or the authorised officer, any captive animal, animal article, trophy or uncured trophy derived from animal specified in **Sch. I or Part II of Sch. II** in his control, custody or possession, in respect of which no declaration had been made under sub-section (1) or sub-section (4) of Sec.40, in such form, in such manner and within such time as may be prescribed.

Trade or Commerce cotnd..

(2) Any action taken or purported to be taken for violation of Sec.40 of this Act at any time before the commencement of the Wild Life (Protection) Amendment Act, 2002 shall not be proceeded with and all pending proceedings shall stand abated.

(3) Any captive animal, animal article, trophy or uncured trophy declared under sub-section (1), shall be dealt in with such manner and subject to such conditions as may be prescribed.

Declarations under Sec 40-A :

SS (1) : Central gov may by notication require
declaration of Sch.1 or Part II of Sch. II
animals/ animal article/ trophy/uncured trophy

Trade or Commerce cotnd..

41. Inquiry and preparation of inventories.

–

(1) On receipt of a declaration made under sec.40, the **Chief Wildlife Warden or the authorised officer** may, after such notice, in such manner and at such time as may be prescribed,

(a) enter upon the premises of a person referred to in Sec.40;

(b) make inquiries and prepare inventories of animal articles, trophies, uncured trophies, salted and dried skins, and captive animals specified in Sch. I and Part II of Sch. II and found thereon; and

Trade or Commerce cotnd..

(c) **affix** upon the animals, animal articles, trophies of uncured trophies, **identification marks** in such manner as may be prescribed.

(2) **No person shall obliterate or counterfeit any identification mark referred to in this Chapter.**

Trade or Commerce cotnd..

42. Certificate of ownership. – The Chief Wildlife Warden may, for the purpose of Sec. 40, **issue a certificate of ownership** in such form, as may be prescribed, to any person who, in his opinion, is in lawful possession of any wild animal or animal article, trophy, or uncured trophy, and may, where possible, **mark**, in the prescribed manner, such animal article, trophy or uncured trophy for the purpose of identification.

Provided that before issuing the certificate of ownership in respect of any captive animal, the Chief wildlife Warden shall **ensure that the applicant has adequate facilities for housing, maintenance and upkeep** of the animal.

Trade or Commerce cotnd..

43. Regulation of transfer of animal, etc. –

(1) **No person** having in his possession captive animal, animal article, trophy or uncured trophy in respect of which he has a certificate of ownership **shall transfer** by way of **sale or offer for sale or by any other mode of consideration of commercial nature**, such animal or article or trophy or uncured trophy.

Trade or Commerce cotnd..

(2) Where a person **transfers or transport** from the State in which he resides to **another State** or acquires by transfer from outside the State, any such animal, animal article, trophy or uncured trophy in respect of which he has a certificate of ownership, he shall, **within thirty days** of transfer or transport, **report** the transfer or transport to the **Chief wildlife Warden or the authorised officer** within whose jurisdiction the transfer or transport is effected.

Trade or Commerce cotnd..

(3) Nothing in this section shall apply -

(a) to tail feather of peacock and the animal article or trophies made therefrom;

(b) to transfer of captive animals between recognised zoos subject to the provision of Sec. 38I, and transfer amongst zoos and public museums.

Trade or Commerce cotnd..

44. Dealings in trophy and animal articles without licence prohibited. –

(1) Subject to the provisions of Chapter VA, **no person shall, except under, and in accordance with, a licence granted under sub-section (4),**

(a) commence or carry on the **business** as –

- (i) a manufacturer of, or dealer in, any animal article; or
- (ii) a taxidermist; or
- (iii) a dealer in trophy or uncured trophy; or
- (iv) a dealer in captive animal; or
- (v) a dealer in meat; or

Trade or Commerce cotnd..

(b) cook or serve meat in any eating-house;

(c) derive, collect or prepare, or deal in, snake venom,;

Provided that nothing in this sub-section shall prevent a person, who immediately before the commencement of this Act was carrying on the business or occupation specified in the sub-section, from carrying on such business or occupation for a period of **thirty days** from such commencement, or where he has made an application within that period for the grant of a licence to him, until the licence is granted to him or he is informed in writing that a licence cannot be granted to him.

Provided further that nothing in this sub-section shall apply to the dealers in **tail feathers of peacock** and articles made therefrom and the manufacturers of such article.

Trade or Commerce cotnd..

(2) Every manufacturer of , or dealer in animal article, or every dealer in captive animals, trophies or uncured trophies, or every taxidermist shall, **within fifteen days** from the commencement of this Act, **declare to the Chief Wildlife Warden his stocks** of animal articles, captive animals, trophies or uncured trophies, as the case may be, as on the date of such declaration and the Chief Wildlife warden or the authorised officer may place an **identification mark** on every animal article, captive animal or trophy or uncured trophy, as the case may be.

(3) Every person referred to in sub-section (1) who intends to obtain a licence shall, make an **application** to the Chief Wildlife Warden or the authorised officer for the grant of a licence.

Trade or Commerce cotnd..

(4) (a) Every application referred to in sub-section (3) shall be made in such **form** and on payment of such as **fees** may be prescribed, to the Chief Wildlife Warden or the authorised officer.

(b) **no licence** referred to in sub-section (1) shall be granted **unless** the Chief Wildlife Warden or the authorised officer having regard to the **antecedents and previous experience of the applicant**, the **implications which the grant of such licence would have on the status of wildlife** and to such other matters as may be prescribed in this behalf and after making such inquiry in respect of those matters as he may think fit, is satisfied that the licence should be granted

Trade or Commerce cotnd..

(5) Every licence granted under this section shall specify the **premises** in which and the **conditions**, if any, subject to which the licensee shall carry on his business.

(6) Every licence granted under this section shall -

(a) be **valid for one year** from the date of its grant;

(b) **not be transferable**; and

(c) be **renewable** for a period not exceeding one year at a time.

Trade or Commerce cotnd..

(7) No **application for the renewal** of licence shall be rejected unless the holder of such licence has been given enough **reasonable opportunity** of presenting his case and unless the Chief Wildlife Warden or authorised officer is satisfied that -

(i) the application for such renewal has been made after the expiry of the period specified thereof, or

(ii) any statement made by the applicant at the time of the grant or renewal of the licence was incorrect or false in material particulars, or

(iii) the applicant has contravened any term of condition of the licence, or any provision of this Act, or any rule made thereunder, or

(iv) the applicant does not fulfil the prescribed conditions.

Trade or Commerce cotnd..

(8) **Every order** granting or rejecting an application for the grant or renewal of a licence shall be **made in writing**.

(9) Nothing in the foregoing sub-section shall apply in relation to vermin.

High Court, Allahabad, UP

- **Judgement : Chief Forest Conservator
(WildLife vs Nisar Khan on 27 August, 1993**
- **Division Bench**
- **Civil Misc. Writ No. 36693 of 1991 in the
nature of Mandamus**
 - **Petitioner – Nisar Khan**
 - **Respondents- Forest Dept**

Petitioner's contention :

- He had been dealing in birds of several varieties specified in the Schedule IV
- He had mainly been dealing in Munias, Parakeets, Mainas and Buntings which are found in abundance in the State of Uttar Pradesh and as such no prohibition can be imposed on his business in captive birds in terms of the provisions of the Act or otherwise.
- He had applied for and had been granted a license which was valid upto 31st December 1990.
- For renewal of license for the year 1991, he filed an application but the same had not been granted.

Respondent's contention:

- After 1991 amendment, 'hunting' includes 'trapping' of birds as specified in Schedule IV appended to the Act, no licence for dealing in them can be lawfully granted.
- Appellants served a notice on 4th December, 1991 directing the respondent to dispose of all the birds in his possession before 31st December 1991.

- The High Court directed as under:
 - For the reasons, the petitioner partly succeeds and is allowed; the impugned notice dated 4.12.1991 is quashed,
 - Respondents are restrained from interfering in the business of the petitioner dealing in the birds, specified in Schedule IV to the Act
 - Directed to grant licence to the petitioner for carrying on business as a dealer in the birds, which are bred in captivity either by the petitioner himself or which he procures from other breeders, within three months from the date a proper application is made in that behalf by the petitioner.

Supreme Court of India

- **Judgement : Chief Forest Conservator (Wild ... vs Nisar Khan on 18 February, 2003**
- **Bench: V.N. Khare, S B Sinha, Ar. Lakshmanan**
- **Petitioner – Forest Dept**
- **Respondents- Nisar Khan**
 - Against the order of HC which ordered issuance of a writ in the nature of mandamus directing Forest dept to grant a license for carrying on business as a dealer in birds which are bred in captivity.

Petitioner's argument :

- Although dealing in birds in captivity as such is not prohibited, no licence can be granted in terms of Section 44 of the Act if by reason thereof the licensee would violate any of the provisions of the Act.

- **The Supreme Court observations:**

1. Although grant of licence in respect of birds in captivity is not altogether prohibited but before grant of licence the licensing authority is under a statutory obligation to ensure that thereby provisions of Section 9 of the Act as also the provisions of the Rules are not violated.
2. When hunting of the birds specified in Schedule IV is prohibited, there cannot be any doubt whatsoever that no person can be granted a licence to deal in birds in captivity which are procured by hunting which would also include trapping.

3. Rule 3 of the 1983 Rules clearly postulates that the licensing authority is not only required to consider the source and the manner in which the supplies for the business concerned would be obtained but also to look what effect grant of such licence would have on the hunting or trade of the wild animals.

4. When the licensing authority arrives at a finding of fact having regard to the past transactions of a licensee that it cannot carry on any business by reason of breeding of captive birds but necessarily therefor he is to hunt, he would be justified in refusing to grant a licence in terms of the provisions of the Act.

