



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 25th September, 2025

Pronounced on: 01st December, 2025

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CRL.M.C. 4030/2014, CRL.M.A. 13813/2014 (stay)

DEEPESH GUPTA

S/o B. K. Gupta

Office At: Bal Bhawan Secondary School,

F- Block, Mangal Bazar, Laxminagar, Delhi.

.....Petitioner

Through: Mr. Sumeet Verma, Sr. Adv. with
Ms. Charu Verma and Mr. Mahinder
Pratap Singh, Advocates.

Versus

GOVT OF NCT OF DELHI

Through the SHO,

P.S. Shakarpur, New Delhi.

WILDLIFE CRIME CONTROL BUREAU

Through its Director, 2nd Floor, Trikoot-1,

Bhikaji Cama Place, New Delhi.

GAURAV GUPTA

S/o Sh. Ashok Kumar Gupta

R/o 14, Ashoka Road, New Delhi.

.....Respondents

Through: Mr. Utkarsh, APP for the State.
Mr. Vijay Kumar Tiwari, Advocate.



CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the Petitioner Deepesh Gupta for quashing of FIR No.0680/2013 dated 24.07.2013 under Sections 9/39/50/51/58 of the Wild Life (Protection) Act, 1972 (hereinafter referred to as "Wild Life Act") and Sections 428 of IPC, registered at Police Station: Shakarpur, Delhi and also quashing of the consequential *Complaint Case No.12/1* filed under Section 55 of Wild Life Act, pending before Ld. ACMM, Delhi.
2. The impugned proceedings arise from a Complaint filed in respect of a raid conducted at the Bal Bhawan Senior Secondary School, Mangal Bazar, Laxmi Nagar, Delhi, leading to the recovery of seven Brushes with Mongoose Hair, purportedly in violation of Wild Life Act.
3. ***Briefly stated***, on 24.07.2013, Respondent No.3 Sh. Gaurav Gupta, Volunteer, Wildlife Crime Control Bureau (hereinafter referred to as "WCCB"), informed PS Shakarpur, Delhi that some wild animal articles/specimens are being illegally kept in the Biology laboratory of Bal Bhawan Senior Secondary School, located at F-Block, Mangal Bazar, Laxmi Nagar, Delhi, of which Petitioner was the Principal.
4. A raiding team was constituted by SI B. L. Sharma, consisting of Police Officials of PS Shakarpur, *Sh. Saurabh Gupta, Sh. Gaurav Gupta and Smt. Pooja Mahajan*, Member of People for Animals, Sanjay Gandhi Animal Care Centre, Raja Garden, Near Shivaji College, Delhi. On being



called by the Police officials and subsequent directions of senior officers of WCCB, *Sh. B. S. Khati*, Wildlife Inspector of WCCB/NR joined the raiding team to assist them in identification of *wildlife articles*. The raiding team on inspection of the Biology laboratory of the school, recovered seven brushes made from the Mongoose hairs, along with other animal specimens. All the specimens/articles were seized vide the Seizure Memo dated 24.07.2013, in the presence of raiding team and school staff, by SI B. L. Sharma, IO. Petitioner, was unable to provide the purchase Bills of the brushes.

5. Sh. B. S. Khati found that these seven (07) brushes were suspected to be of Mongoose hairs and advised the Police officials to send the sample to Wildlife Institute of India, Dehradun for further confirmation. Inspection/Examination Report dated 24.07.2013 was prepared on the spot.

6. On 24.07.2013, statements of Sh. Rakesh and Sh. Sanjay Gayakwad, both Laboratory Assistants and Sh. Rakesh Kaushik, TGT (Science) of School, who were present during the search, were recorded by SI B. L. Sharma. These persons stated that all the equipments/material are arranged by the Management of the School and they did not have any control and concern, thereof.

7. *Written Complaint* was given by Sh. Gaurav Gupta, Special Officer/Volunteer of WCCB, on **which FIR No.0680/2013** dated 24.07.2013 under Sections 9/39/50/51/ 58 of Wild Life Act and Section 428 of IPC, was registered at Police Station: Shakarpur, Delhi.

8. On 25.07.2013 and 08.08.2013, the case property and case file were produced before learned ACMM (Special Acts), Delhi by the then IO/SI B. L. Sharma and case property was opened and resealed in two separate cloth



pulandas. Thereafter, case property and case file were handed over to Sh. B. S. Khati, Wildlife Inspector of WCCB/NR for further investigation as per law, by the Competent Authority.