5. The High Court, in our opinion, committed a manifest error in directing the appellants herein to grant licence in favour of the respondent.
6. In the event the respondent files an application for grant of license, the same shall be considered by the Licensing Authority upon satisfying himself about the capability of the respondent as regards strict compliance of the Act the Rules and also whether by reason of such grant any provisions of WPA would be violated or not.

Trade or Commerce cotnd..

45. Suspension or cancellation of licence. –

Subject to any general or special order of the State Government the Chief Wildlife Warden or the authorised officer may, for **reason to be recorded by him in writing, suspend or cancel** any licence granted or renewed under sec.44: Provided that no such suspension or cancellation shall be made except after giving the holder of the licence a **reasonable opportunity of being heard.**

Trade or Commerce cotnd..

46. Appeal. –

(1) An appeal from an order **refusing to grant or renew** a licence under sec.44 of an order suspending or canceling a licence under sec. 45 shall lie

(a) if the order is made by the authorised officer, to the Chief Wildlife Warden, or

(b) if the order is made by the Chief Wildlife Warden to the State Government.

(2) In the case of an order passed in appeal by the Chief Wildlife Warden' under C1. (a) of sub-section (1), a **second appeal** shall lie to the State Government.

Trade or Commerce cotnd..

(3) Subject as a aforesaid, every **order** passed in appeal under this section shall be **final**.

(4) An appeal under this section shall be preferred within **thirty days** from the date of the communication, to be applicant, or the order appealed against.

Provided that the appellate authority may appeal preferred after the expiry of the period aforesaid if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

Trade or Commerce cotnd..

47. Maintenance of records. –

A licensee under this Chapter shall-

(a) keep records, and **submit such returns** of his dealings, as may be prescribed.

(i) to the Director or any other officer authorised by him in this behalf, and

(ii) to the Chief Wildlife Warden or the authorised officer, and

(b) make such records available on demand for inspection by such officers.

Trade or Commerce cotnd..

48. Purchase of animal, etc., by licensee. - No licensee under this Chapter shall

(a) **keep** in his control, custody, or possession

(i) any animal, animal article, trophy or uncured trophy in respect of which a **declaration** under the provisions of subsection (2) of sec.44 has to be made but **has not been made;**

(ii) any animal or animal article, trophy, uncured trophy or meat which has **not been lawfully acquired** under the provisions of this Act or any rule of order made there under.

Trade or Commerce cotnd..

(b) (i) **capture** any wild animal, or

(ii) acquire, receive, keep in his control, custody, or possession, or sell, offer for sale, or transport, **any captive animal specified in Sch. I or Part II of Sch. II or any animal article, trophy or uncured trophy, or meat derived therefrom, or serve such meat, or put under a process or taxidermy or make animal article containing part or whole of such animal, except in accordance with such rules as may be made under this Act:**

Trade or Commerce cotnd..

Provided that where the acquisition, or possession, or control, or custody of such animal or animal article, trophy or uncured trophy entails the **transfer or transport from one State to another**, no such transfer or transport shall be effected except with the previous permission in writing of the **Director or any other officer authorised** by him in this behalf.

Provided further that no such permission under the foregoing proviso shall be granted unless the **Director or the officer authorised** by him is satisfied that the animal or article aforesaid has been lawfully acquired.

Transfer or transport of animals from one State to another

Sec 43(2)

1. For which one has certificate of ownership
2. Within 30 days of transfer report to CWLW or authorized officer

Sec 48 (b) (ii)

1. for Dealers
2. Prior permission by director or authorized officer

Trade or Commerce cotnd..

48A- Restriction of transportation of wildlife. –

No person shall accept any wild animal (other than vermin) or any animal article, or any specified plant or part or derivative thereof, for transportation except after exercising due care to ascertain that permission from the Chief Wildlife Warden or any other officer authorised by the State Government in this behalf has been obtained for such transportation.

Trade or Commerce cotnd..

49. Purchase of captive animal, etc. person other than a licensee. –

No person shall purchase, receive or acquire any captive animal, wild animal other than vermin, or any animal article, trophy, uncured trophy, or meat derived therefrom otherwise than from a dealer or from a person authorised to sell or otherwise transfer the same under this Act.

Provided that nothing in this section shall apply to a recognised zoo subject to the provision of section 38-1 or to a public museum.

CHAPTER VA –

Prohibition of trade or commerce in trophies, animal articles, etc. derived from certain animals.

49A Definitions

49B Prohibition of dealing in trophies, animal articles, etc. derived from Scheduled animals

49C Declaration by dealers

CHAPTER V-A

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

49A. Definitions. - In this Chapter, –

(a) “scheduled animal” means an animal specified for the time being in Sch.I or Part II of Sch. II;

Prohibition of Trade or Commerce contd..

(b) “scheduled animal article” means an article made from any scheduled animal and includes an article or object in which the whole or any part of such animal has been used but **does not include tail-feather of peacock, an article or trophy made there from and snake venom or its derivative;**

Prohibition of Trade or Commerce contd..

(c) “**specified date**” means -

(i) In relation to a scheduled animal on the commencement of the Wildlife (Protection) Amendment Act, 1986, the date of expiry of **two months** from such commencement.

(ii) in relation to any animal added or transferred to Sch. I or part II of Sch. II at any time after such commencement, the date of expiry of two months such addition or transfer;

(iii) in relation to **ivory imported** into India or an article made from such ivory, the date of expiry of 6 months from the commencement of the Wildlife (Protection Amendment) Act 1991.

Prohibition of Trade or Commerce contd..

49B. Prohibition of dealing in trophies, animal articles etc. derived from Scheduled animals.-

(1) Subject to the other provisions of this section, on and after the specified date, **no person shall**

(a) commence or carry on the **business** as –

(i) a manufacturer of, or dealer, in scheduled animal articles; or

(ia) a dealer in ivory imported into India or article made there from or a manufacturer of such article; or

(ii) a taxidermist with respect to any schedule animals or any parts of such animals; Or

Prohibition of Trade or Commerce contd..

- (iii) a dealer in trophy or unucured trophy derived from any scheduled animal; or
- (iv) a dealer in any captive animal being scheduled animal; or
- (v) a dealer in meat derived from any scheduled animal; or
- (b) cook or serve meat derived from any scheduled animal in any eating-house.

Prohibition of Trade or Commerce contd..

Explanation. - For the purposes of this sub-section, “eating-house” has the same meaning as in the Explanation below sub-section (1) of Sec.44.

(2) Subject to the other provisions of this section, **no licence granted or renewed under sec. 44 before the specified date shall entitle** the holder thereof or any other person to commence or carry on the business referred to in Cl. (a) of sub-section (1) of this section on the occupation referred into Cl (b) of that sub-section **after such date.**

Sec 44

- Licence can be granted for business

Sec 49 B

- No licence for Scheduled animal
- Exemption u/ss (3),(4)

Prohibition of Trade or Commerce contd..

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), where the **Central Government is satisfied** that it is necessary or expedient to do so in the **public interest**, it may, by general or special order published in the official Gazette, **exempt**, for purposes of **export**, any **corporation owned or controlled by the Central Government** (including a Government company within the meaning of Sec.617 of the Companies Act, 1956 (1 of 1956), or **any society registered** under the Societies Registration Act, 1860 (21 of 1860), or any other law for -the time being in force, **wholly or substantially financed by the Central Government**, from the

Prohibition of Trade or Commerce contd..

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), but subject to any rules which may be made in this behalf, a person holding a **licence under sec-44** to carry on the business as a **taxidermist** may put under a **process of taxidermy** any scheduled animal or any part thereof,

(a) for or on **behalf of the Government** or any corporation or society exempted under sub-section (3), or

(b) with the previous authorisation in writing of the Chief Wildlife Warden, for and on behalf of any person for

Prohibition of Trade or Commerce contd..

49C. Declaration by dealer. –

(1) Every person carrying on the business or occupation referred to in sub-section (1) of Sec.49B shall, **within thirty days from the specified date, declare** to the Chief Wildlife Warden or the authorized officer,

(a) his **stock**, if any, as at the end of the specified date of -

(i) scheduled animal articles;

(ii) scheduled animals and part thereof;

(iii) trophies and uncured trophies derived from scheduled animals;

Prohibition of Trade or Commerce contd..

- (iv) captive animals, being scheduled animals;
 - (v) ivory imported into India or article made therefrom.
- (b) the place or places at which the stocks mentioned in the declaration are kept; and
- (c) the description of such items, if any, of the stocks mentioned in the declaration which he desires, to retain with himself for his bonafide personal use.

Prohibition of Trade or Commerce contd..

(2) On receipt of a declaration under sub-section (1), the Chief Wildlife Warden or the authorised officer may take all or any of the measures specified in Sec.41 and for this purpose, the provisions of Sec. 41 shall , so far as may be, apply.

Prohibition of Trade or Commerce contd..

(3) Where, in a declaration made under sub-section (1), the person making the declaration expresses his **desire to retain with himself** any of the items of the stocks specified in the declaration **for his bona fide personal use**, the **Chief Wildlife Warden**, with the **prior approval of the Director**, may, if he is satisfied that the person is in lawful possession of such items, issue **certificates of ownership** in favour of such person with respect to all, or as the case may be, such of the items as in the opinion of the Chief Wildlife Warden are required for the bona fide personal Use of such person and affix upon such items **identification marks** in such manner as may be Prescribed. Provided that **no such item shall be kept in any commercial premises.**

Prohibition of Trade or Commerce contd..

- (4) No person shall obliterate or counterfeit any identification mark referred to in sub-section (3),
- (5) An **appeal** shall lie against any refusal to grant certificate of ownership under sub-section (3) and the provisions of sub-section (2), (3) and (4) of **sec. 46** shall, so far as may be, apply in relation to appeals under this sub-section.

Prohibition of Trade or Commerce contd..