9. Further, on an Application dated 28.11.2013 learned ACMM directed to send the case property to Forensic Cell, Wildlife Institute of India, Dehradun for forensic examination. Laboratory Analysis Report of Nodal Officer, Wildlife Forensic Cell, Wildlife Institute of India, Dehradun dated 15.01.2014 was received, which confirmed that seven painting brushes contained the hair of Common Grey Mongoose (*Herpestes edwardsii*).

10. On 12.12.2013, Petitioner's statement was recorded by the IO wherein the Petitioner stated that he was responsible for the matters of the administration, management, expenditure, purchase of goods for the School. Stock Register of the Biological Laboratory of the School was inspected, which confirmed that School earlier had many wildlife specimens like Pitcher Plant, Sponges, Sea horses, Snakes, Sharks and Tortoises/Turtles etc., in their possession. The seized seven Mongoose hair brushes were from the stock in Biology Laboratory of the School, as mentioned in the Stock Register. CCTV footage dated 24.07.2013 of the School was received by CFSL, Central Bureau of Investigation, New Delhi for analysis.

11. ***The Complaint under Sections 39/40(2)/48A punishable under Section 51 of Wildlife Act, was thus, filed in the Court.***

12. **The Petitioner has sought the quashing of the FIR and Complaint on the grounds** that registration of FIR No.0680/2013 dated 24.07.2013 and simultaneous Complaint Case No.12/1 for the same incident and same offence, is unknown to the canons of law. Prosecution of the Petitioner



twice for the same alleged offence, is hit by *double jeopardy* and is violative of Fundamental Rights under Articles 20(2) and 21 of the Constitution of India. Therefore, both the FIR and the Complaint cannot continue to proceed.

13. It is claimed that instead of filing a Final Report under Section 173 Cr.P.C. consequent to the FIR in question, Petitioner was shocked to receive the summons in Complaint Case seeking his prosecution under Wildlife Act.

14. It is further contended that the Act being a Special Law, it has prescribed its own conditions for taking cognizance for the offences under the Act. No FIR could have been registered for the offences under Wildlife Act, being a Special Law. ***Section 55 of the Wildlife Act*** makes it amply clear that cognizance of offence under this Act, can be taken by the Court only on a written Complaint by any of the person specified therein and no Court can take cognizance of any proceedings arising out of an FIR.

15. It is stated that WCCB without any authority, enrolled 177 applicants as 'Volunteers', designated as "WCCB Special Officers", w.e.f. April, 2013 for a period of one year. This recruitment and enrollment of volunteers is nowhere permitted under the scheme of the Act and such enrollment was beyond the authority of the statute.

16. WCCB itself has no powers of enforcement of the provisions of the Act and no powers to apprehend the criminal under the Act, and it is but natural that no such power could have been delegated or exercised by the volunteers. The Complainant and other volunteers of WCCB had no right whatsoever to enter the school premises of the Petitioner and conduct a search thereon. The search being conducted by the person with no authority,



is itself illegal and the material seized pursuant thereto, is also inadmissible and without legal sanctity.

17. Even if it is assumed that the enrollment of the volunteers with the WCCB is permitted under the Act, the general conditions of *WCCB Volunteer Scheme* and in particular *Clause 3(vii)* thereof, makes it clear that the position of Volunteer does not entitle one to undertake any law enforcement actions directly and the role is to simply pass on information to the legally mandated enforcement agencies. The Volunteers exceeded their authority.

18. *Clause 7 of WCCB Volunteer Scheme* states that in urgent situations, the volunteers may pass the actionable inputs to local Police officers under intimation to the officers of the Bureau. Since the same has not been done by the volunteers, they exceeded their authority.

19. Furthermore, there is nothing to reveal that the information against the Petitioner, which led to the raid at the school premises of the Petitioner, was reduced into writing or not and whether there was any specific information as to organized crime or dealing in Mongoose hair paint-brushes. Even if the entire contents of the FIR are taken to be true, it is not a case of prosecution that Petitioner was running organized crime or dealing with it.

20. It is further asserted that the power of *entry, search, seizure and arrest* has been detailed in *Section 50 of Wildlife Act*. According to this Section, if the authorities mentioned therein, have reasonable ground for believing that any person has committed an offence under the Act, such Authority may require such person to produce for inspection any captive animal, wild animal, animal article, meat, (trophy, uncured trophy, specified plant or part



or derivative thereof) in his control, custody or possession, or any licence, Permit or other document granted to him or required to be kept by him, under the provisions of this Act. However, admittedly, no such procedure had been followed by the Respondent. Instead of requiring the Petitioner to produce the articles, the raid was conducted in the School premises.