(6) Where a person who has been issued a certificate of ownership under sub-section (3) in respect of any item,

(a) transfers such item to any person, whether by way of gift, sale or otherwise, or

(b) transfer or transports from the State in which he resides to another State any such item.

he shall, **within thirty days** of such transfer or transport, report the transfer or transport to the **Chief Wildlife Warden or the authorised officer** within whose jurisdiction the transfer or transport is effected.

Prohibition of Trade or Commerce contd..

(7) No person, other than a person who has been issued a certificate of ownership under sub-section (3) shall, on and after the specified date, keep under his control, **sell or offer for sale or transfer** to any person any scheduled animal or scheduled animal article or ivory imported into India or any article made there from.

- **2003 amendment**

- Sec 40 (2A) : Inheritance

- Sec 43 : Non commercial transfer

- **1991 amendment**

- Chapter V-A

Export Import of WL

- Foreign Trade (Development and Regulation) Act, 1992 and Foreign Trade Policy
 - Import of Wild Animals (including their parts and products) as defined in the WPA, 1972 is prohibited.
 - Director General of Foreign Trade for issuance of an import clearance
- WPA 1972
- CITES management Authority clearance under Export Import policy

Court Cases

1. In *Zavaray S. Poonawalla v. Union of India* 2003,
 - Bombay High Court allowed the import of a leopard skin hunted in Africa as there was no violation of the Act.
 - Matter currently pending with SC
2. Delhi High Court in *Samir Thapar v. Union of India and Others* 2010
 - Petition for the import of a leopard (*Panthera Pardus*) trophy which had been hunted in Africa

The court held that:

1. *“To protect certain species of wild fauna and flora and against every exploitation of species through Foreign International Trade, certain regulations were formulated. The import and export of items into India are governed by the provisions of Foreign Trade (Development and Regulation) Act, 1992, and the Foreign Trade Policy. As per Entry No. 4302/1940 of the Foreign Trade Policy, the import of tiger/cat skin is prohibited.. Perusal of the Schedule shows that Panthera Pardus is listed at Entry No. 16B of Schedule (I) of the WPA, 1972. Thus, a conjoint reading of the Foreign Trade Policy, more particularly Entry No. 4302/1940 the WPA, 1972, leaves no room for doubt that there is an express bar in importing Panthera Pardus.”*

2. Respondent is unable to give a satisfactory explanation as to how import licenses were granted on 23.3.2005 in the case of Mahatmas except that the tiger / leopard skins were gifted by the King of Nepal for the purpose of prayer and meditation for Sadhana and their case would be covered under Para 2.19 of the Foreign Trade Policy, import of gift, whereas the case of the petitioner would fall under Chapter 43 of the Exim Policy.

Contd...

It is strange that what cannot be allowed directly is being allowed to be done indirectly. As per the provisions laid under Para 2.19 of the Foreign Trade Policy, merely because the skins were presented to Mahatmas cannot be a ground to treat the case of Mahatmas separately, however, issuance of a license to the Mahatmas by itself cannot be a ground to allow this petition in favour of the petitioner.

Prevention and detection of offences

- 50. Power of entry, search, arrest and detention
- 51. Penalties
- 52. Attempts and abetment
- 53. Punishment for wrongful seizure
- 54. Power to compound offences
- 55. Cognizance of offences
- 56. Operation of other laws not barred
- 57. Presumption to be made in certain cases
- 58. Offences by [companies](#)

CHAPTER VI

Prevention and Detection of Offences

50. Power of entry, search, arrest and detention. –

(1) Notwithstanding anything contained in any other law for the time being in force, the Director or any other authorised by him in this behalf or the Chief Wildlife Warden or the authorised officer or **any forest officer or any police officer not below the rank of a sub-inspector** may, if he has **reasonable grounds for believing** that any person has committed an offence against this Act,

Prevention and Detection of Offences contd..

- (a) require any such person to **produce for inspection** any captive animal, wild animal, animal article, meat, trophy, uncured trophy, or any specified plant or part or derivative thereof in his control, custody or possession, or any licence, permit or any other document granted to him or required to be kept by him under the provisions of this Act;

Prevention and Detection of Offences contd..

(b) stop any vehicle or vessel in order to conduct search or inquiry or enter upon and search any premises, land, vehicle, or vessel in the occupation of such person, and open and search any baggage or other things in his possession;

Prevention and Detection of Offences contd..

(c) **seize** any captive animal, wild animal, animal article, meat, trophy or uncured trophy, or any specified plant or part or derivative thereof in respect of which an offence against this Act appears to have been committed, in the possession of any person together **with any trap, tool, vehicle, vessel, or weapon** used for committing any such offence and unless he is satisfied that such person will appear and answer any charge which may be preferred against him **arrest him without warrant and detain him.**

Prevention and Detection of Offences contd..

Provided that where a fisherman, residing within ten kilometers of a sanctuary or National Park, inadvertently enters on a boat not used for commercial fishing, in the territorial waters in that sanctuary or National Park, a fishing tackle or net on such boat shall not be seized.

Prevention and Detection of Offences contd..

(2) [30mitted 19911

(3) It shall be lawful for any of the officers referred to in subsection (1) to **stop and detain any person**, whom he sees doing any act for which a licence or permit is required under the provisions of this Act, for the purposes of requiring such person to produce the licence or permit and if such person fails to produce the licence or permit, as the case may be, he **may be arrested without warrant**, unless he furnishes his name and address, and otherwise satisfies the officer arresting him that he will duly answer any summons or other proceedings which may be taken

Prevention and Detection of Offences contd..

(3A) Any officer of a rank not inferior to that of an Assistant Director of Wildlife Preservation or [an Assistant Conservator of Forests], who, or who's subordinate, has **seized any captive animal or wild animal** under Cl. (c) of sub-section (1) may give the same for **custody** on the execution of any person of a bond for the **production of such animal** if and when so required, **before the Magistrate** having jurisdiction to try the offence on account of which the seizure has been made.

Prevention and Detection of Offences contd..

- (4) Any person detained, or things seized under the foregoing power, shall forthwith be taken before a Magistrate to be dealt with according to [law](#).
- (5) Any person who, without reasonable cause, fails to produce anything which he is required to produce under this section, shall be guilty of an offence against the Act.

Prevention and Detection of Offences contd..

(6) where any meat or uncured trophy, specified plant or part or derivative thereof is seized under the provisions of this section, the Asstt. Director of Wildlife Preservation or any other officer of a gazetted rank authorised by him in this behalf or the Chief Wildlife Warden or the authorised officer may arrange for the **disposal** in such manner as may be prescribed.

Prevention and Detection of Offences contd..

(7) Whenever any person is approached by any of the officers referred to in sub-section (1) for assistance in the prevention or detection of an offence against this Act, or in apprehending persons charged with the violation of this Act, or for seizure in accordance with Cl. (c) of sub-section (1), it shall be the duty of such person or persons to render such assistance.

Prevention and Detection of Offences contd..

(8) Notwithstanding anything contained in any other law for the time being in force, any officer not below the rank of an Assistant Director of Wildlife Preservation or an **officer not below the rank of Assistant Conservator of Forests** authorised by the State Government in this behalf shall have the powers, for the purpose of making investigation into any offence against any provision of this Act. –

(a) to issue a **search warrant**;

(b) to enforce the attendance of witness;

(c) to compel the discovery and production of documents and material objects, and;

(d) to receive and record evidence.

Prevention and Detection of Offences contd..

(9) Any evidence recorded under Cl. (d) of subsection (8) shall be **admissible in any subsequent trial before a Magistrate** provided that it has been taken in **presence of the accused person.**

Forest Custody

Directorate of Enforcement v. Deepak Mahajan and Another AIR 1994 SC 1775,

- *SC held:*
 - It is not only police officers who can apply for detention of the accused under Section 167 CrPC.
 - Under Special Acts, an officer empowered under that Act may also apply for detention of the accused under Section 167 of the CrPC, when the Special Act does not provide for such detention, provided that the Magistrate is satisfied that:

- (1) the arresting officer is legally competent to make the arrest;
- (2) that the particulars of the offence or the accusation for which the person is arrested or other grounds for such arrest do exist and are well-founded;
- (3) that the provisions of the special Act in regard to the arrest of the persons and the production of the arrestee serve the purpose of Section 167(1) of the Code.

Prevention and Detection of Offences contd..

51. Penalties. - (1) Any person who contravenes any provisions of this Act **except Chapter VA and section 38J** or any rule or order made there under or who commits a breach of any of the conditions of any licence or permit granted under this Act, shall be guilty of an offence against this Act, and shall, on conviction, be punishable with **imprisonment** for a term which may extend to **three years** or with **fine** which may extend to **twenty five thousand rupees** or with **both**.

Prevention and Detection of Offences contd..

Provided that where the offence committed is in relation to **any animal specified in Sch. I or Part II of Sch. II or meat of any such animal or animal article, trophy or uncured trophy** derived from such animal or where the offence relates to **hunting in a sanctuary or a National Park or altering the boundaries of a sanctuary or a National Park**, such offences is punishable with imprisonment for a term which shall **not be less than three years** but may **extend to seven years** and also with fine which shall **not be less than ten thousand rupees**:

Prevention and Detection of Offences contd..

Provided further that in case of a second or subsequent offence of the nature mentioned in this sub-section, the term of the imprisonment shall not be less than three years but may extend to seven years and also with fine which shall not be less than twenty-five thousand rupees.

Prevention and Detection of Offences contd..

(1A) Any person who contravenes any provisions of Chapter VA, shall be punishable with imprisonment for a term which shall not be less than **three years but which may extend to seven years and also with fine which shall not be less than [ten thousand rupees]**.

(1B) Any person who contravenes the provisions of **Sec. 38 J** 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 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.

(1C) Any person, who commits an offence in relation to the core area of a tiger reserve or where the offence relate to hunting in the tiger reserve or altering the boundaries of the tiger reserve, such offence shall be punishable on **first conviction** with imprisonment for a term which shall **not be less than three years but may extend to seven years**, and also with fine which shall **not be less than fifty thousand rupees but may extend to two lakh rupees**; and in the event of a **second or subsequent** conviction with imprisonment for a term of **not less than seven years** and also with fine which shall **not be less than five lakh rupees but may extend to fifty lakh rupees**.

(1D) Whoever abets any offence punishable under sub-section (1C) shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided for that offence.

Prevention and Detection of Offences contd..

(2) When any person is **convicted** of an offence against this Act, the **Court** trying the offence **may order** that any captive animal, wild animal, animal article, trophy, uncured trophy, meat, ivory imported into India or an article made from such ivory, any specified plant or part or derivative thereof in respect of which the offence has been committed, any **trap, tool, vehicle, vessel, or weapon** used in the commission of the said offence be **forfeited** to the State Government and that any **licence or permit**, held by such person under the provisions of this Act, be **cancelled**.

Prevention and Detection of Offences contd..

(3) Such cancellation of licence or permit or such forfeiture shall be in addition to any other punishment that may be awarded for such offence.

(4) Where any person is convicted of an offence against this Act, the Court may direct that the **licence**, if any, granted to such person under the **Arms Act, 1959** (54 of 1959) for possession of any arm with which an offence against this Act has been committed, **shall be cancelled**, and that person **shall not be eligible for a licence under the Arms Act, 1959, for a period of five years** from the date of conviction.

Prevention and Detection of Offences contd..

(5) Nothing contained in Sec. 360 of the Code of Criminal Procedure, 1973 (2 of 1974) or in the Probation of Offenders Act, 1958 (20 of 1958) shall apply to a person convicted of an offence with respect to hunting in a sanctuary or a National Park or of an offence against any provision of Chapter VA unless such person is under eighteen years of age.

Prevention and Detection of Offences contd..

51A. Certain conditions to apply while granting bail. –

When any person accused of, the commission of any offence relating to **Sch. I or Part II of Sch. II** or offences relating to hunting **inside the boundaries of National Park or wildlife sanctuary** or **altering the boundaries** of such parks and sanctuaries, is **arrested** under the provisions of the Act, then notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), **no such person who had been previously convicted of an offence under this Act shall, be released on bail unless –**

Prevention and Detection of Offences contd..

- (a) the Public Prosecutor has been given an opportunity of opposing the release on bail; and
- (b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

Prevention and Detection of Offences contd..

52. Attempts and abetment. - Whoever attempts to contravene, or abets the contravention of, any of the provisions of this Act or of any rule of order made there under shall be deemed to have contravened that provision or rule or order, as the case may be.

Prevention and Detection of Offences contd..

53. Punishment for wrongful seizure. - 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.**

Prevention and Detection of Offences

54. Power to compound offences. –

(1) The Central Government may, by notification empower the Director of Wildlife Preservation or any other officer not below the rank of assistant director of WL preservation and the **State Government**, may, by notification, empower the Chief Wildlife Warden or any officer of a rank not inferior to that of a **Deputy Conservator of Forests**, to accept, from **any person** against whom a reasonable suspicion exists that he has committed an offence against this Act, **payment of a sum of money by way of composition** of the offence which such person is suspected to have committed

Prevention and Detection of Offences contd..

(2) On payment of such sum of money to such officer, the suspected person, if in custody, shall be **discharged**, and **no further proceedings in respect of the offence shall be taken against such person.**

Prevention and Detection of Offences contd..

(3) The officer compounding any offence may order the cancellation of any licence or permit granted under this Act to the offender, or if not empowered to do so, may approach an officer so empowered, for the cancellation of such licence or permit.

(4) The sum of **money accepted** or agreed to be accepted as composition under C1. (b) of sub-section (1) shall, **in no case, exceed the sum of twenty five thousand rupees.**

Provided that **no offence, for which a minimum period of imprisonment has been prescribed in sec51, shall be**

PCCF and Another vs. J.K. Johnson and Another 2011,

SC.

- Question before the court :
 - Whether on composition of an offence under the Act, the compounding officer has the power to order the forfeiture of the property (a vehicle and weapons in this case) seized in connection with the offence ?

- The court's findings:
 - Effect of composition was not the same as a conviction or an admission of guilt.
 - A compounding officer has no power to order the forfeiture of property seized, and that he would have to comply with Section 50(4) and present the property before a Magistrate to be dealt with according to law.

- PCCF and Another vs. J.K. Johnson and Another 2011, SC

Prevention and Detection of Offences

55 Cognizance of offences. –

No court shall take cognizance of any offence against this Act on the complaint of any person other than

- (a) the Director of Wildlife Preservation or any other officer authorised in this behalf by the State Government; or
- (aa) the Member-Secretary, Central Zoo Authority in matters relating to violation of the provisions of Chapter IVA; or
- (ab) Member-Secretary, Tiger Conservation Authority; or
- (ac) Director of the concerned Tiger Reserve; or

Prevention and Detection of Offences

- contd. (a) the Chief Wildlife Warden, or any other officer authorised in this behalf by the State Government; or
- (bb) the officer- in-charge of the zoo in respect of violation of provisions of section 38J; or
- (c) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the officer authorised as aforesaid.

**Can CBI investigate and file
chargesheet under WPA ?**

**Moti Lal vs. Central Bureau of Investigation & Anr. SC
2002**

Moti Lal vs. Central Bureau of Investigation & Anr. SC 2002

Facts of the case :

1. The accused, resident of Delhi, was arrested in connection with the offence punishable under [Sections 9, 39\(3\), 44, 49, 50, 51, 57](#) of the Wild Life Act.
2. It is alleged that the officers of the Sales Tax Department conducted checking of a truck at Mohan Nagar barrier in District Ghaziabad on the night of 18th/19th December, 1999 and a bundle of cotton cloth was found therein was being transported from Delhi to Siliguri.

Facts of the case contd...

3. On opening the bundle, it was found that it contained 50 skins of leopard, 3 skins of tiger and 5 skins of jungle fox.
4. On receipt of the said information, officers of the Forest Department, Ghaziabad arrived and seized the skins of animals under Section 50 of the Wild Life Act. Driver and the conductor of the truck were taken into custody and thereafter the case was registered as Crime No. 915 of 1999 under the WPA 1972.
5. By notification dated 21st March, 2000 issued by the Central Government, the investigation of the case was subsequently transferred to Delhi Special Police Establishment.

Facts of the case contd...

- The order passed by the Central Government transferring the investigation to Delhi Special Police Establishment was challenged by filing Criminal Misc. Writ Petition No. 6830 of 2000 before the High Court of Allahabad with the prayer that the appellant be released forthwith.
- The High Court, by the order dated 7th February, 2001, rejected the said petition.

Plea before SC..

WPA is a special law and it contains comprehensive provisions for investigation, inquiry, search, seizure, trial and imposition of punishment and, therefore, the **police force establishment under the 'Delhi Special Police Establishment Act 1946'** is not empowered to investigate the case.

SC observed :

1. The scheme of Section 50 of the Wild Life Act makes it abundantly clear that a police officer is also empowered to investigate the offences and search and seize the offending articles.
2. For trial of offences, the Code of Criminal Procedure is required to be followed and for that there is no other specific provision to the contrary.
3. The special procedure prescribed is limited for taking cognizance of the offence as well as powers are given to other officers mentioned in Section 50 for inspection, arrest, search and seizure as well as of recording statement.

4. However, from this, it cannot be said that operation of rest of the provisions of the Code of Criminal Procedure are excluded.
5. There is no substance in the contention that Section 50 of the Wild Life Act is a complete code and, therefore, CBI would have no jurisdiction to investigate the offences under the said Act.

Prevention and Detection of Offences contd..

56. Operation of other laws not barred. - Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for the time being in force, for any act or omission which constitutes an offence against this Act or from being liable under such other law to any higher punishment or penalty than that provided by this Act.

Provided that no person shall be punished twice for the same offence.

Prevention and Detection of Offences contd..

57. Presumption to be made in certain cases. –

Where, in any prosecution for one offence against this Act, it is established that a person is in **possession, custody or control** of any captive animal, animal article, meat, trophy, uncured, trophy, specified plant, or part or derivative thereof, it shall be **presumed until the contrary is proved**, the **burden of proving which shall lie on the accused**, that such person is in unlawful possession, custody or control of such captive animal, animal article, meat, trophy, uncured trophy specified plant, or part or derivative thereof.

Prevention and Detection of Offences contd..

58. Offences by companies. –

(1) where an offence against this Act has been committed by a company, **every person** who, at the time the offence was committed, was **in charge of, and was responsible to,** the company **for the conduct of the business of the company** as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed **without his knowledge** or that he exercised **all due diligence** to prevent the commission of such offence.

Prevention and Detection of Offences contd..

(2) Notwithstanding anything contained in sub-section (1), where an **offence** against this Act has been **committed by a company** and it is proved that the offence has been committed **with the consent or connivance of**, or is attributable to any **neglect** on the part of any **director, manager, secretary**, or other officer shall also be **deemed to be guilty** of that offence and shall be liable to be proceeded against and punished accordingly.

Prevention and Detection of Offences contd..

Explanation. - For the purpose of this Section,

- (a) “company’ means any body corporate and includes a firm or other association of individuals; and
- (b) “director’, in relation to a firm, means a partner in the firm

CHAPTER VI -A

Forfeiture of property derived from illegal hunting and trade

58A to 58Y

CHAPTER VII

Miscellaneous

- 59. Officers to be public servants
- 60. Protection of action taken in good faith
- 60A Reward to persons
- 61. Power to alter entries in Schedules
- 62. Declaration of certain wild animals to be vermin
- 63. Power of Central Government to make rules
- 64. Power of State Government to make rules
- 65. Rights of Scheduled Tribes to be protected
- 66. Repeal and [Savings](#)

CHAPTER VII

Miscellaneous

59. Officers to be public servants. –

Every officer referred to in Chapter II and the chairperson, members, member-secretary, officers and other employees referred to in chapter IVA and every other officer exercising any of the powers conferred by this Act shall be deemed to be a public servant within the meaning of sec.21 of the Indian Penal Code (45 of 1860).

Miscellaneous

contd..

60. Protection of action taken in good faith. –

(1) No suit, prosecution, or other legal proceeding shall lie against any officer or other employee of the Central Government or the State government for anything which is in good faith done or intended to be done under this Act.

Miscellaneous

contd..

(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees, for any **damage** caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

Miscellaneous

contd..

(3) No suit or other legal proceeding shall lie against the Authority referred to in Chapter IVA and its chairperson, member, member secretary, officers and other employees for any thing which is in good faith done or intended to be done under this Act?

Miscellaneous

~~contd~~

~~(60A)~~ Reward to persons. –

(1) When a **court** imposes a sentence of fine or a sentence of which fine forms a part, the court may when passing judgement order that the **reward** be paid to a person who renders assistance in the detection of the offence or the apprehension of the offenders **out of the proceeds of fine not exceeding twenty percent of such fine.**

Miscellaneous

contd.

~~(2)~~ When a case is **compounded** under section 54, the officer compounding may order **reward** to be paid to a person who renders assistance in the detection of the offence or the apprehension of the offenders out of the sum of money accepted by way of composition **not exceeding twenty percent of such money.**

60B. Reward by State Government:-

The State Government may empower **chief Wild Life Warden** to order payment of **reward not exceeding ten thousand rupees** to be paid to a person who renders assistance in the detection of the offence of the apprehension of the offender, from such fund and in such manner as may be prescribed.

Miscellaneous

~~64. Power to alter entries in schedules. –~~
contd.

(1) The **Central Government** may, if it is of the opinion that it is expedient so to do, **by notification, add or delete** any entry to or from any schedule or **transfer** any entry from one part of the schedule to another part of the same schedule or from one schedule to another.

(2) Omitted 1991

Miscellaneous

~~(3)~~ **contd.**

On the issue of a notification under sub-section (1) the relevant schedule shall be deemed to be altered accordingly, provided that every such alteration shall be without prejudice to anything done or omitted to be done before such alteration.

(4) Omitted 1991

Miscellaneous

~~contd.~~

~~62. Declaration of certain wild animal to be vermin. –~~

The **Central Government** may by notification, declare any wild animal **other than those specified in Sch. I and part II of Sch II** to be **vermin for any area and for such period** as may be specified therein and so long as such notification is in force, such wild animal shall be deemed to have been included in Sch.V.

Sukhdev Singh vs. UOI. SC 1993

Petitioner claimed that Sec 62 beyond the legislative competence of the Parliament !

SC upheld the validity of Sec 62.

Miscellaneous

63. Power of Central Government to make rules. –

(1) The Central Government may, by notification, make rules for all or any of the following matters, namely:

(a) conditions and other matters subject to which a licensee may keep any specified plant in his custody or possession under section 17F;

(ai) the term of office of members other than those who are members ex officio; the manner of filling vacancies, the procedure to be followed by the National Board under subsection (2) and allowances of those members under subsection, (3) of section 5A;

Miscellaneous

~~(b)~~ contd.

- (b) the salaries and allowances and other conditions of appointment of chairperson, members and members-secretary under sub-section (5) of Section 38;
- (c) the terms and conditions of service of the officer and other employees of the Central Zoo Authority under sub-section (7) of section 3813;
- (d) the form in which the annual statement of accounts of Central Zoo Authority shall be prepared under sub-section (4) of Section 38E;

Miscellaneous

~~contd.~~

- ~~(e) the form in which and the time at which the annual report of Central Zoo Authority shall be prepared under section 38F;~~
- (f) the form in which and the fee required to be paid with application for recognition of a zoo under sub-section (2) of section 38H;
- (g) the standards, norms and other matters to be considered for granting recognition under sub-section (4) of section 38H;

(gi) qualification and experience of experts or professionals under clause (d) of sub-section (2) of section 38-I;

(gii) the salaries and allowances and other conditions of appointment of the members under sub-section (4) of section 38M;

(giii) the terms and conditions of service of the officers and other employees of the tiger Conservation Authority under sub-section (2) of section 38N;

(giv) the form in which the annual statement of accounts of Tiger Conservation Authority shall be prepared under sub-section(1) of section 38R;

(gv) the form in which and the time at which the annual report of Tiger Conservation Authority shall be prepared under section 38S;

(gvi) other powers of the Wildlife Crime Control Bureau under clause (ii)

Miscellaneous

- contd..
- (h) the form in which declaration shall be made under sub-section (2) of section 44;
 - (i) the matters to be prescribed under clause (b) sub-section (4) of section 44;
 - (j) the terms and conditions which shall govern transaction referred to in clause (b) of section 48;
 - (k) the manner in which notice may be given by a person under clause (c) of section 55;
 - (l) the matters specified in sub-section (2) of section 64 in so far as they relate to sanctuaries and National Parks declared by the Central Government]

Miscellaneous

(2) Contd. Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

64. Power of State Government to make rules.

(1) The State Government may, by notification, make rules for carrying out the provisions of this Act in respect of matters which do not fall within the purview of Sec.63

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the term of office of the members other than those who are members, ex officio, the manner of filling vacancies and the procedure to be followed by the board u/ss(2) of section 6;

(b) allowances referred to in sub-section (3) of Sec.6;

Miscellaneous

(contd.) forms to be used for any application, certificate, claim, declaration, licence, permit, registration, return, or other document, made, granted, or submitted under the provisions of this Act and the fees, if, any therefor;

(d) the conditions subject to which any licence or permit may be granted under this Act;

(dd) the conditions subject to which the officers will be authorised to file cases in the court;

Miscellaneous

- (e) particulars of the record of wild animal (captured or killed) to be kept and submitted by the licensee;
- (ee) the manner in which measures for immunization of livestock shall be taken;
- (f) regulation of the possession, transfer, and the sale of captive animals, meat, animal articles, trophies, and uncured trophies;

Miscellaneous

contd. regulation of taxidermy;

(ga) the manner and conditions subject to which the Administrator shall receive and manage the property under sub-section (2) of section 58G;

(gb) the terms and conditions of service of the Chairman and other members under sub-section (3) of section 58N;

(gc) the fund from which and the manner in which payment of reward under section 60B shall be made;

(h) any other matter which has to be, or may be, prescribed under this Act.

Miscellaneous

~~contd.~~ 65. Rights of Scheduled Tribes to be protected. –

Nothing in this Act shall affect the hunting rights conferred on the Scheduled Tribes of the **Nicobar Islands** in the Union Territory of **Andaman and Nicobar Islands** by notification of the Andaman and Nicobar Administration, NO. 40/97/1'. No.G-635. Vol. III, dated the 28th April, 1967 published at pages I to 5 Extraordinary issue of the Andaman and Nicobar Gazette, dated 28th April, 1967.

Miscellaneous

contd.

~~66.~~ **Repeal and savings.** – (1) As from the commencement of this Act, every other Act relating to any matter contained in this Act and in force in a State shall, to the extent to which that Act or -any provision contained therein corresponds, or is repugnant, to this Act or any provision contained in this Act, stand repealed :

Provided that such repeal shall not–

Miscellaneous

contd..

- (i) affect previous' operation of the Act so repealed, or any thing duly done or suffered there under;
- (ii) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under the Act so repealed;
- (iii) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or

Miscellaneous

contd.

(iv) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, and punishment may be imposed, as if the aforesaid Act had not been repealed.

Miscellaneous

contd.withstanding such repeal,

(a) anything done or nay action taken under the Act so repealed (including any notification, order, certificate, notice, or receipt issued, application made, or permit granted) which is not inconsistent with the provisions of this Act be deemed to have been done or taken under the corresponding provisions of this Act as if this Act were in force at the time such thing was done or action was taken, and shall continue to be in force, unless and until superseded by anything done or an action taken under this Act;

Miscellaneous

contd..

(b) every licence granted under any Act so repealed and in force immediately before the commencement of this Act shall be deemed to have been granted under the corresponding provisions of this Act and shall, subject to the provisions of this Act, continue to be in force for the unexpired portion of the period for which such licence had been granted.

Miscellaneous

~~(3)~~ **contd.**

For the removal of doubts, it is hereby declared that **any sanctuary or National Park declared by a State Government under any Act repealed under sub-section (1) shall be deemed to be a sanctuary or National Park, as the case may be, declared by the State Government under this Act and where any right in or over any land in any such National Park which has not been extinguished under the said Act, at or before the commencement of this Act, the extinguishment of such rights, shall be made in accordance with the provisions of this Act.**

Miscellaneous

~~contd.~~

For the removal of doubts, it is hereby further declared that where any proceeding under any provision of Sections 19 to 25 (both inclusive) is pending on the date of commencement of the Wildlife (Protection) Amendment Act, 1991, any reserved forest or a part of territorial waters comprised within a sanctuary declared under section 18 to be a sanctuary before the date of such commencement shall be deemed to be a sanctuary, before the date of such commencement shall be deemed to be a sanctuary declared under section 26A.]

SCHEDULE I

(See Secs. 2,8,9,11,40,41,43,48,51,61 and 62)

- PART I
- Mammals
- 1[1. Andaman wild pig (*Sus andamanensis*)]
- 2 [1-A. Bharal (*Ovis nahura*)]
- 2[1-B. Binturong (*Arctictis binturong*)]
- 2. Blackbuck (*Antilope cervicapra*)
- 2[2-A. *****]
- 3. Brow-antlered deer or thamin (*Cervus eldi*)
- 3[3-A. Himalayan brown bear (*Ursus arctos*)]
- 3[3-B. Capped langur (*Presbytis pileatus*)]
- 4. Caracal (*Felis caracal*)
- 2[4-A. Catacean spp.]
- 5. Cheetah (*Acinonyx jubatus*)
- 4[5-A. Chinese pangolin (*Manis pentadactyla*)]
- 1[5-B. Chinkara or Indian gazelle (*Gazella gazella bennetti*)]
- 6. Clouded leopard (*Neofelis nebulosa*)

Contd...

- 2[6-A. Crab-eating macaque (*Macaca irus umbrosa*)]
- 2 [6-B. Desert cat (*Felis libyca*)]
- 3[6-C. Desert fox (*Vulpes bucopus*)]
- 7. Dugong (*Dugong clugon*)
- 2[7-A. Ermine (*Mustela erminea*)]
- 8. Fishing cat (*Felis viverrina*)
- 1[8-A. Four-horned antelope (*Tetraceros quadricornis*)]
- 2[8-B. ***]
- 3[8-C. ***]
- 3[8-D. Gangetic dolphin (*Platanista gangetica*)]
- 3[8-E. Gaur or Indian bison (*Bos gaurus*)]
- 9. Golden cat (*Felis temmincki*)
- 10. Golden langur (*Presbytis geei*)
- 3[10-A. Giant squirrel (*Ratu fa macroua*)]
- 3[10-B. Himalayan ibex (*Capra ibex*)]
- 3[10-C. Himalayan tahr (*Hemitragus jemlahicus*)]

Contd...

- 11. Hispid hare (*Caprolagus hispidus*)
- 3[11-A. Hog badger (*Arctonyx collaris*)]
- 12. Hoolock gibbon (*Hylobates hoolock*)
- 2[12-A. ****]
- 2[12-B. Indian elephant (*Elephas maximus*)]
- 13. Indian lion (*Panthera leo persica*)
- 14. Indian wild ass (*Equus hernionus khur*)
- 7[15. Indian wolf (*Canis lupus pallipes*)]
- 16. Kashmir stag (*Cervus elaphus hanglu*)
- 2[16-A. Leaf monkey (*Presbytis phayrei*)]
- 2[16-B. Leopard or panther (*Panthera pardus*)]
- 17. Leopard cat (*Felis bengalensis*)
- 18. Lesser or red panda (*Ailurus fulgens*)
- 19. Lion-tailed macaque (*Macaca silenus*)
- 20. Loris (*Loris tardigradus*)

Contd...

- 3[20-A. Little Indian porpoise (*Neomeris phocaenoides*)]
- 21. Lynx (*Felis lynx isabellinus*)
- 22. Malabar civet (*Viverra megaspila*)
- 1[22-A. Malay or sun bear (*Helarctos malayanus*)]
- 23. Marbled cat (*Felis marmorata*)
- 24. Markhor (*Capra falconeri*)
- 1[24-A. Mouse deer (*Tragulus meminna*)]
- 25. Musk deer (*Moschus moschiferus*)
- 3[25-A. Nilgiri langur (*Presbytis johni*)]
- 3[25-B. Nilgiri tahr (*Hemitragus hylocrius*)]
- 26. Nayan or great Tibetan sheep (*Ovis ammon hodgsoni*)
- 27. Pallas's cat (*Felis manul*)
- 28. Pangolin (*Manis crassicaudata*)
- 29. Pygmy hog (*Sus salvanius*)
- 2[29-A. Ratel (*Mellivora capensis*)]

Contd...

- 30. Indian one-horned rhinoceros (*Rhinoceros unicornis*)
- 31. Rusty-spotted cat (*Felis rubiginosa*)
- 1[31-A. Serow (*Capricornis sumatraensis*)]
- 3[31-B. Clawless otter (*Aonyx cinerea*)]
- 3[31-C. Sloth bear (*Melursus ursinus*)]
- 32. Slow loris (*Nycticebus coucang*)
- 33. Snow leopard (*Panthera uncia*)
- 3[32-A. Small Travancore flying squirrel (*Petinomys fuscopapillus*)]
- 3[33-A. Snubfin dolphin (*Orcaella brevirostris*)]
- 34. Spotted linsang (*Prionodon pardicolor*)
- 35. Swamp deer (all sub-species of *Cervus cluvauceli*)
- 36. Takin or Mishmi takin (*Budorcas taxicolor*)
- 1[36-A. Tibetan antelope or chiru (*Panthelops hodgsoni*)]

Contd...

- 3[36-B. Tibetan fox (*Vulpes ferrilatus*)]
- 37. Tibetan gazelle (*Procapra picticaucata*)
- 38. Tibetan wild ass (*Equus hemionus* kiang)
- 39. Tiger (*Panthera tigris*)
- 40. Urial or shapu (*Ovis vignei*)
- 41. Wild buffalo (*Bubalus bubalis*)
- 1[41-A. Wild yak (*Bos grunniens*)]
- 3[4 1 -B. Tibetan wolf(*Canis lupus chanco*)]

PART II

- **Amphibians and Reptiles**

- 1[1. ***]
- 2[1-A. *****]
- 3[1-B. Audithia turtle (*Pelochelys bibroni*)
- 3[1-C. Barred, oval, or yellow monitor lizard (*Varanus flavescens*)]
- 3[1-D. Crocodiles (including the estuarine or saltwater crocodile)
(*Crocodylus porosus* and *Crocodylus palustris*)]
- 3[1-E. Terrapin (*Batagur baska*)]
- 1-F. Eastern hill terrapin (*Melanochelys tricarinata*)
- 2. Gharial (*Gavialis gangeticus*)
- 2[3. Ganges soft-shelled turtle (*Trionyx gangeticus*)]
- 3[3-A. Golden gecko (*Calodactyloides aureus*)]
- 4. Green sea turtle (*Chelonia mydas*)
- 5. Hawksbill turtle (*Eretmochelys imbricata imbricata*)
- 3[6. *****]

PART II

Amphibians and Reptiles

- 1[1. ***]
- 2[1-A. *****]
- 3[1-B. Audithia turtle (*Pelochelys bibroni*)
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- 3[3-A. Golden gecko (*Calodactyloides aureus*)]
- 4. Green sea turtle (*Chelonia mydas*)
- 5. Hawksbill turtle (*Eretmochelys imbricata imbricata*)
- 3[6. *****]

PART III

Birds

- 1[1. Andaman teal (*Anas gibberifrons albogularis*)]
- 1-A. Assam bamboo partridge (*BambUSiCOld fytchii*)
- 1[1-B. Bazas (*Aviceda jерcloni* and *Aviceda leuphotes*)]
- 1[1-C. Bengal florican (*Eupodotis bengalensis*)]
- 1-D. Black-necked crane (*Grus nigricollis*)
- 1-E. Blood pheasants (*Ithaginis cruentus tibetanus*, l.c. *kuseri*)
- 2[1-F. ***]
- 2. Cheer pheasant (*Catreus wallichi*)
- 2[2-A. Eastern white stork (*Ciconia ciconia boyciana*)]
- 4[2-B. Forest spotted owlet (*Athene blewitti*)]
- 4[2-C. Frogmouths (Genus *Batrachostomus*)]
- 3. Great Indian bustard (*Choriotis nigriceps*)

Contd...

- 4. Great Indian hornbill (*Buceros bicornis*)
- 2[4-A. Hawks (fam. Accipitridae)]
- 4[4-B. Hooded crane (*Grus monacha*)]
- 4[4-C. Hornbills (*Ptiloaeus tickelli austeni*, *Aceros nipalensis*, *Rhyticeros undulatus ticehursti*)]
- 4[4-D. Houbara bustard (*Chlamycolotis undulata*)]
- 4[4-E. Hume's bar-backed pheasant (*Syrnaticus humiae*)]
- 4[4-F. Indian pied hornbill (*Anthracoceros malabaricus*)]
- 5. Jerdon's courser (*Cursorius bitorquatus*)
- 6. Lammergeier (*Gypaetus barbatus*)
- 7. Large falcons (*Falco peregrinus*, *F. biarmicus*, *F. chicquera*)
- 4[7-A. Large whistling teal (*Dendrocygna bicolor*)]
- 3[7-B. Lesser florican (*Sypheotides indica*)]
- 3[7-C. Mountain pheasants (*Lophophorus impejanus*, *L. sclateri*)]

Contd...

- 8. Mountain quail (*Ophrysia superciliosa*)
- 9. Narcondam hornbill (*Rhyticeros (undulatus) narcondami*)]
- 3[9-A. Nicobar megapocie (*Megapodius freycinet*)
- 10. Nicobar pigeon (*Caloenas nicobarica pelevvensis*)]
- 4[10-A. Osprey or Fish eating eagle (*Pandion haliaetus*)]
- 2[10-B. Peacock pheasants (*Polyplectron bicalcaratum*)]
- 11. Peafowl (*Pavo cristatus*)
- 12. Pink-headed duck (*Rhodonessa caryophyllacea*)
- 13. Scalater's monal (*Lophophorus sclateri*)
- 14. Siberian white crane (*Grus leucogeranus*)
- 2[14-A. ***]
- 4[14-B. Tibetan snow cock (*Tetraogallus tibetanus*)]
- 15. Tragopan pheasants (*Tragopan melanocephalus*, *T. blythii*, *T. satyra*, *T. temminckii*)
- 16. White-bellied sea eagle (*Haliaetus leucogaster*)
- 17. White-eared pheasant (*Crossoptilon crossoptilon*)
- 3[17-A. White spoonbill(*Platalea ieucorodia*)]
- 18. White-winged wood duck (*Cairina scutalata*)

PART IV

Crustacea and Insects

- 3[1. Butterflies-and Moths
- Family Amathusidae Common English name
- Discophora deo deo Duffer, banded
- Discophora sonclaica. Muscina Duffer, common
- Faunis faunula faunuloides Pallid fauna
- Family Danaidae
- Danaus gautama gautamoides Tigers
- Euploea crameri nicevillei Crow, spotted black
- Euploea miciamus roepstorfti Crow, blue-spotted
- Family Lycaenidae
- Allotinus drumila Darkie, crenulate/great
- Allotinus fabius penormis Angled clarkie
- Amblopala avidiena Hairstreak, Chinese
- Amblypodia ace arata Leaf blue

Contd...

- *Amblypodia alea constanceae* Rosy oakblue
- *Amblypodia ammon ariel* Malayan bush blue
- *Amblypodia arvina ardea* Purple brown tailless oakblue
- *Amblypodia asopia* Plain tailless oakblue
- *Amblypodia comica* Comic oakblue
- *Amblypodia opalina* Opal oakblue
- *Amblypodia zeta* Andaman tailless oakblue
- *Biduanda melisa cyana* Blue posy
- *Callophrys leechii* Hairstreak, ferruginous
- *Castalius rosimon alarbus* Pierrot, common
- *Charana cepheis* Mandarin blue, Cachar
- *Chloria othona* Tit, orchid
- *Deudorix epijarbas amatius* Comelian, scarce
- *Everes moorei* Cupid, Moore's
- *Geryclus biggsii* Bigg's brownie
- *Gerydus symethus diopeithes* Great brownie
- *Heliophorus hybrida* Sapphires
- *Horaga albimacula* Onyxes

Contd...

- *Jamides ferrati* Caeruleans
- *Liphyra brassolis* Butterfly, moth
- *Listeria dudgeni* Lister's hairstreak
- *Logania watsoniana subfasciata* Mottle, Watson's
- *Lycaenopsis binghami* Hedge blue
- *Lycaenopsis haralclus ananga* Hedge blue, Felder's
- *Lycaenopsis purpa prominens* Common hedge blue
- *Lycaenopsis quadriplaga dohertyi* Naga hedge blue
- *Nacaduba noreia hampsonii* Lineblue, white-Upped
- *Polymmatius orbitulus leela* Greenish mountain blue
- *Pratapa icetas mishmia* Royal, dark blue
- *Simiskina phalena harterti* Brilliant, broadlanded
- *Sinthusia virgo* Spark, pale
- *Spinclasis elwesi* Silverline, Elwes's
- *Spindasis rukmini* Silverline, khaki

Contd...

- *Strymonidia mackwoodi* Hairstreak, Mackwood's
- *Tajuria ister* Royal, uncertain
- *Tajuria luculentus nela* Royal, Chinese
- *Tajuria yajna yajna* Royal, chestnut and black
- *Thecla ataxus zulla* Wonderful hairstreak
- *Thecla bieti mentera* Indian purple hairstreak
- *Thecla letha* Watson's hairstreak
- *Thecla paona* Paona hairstreak
- *Thecla pavo* Peacock hairstreak
- *Virachola smilis* Guava blues
- Family Nymphalidae
- *Apatura ulupi ulupi* Emperor, tawny
- *Argynnis hegemone* Silver-washed frifillary
- *Calinaga buddha* Freak
- *Charaxes durnfordi nicholi* Rajah, chestnut
- *Cirrochroa fasciata* Yeomen
- *Diagora nicevillei* Siren, scarce
- *Dilipa morgiana* Emperor, golden
- *Doleschallia bisalticle andamana* Autumn leaf
- *Eribcea moori sandakanus* Malayan nawab

Contd...

- *Eriboea schreiberi* Blue nawab
- *Eulaceura manipurensis* Emperor, Tytler's
- *Euthalia durga splendens* Barons /Counts/ Duchesses
- *Euthalia iva* Duke, grand
- *Euthalia khama curvitasca* Duke, Naga
- *Euthalia telchinia* Baron, blue
- *Helcyra hemina* Emperor, white
- *Hypolimnas missipus* Eggfly, danaid
- *Limenitis austenia purpurascens* Commodore, grey
- *Limenitis zulema* Admirals
- *Melitaea shandura* Fritillaries/Silverstripes
- *Neptis antilope* Sailer, veriegated
- *Neptis aspasia* Sailer, great hockeystick
- *Neptis columella kankena* Sailer, short-banded
- *Neptis cyclippe kirbariensis* Sailer, Chinese yellow
- *Neptis ebusa* Sailer, lascar
- *Neptis jumbdh binghami* Sailer, chestnut-streaked
- *Neptis manasa* Sailer, pale hockeystick
- *Neptis nyctens* Sailer, hockeystick
- *Neptis Poona* Lascar, Tytler's
- *Neptis sankara* Sailer, broad-banded
- *Panthoporia jina jina* Bhutan sergeant
- *Panthoporia reta moorei* Malay staff sergeant
- *Prothoe franckii regalis* Begum, blue
- *Sasakia funebris* Empress

Contd...

- *Sephis chandra* Courtier, eastern
- *Symbrenthia silana* Jester, scarce
- *Vanessa antiopa yednula* Admirables
- Family Papilionidae
- *Chilasa clytia clytia* f. *commixtus* Common mime
- *Papilio elephenor* Spangle, yellow-crested
- *Papilio liomedon* Swailowtail, Malabar banded
- *Parnassius aeco* Seminifer Apollo
- *Parnassius delphius* Banded apollo
- *Parnassius hannyingtoni* Hannyington's apollo
- *Parnassius imperator augustus* Imperial apollo
- *Parnassius stoliczkanus* Ladakh banded apollo
- *Polyclorus coonsambilanga* Common clubtail
- *Polyclorus crassipes* Black windmill
- *Polyclorus hector* Crimson rose
- *Polyclorus nevillei* Nevill's windmill
- *Polyclorus plutonius pembertoni* Chinese windmill
- *Polyclorus polla* Deniceylle's windmill
- Family Pieridae
- *Aporia harrietae harrietae* Black veins
- *Baltia butleri sikkima* White butterfly
- *Colias colias thrasibulus* Clouded yellows
- *Colias dubi* Dwarf clouded yellow
- *Delias sanaea* Jezebel, pale
- *Pieris krueperi devta* Butterfly cabbage/White 11
- Family Satyriidae

Contd...

- *Coelites nothis adamsoni* Cat's eye, scarce
- *Cyllogenes janetae* Evening brown, scarce
- *Elymnias peali* Palmfly, Peal's
- *Elymnias penanga philansis* Palmfly, painted
- *Erabia annada annada* Argus, ringed
- *Erabia narasingha narasingha* Argus, mottled
- *Lethe distarts* Forester, scarce red
- *Lethe ddra gammiee* Lilacfork, scarce
- *Lethe europa tamuna* Bamboo tree brown
- *Lethe gemina* Safuri Tytler's tree brown
- *Lethe guluihal guluihal* Forester, dull
- *Lethe margaritae*, Tree brown, Bhutan
- *Lethe ocellata lyncus* Mystic, dismal
- *Lethe ramadeva* Silverstripe, single
- *Lethe ;atyabati* Forester, pallid
- *Mycalesis orseis nawtilus* Bushbrown, purple
- *Parargemenava maeroides* Wall dark
- *Yothima dohertyi persimilis* Five ring, great
- 2[1-A.Coconut or Rubber crab (*Birgus latro*)]
- 2[2 dragonfly (*Epioplebia laidlawi*)]

Contd...

- 1. Vide Notification published in the Gazette of India, Extraordinary, Pt.II, Sec-3(i), dated 5th October 1977.
- 2. Vide Notification, published in the Gazette of India, Extraordinary, Pt.II, Sec-3(i), dated 2nd October, 1980.
- 3. Vide, S.O. 859(E), dated 24th November, 1986, published in the Gazette of India, Extraordinary, Pt.II, Sec, 3(i) dated 24th November, 1986.
- 4. Vide Notification dated 29th August, 1977, published in the Gazette of India, Extraordinary, Pt.II, Sec3 (i) dated 3rd September, 1977.
- 5. Vide Notification, published in the Gazette of India, Extraordinary, Pt.II, Sec.3(i), 2nd October, 1980.

Contd...

- 1[9. *****]
- 1[10. *****]
- 11. Himalayan crestless porcupine (*Hystrix hodgsoni*)
- 3[11-A. Himalayan newt or salamander (*Tyletntriton verrucosus*)]
- 2[12. ****]
- 2[13. *****]
- 2[14. *****]
- 1[15. *****]
- 16. Pig-tailed macaque (*Macaca nemestrina*)
- 1[17. *****]
- 4[17-A. Rhesus macaque (*Macaca mulatta*)]
- 2[18. *****]
- 19. Stump-tailed nacaque (*Macara speciosa*)
- 2[20. *****]
- 21. ***
- 22. Wild dog or dhole (*Cuon alpinus*)
- 2[23. *****]
- 4[24. Chameleon Whameleo ralcaratus)]
- 25. Spiny-tailed lizard or sanda (*Uromastix hardwickii*)

PART II

2[1. Beetles, Family Amathusidae

- *Aemona amathusia amathusia*
- *Amathusia philippus andamanicus*
- *Amathusia amythaonam*
- *Discophora dec, deodoides*
- *Discophora lepida lepida*
- *Discophora timora andamanensis*
- *Enispe cycnus*
- *Faunis surneus assama*
- *Sticopthalma nourmahal*
- *Thauria aliris amplifascia*

Family Carabidae

- *Agonotrechus andrewesi*
- *Amara brucei*
- *Amara elegantula* -
- *Brachinus atTipennis*
- *Brososoma gracile*
- *Brosopus bipillifer*
- *Broter ovicollis*
- *Calathus amaroides*
- *Callistominus belli*
- *Chalenius championi*
- *Chlaenius kanarae*
- *Chalenius masoni*

- **Family Chrysomelidae**

- *Acrocrypta rotundata*
- *Bimala indica*
- *Clitea indica*
- *Gopala pita*
- *Griva cyanipennis*
- *Nisotra cardoni*
- *Nisotra madurensis*
- *Nisotra nigripennis*
- *Nisotra semicoerulea*
- *Nisotra striatipennis*
- *Nonarthra patkaia*
- *Psylliodes plana*
- *Psylliodes shira*
- *Sebaethe cervina*
- *Sebaethe patkaia*
- *Sphaeroderma brevicorne*
- **Family Cucujidae**
- *Carinophloeus raffrayi*
- *Cucujus bicolor*
- *Cucujus grouvelle*
- *Cucujus imperialis*
- *Heterojinus semilactaneus*
- *Laemophloeus belli*
- *Laemophloeus incertus*
- *Pediacus rufipes*

Family Danaidae

- Euploea melanoleuca
- Euploea midamus rogenhoferi
- Family Erycinidae**
- Abisara kausambi
- Dodona adonira
- Doclona dipoea
- Dodona egeon
- Libythea lepita
- Family HesperIIDae**
- Baoris philippina
- Bebasa sena
- Halpe homolea
- Family InoepIidae**
- Inoepelus albonotalus
- Family Lycaenidae**
- Allotinus subviolaceous manychus
- Amblypodia aberrans
- Amblypodia aenea
- Amblypodia agaba aurelia
- Amblypodia agrata
- Amblypoclia alesia
- Amblypodia apicianus ahamus
- Amblypodia areste areste
- Amblypodia bazaloides
- Amblypodia camdec,
- Amblypodia ellisi
- Amblypodia fulla ignara
- Amblypodia ganesa watsoni
- Amblypodia paragariesa zephpreeta
- Amblypodia paralea
- Amblypodia silhetensis
- Amblypodia suffusa suffusa
- Amblypodia yendava
- Apharitis tilacinus
- Araotes lapithis
- Artipe eryx
- Binclahara phocides
- Bothrinia chennellii
- Castalius roxus manluena

- *Catapoecilma delicaturn*
- *Catapoecilma elegans myositina*
- *Charana jalindra*
- *Cheriterlia truncipermiss*
- *Chliaria kina*
- *Deudu. yx hypargyria gaetu lia*
- *Enchrysops onelus*
- *Everes kalaroi*
- *Heliphorus and rocles moorei*
- *Horaga onyx*
- *Horaga viola*
- *Hypolycaena nilgirica*
- *Hypolycaena thecloides nicobaTiCa*
- *Iraota rochana boswelliana*
- *Jamides alectokanduiana*
- *Jamides celeodus pura*
- *Jamides kankena*
- *Lampides boeticus*
- *Lilacea albocaerulea*
- *Lilacea atroguttata*
- *Lilacea lilacea*

- *Lilacea melaena*
- *Lilacea minims*
- *Logania massalia*
- *Lycaenesthes lycaenina*
- *Mahathala ameria*
- *Mahathala atkinsoni*
- *Magisba malaya presbyter*
- *Nacaduba aluta coelestis*
- *Nacaduba ancyra aberrans*
- *Nacaduba clubiosa fulva*
- *Nacaduba helicon*
- *Nacaduba hermus major*
- *Nacaduba pactolus*
- *Neucheritra febronia,*
- *Niphanda cymbia*
- *Orthomiella pontis*
- *Pithecopus fulgens*
- *Polymmatius devanica devanica*
- *Polymmatius metallica metallica*
- *Polymmatius orbitulus jaloka*
- *Polymmatius yeonghusbandi*
- *Poritia erycinoides elisei*
- *Poritia hewitsoni*
- *Poritia plusrata geta*
- *Pratapa bhotas,*
- *Pratapa blanka*
- *Pratapa deva*
- *Pratapa icetas*
- *Rapala buxaria*
- *Rapala chandrana chandrana*
- *Rapala nasala*
- *Rapala refulgens*
- *Rapala rubida*
- *Rapala scintilla*

- *Rapala ophinx ophinx*
- *Rapala varuna*
- *Spindasis elima elima*
- *Spinclasis lohita*
- *Spinclasis nipalicus*
- *Suasa lisides*
- *Surendra todara*
- *Tajuria albiplaga*
- *Tajuria cippus cippus*
- *Tajuria culta*
- *Tajuria diaeus*
- *Tajuria illurgoodes*
- *Tajuria illurgis*
- *Tajuria jangala andamanica*

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- *Tajuria diaeus*
- *Tajuria illurgoodes*
- *Tajuria illurgis*
- *Tajuria jangala andamanica*

Family Nymphalidae

- *Adolias cyaniparclus*
- *Adolias dirtea*
- *Adolias khasiana*
- *Apatura chevana*
- *Apatura parvata*
- *Apatura sordida*
- *Apatura ulupi florenciae*
- *Argynnis adippe pallicia*
- *Argynnis altissima*
- *Argynnis clara*
- *Argynnis pales horla*
- *Atella Iscippe*
- *Calinaga buddha brahaman*
- *Charaxes aristogiton*
- *Charaxes fabius sulphureus*
- *Charaxes nabruba*
- *Charaxes marmax*
- *Charaxes polyxena heman*
- *Chersonesia rahria arahrioides*
- *Cyrestis cocles*
- *Diagora persimilis*
- *Doleschallia bisalticle malabarica*
- *Eriboea athamas andamanicus*
- *Eriboea delphis*
- *Eriboea dolon*
- *Eriboea lissainei*
- *Euripus consimilis*
- *Euripus halitherses*
- *Euthalia anosia*

- *Euthalia cocytus*
- *Euthalia duda*
- *Euthalia durga durga*
- *Euthalia evalina lanciabilis*
- *Euthalia francae*
- *Euthalia gauda acontius*
- *Euthalia lepidea*
- *Euthalia merta eriphylea*
- *Euthalia nara nara*
- *Euthalia patala taoana*
- *Euthalia teuta*
- *Herona marathus andamana*
- *Hypolimnas missipus*
- *Hypolimnas polynice birmana*
- *Kallima albofasciata*
- *Kallima alompora*
- *Kallima philarchus horsfieldii*
- *Limenitis austenia austenia*
- *Limenitis damava*
- *Limenitis dudu*
- *Melitaea robertsi lutko*
- *Neptis ananta*
- *Neptis anjana nashona*
- *Neptis aurelia*
- *Neptis magadha khasiana*
- *Neptis nandina hamsoni*
- *Neptis narayana*

- *Neptis radha radha*
- *Neptis soma*
- *Neptis zaida*
- *Neurosigma doubledayi doubledayi*
- *Pantoporia asura asura*
- *Pantoporia kanwa phorkys*
- *Pantoporia larymna siamensis*
- *Pantoporia pravara acutipemnis*
- *Pantoporia ranga*
- *Parthenos sylvia*
- *Penthema lisarda*
- *Symbrenthia niphanda*
- *Vanesa egea agnicula*
- *Vanesa lalbum*
- *Vanesa polychloros fervida*
- *Vanesa prarsoides dohertyi*
- *Vanesa urticae rizama*

Family Papilionidae

- *Bhutanitis fiderdahi*
- *Chilasa epycides epycides*
- *Chilasa paradoxa telearchus*
- *Chilasa slateri slateri*
- *Graphium aristus anticrates*
- *Graphium arycles arycles*
- *Graphium eurypylus macronius*
- *Graphium evemon albociliates*
- *Graphium gyas gyas*
- *Graphium megarus megarus*
- *Papilio bootes*
- *Papilio buddha*
- *Papilio fuscus andamanicus*
- *Papilio machaon verityi*
- *Papilio mayo*
- *Parnassius charitonius charltonius*
- *Parnassius epaphus hillensis* .
- *Parnassius jacquemonti jacquemonti*
- *Polydorus latreillei kabrua*
- *Polyclorus plutonius tytleri*
- *Teinopatus imperialis imperialis*

Family Pieridae

- *Aporia nabelfica*
- *Appias albina darada*
- *Appias indra shiva*
- *Appias lyncida latifasciata*
- *Appias wardica*
- *Baltia butleri butleri*
- *Cepora nadian remba*
- *Ceora nerissa dapha*
- *Corias eocandlca hinducucica*
- *Colias eogene*
- *Colias laTakensis*
- *Colias stoliczkana miranda*
- *Delias lativitta*
- *Dercas lycorias*
- *Euchloe charlonia lucilla*
- *Eurema andersoni ormistoni*
- *Metaporia agathon*
- *Pieris deota*
- *Pontia chloridice alpina*
- *Saletara panda chrysaea*
- *Valeria avatar avatar*

•Family Satyridae

- Aulocera brahminus
- Cyllogenes suradeva
- Elymnias melilas milamba
- Elymnias vasudeva
- Erebia annada suroia
- Erebia hydriva
- Erebia kalincia kalinda
- Erebia manii manii
- Erebia seanda opima
- Erites faicipennis
- Hipparchis heydenreichi shandura
- Lethe atkinsoni
- Lethe baladeva
- Lethe brisanda
- Lethe goalpara goalpara
- Lethe insana insana
- Lethe jalaurida
- Lethe kabrua
- Lethe latiaris latiaris
- Lethe moelleri moelleri
- Lethe naga naga
- Lethe nicetella
- Lethe pulaha
- Lethe scanda
- Lethe serbonis
- Lethe siderea
- Lethe sinorix
- Lethe tristigmata
- Lethe violaceodicta kanjupkula
- Lethe visrava
- Lethe yama
- Maniola davendra davendra
- Melanitis zitanius
- Mycalesis adamsoni
- Mycalesis anaxias
- Mycalesis botama chamba
- Mycalesis heri
- Mycalesis lepcha bethami

END