21. Further, *Section 50(8) of the Act* provides for issuance of a *search warrant* in order to search any premises used in the commission of any offence, but no search warrant was issued, which implies that the search conducted was illegal and all material seized pursuant thereto was illegally obtained, which is inadmissible in evidence.

22. Further, the very search and seizure, conducted by the Respondent, is in blatant violation of the procedure established in the Act and also in blatant contravention of the provisions of Section 165 of Cr.P.C. The seizure of the seven Brushes, being pursuant to an illegal search, is inadmissible in evidence. The totality of the circumstances, forming the basis of FIR, are vague and suspicious and the possibility of the Petitioner being a victim of unfair play and *mala fide*, cannot be ruled out.

23. Furthermore, *FIR has been registered under Sections 9/39/50/51/ 58 of the Wild Life along with Section 428 IPC*. The aforesaid Sections are not attracted in the present case. It is stated that the allegations contained in the FIR and Complaint, are *so absurd and inherently improbable* that they do not reveal sufficient grounds for proceeding against the Petitioner.

24. It is claimed that it is impossible to fathom as to how, merely upon looking at the brush at the time of its recovery and at the time of registration of the FIR, it could have been concluded that the paint-brush seized by the



Respondents was made of Mongoose hair. This can be ascertained only after a thorough scientific examination, to ascertain the nature of brush hair. The FIR was lodged on the conclusive assumption that paint-brush was of mongoose hair, without even a scientific examination.

25. After registration of FIR, Petitioner found out that paint-brush made out of mongoose hair, is not a readily available or sold article. Again, as per the information of the Petitioner, such a brush would cost nearly Rs.10,000/. It is highly improbable that such an article would find place in the school of the Petitioner, that too seven in number, which leads to the suspicion of the same being planted.

26. *Section 9 of the Act* as also *Section 428, IPC*, are palpably not attracted in the present case, as admittedly there is not even an allegation of the Petitioner hunting, killing or maiming any animal, and the FIR under these Sections is not maintainable.

27. It is further asserted that the ***Complaint*** is *highly belated*, being filed after more than ten months of the alleged date of search; on this ground as well, the Complaint is liable to be quashed.

28. It is therefore, submitted that FIR No.0680/2013 dated 24.07.2013 under Sections 9/39/50/51/ 58 of the Wild Life Act and Sections 420 and 468 of IPC, Police Station Shakarpur, Delhi and also Complaint Case No.12/1 filed under Section 55 of Wild Life Act, be quashed.

29. ***Respondents in detailed Reply/Counter Affidavit*** have explained that on 24.07.2013, information was received from *Gaurav Gupta, Volunteer, WCCB*, about the Specimens of Wild animals being kept at the Biology laboratory of the Bal Bhavan Senior Secondary School, F-Block, Laxmi



Nagar, Delhi. A raiding team was constituted by SI B.L. Sharma, consisting of volunteers and also Sh. B. S. Khati, Wildlife Inspector of WCCB/NR.

30. On 08.08.2013, learned ACMM handed over the case to the office of Wildlife Crime Control Bureau (NR), M/o Environment, Forests and Climate Change for the investigation of the case and filling the Complaint/Charge Sheet before the concerned Court.

31. It is submitted that Mongoose (*Herpestes edwardsii*) is a highly endangered species with very little population and is fully protected under the *Schedule-II of the Wildlife (Protection) Act, 1972* and also covered under Appendix-III to the *Convention on the Endangered Species of the Wildlife Fauna & Flora (CITES)*. Owing to its inclusion under the Wildlife (Protection) Act 1972, trade/possession/export/import in part/products of this species is completely prohibited and punishable offence under the Wildlife (Protection) Act, 1972. A number of advisories and Orders have already been issued from the concerned competent authorities from the State Governments and Central Government, for prohibition of exhibition of specimen of the Wild animal for educational purposes at the laboratories of Schools. Competent Authorities have also issued Circulars to all the Heads of Schools, to discontinue the use of rare/endangered plants and animals in School laboratories and classrooms with immediate effects.

32. It is asserted that the *search and seizure* were conducted in terms of Section 50(1)(c) of Wildlife Act. The Complaint has also been filed by Sh. B. S. Khati, Wildlife Inspector of WCCB/NR, who is competent to do so.

33. It is further explained that Wildlife Inspectors have broad expertise in the identification of Wildlife parts and products. They may be able to



identify most of the Wildlife parts and products, on mere physical examination.

34. Further, on inspection of the Stock Register of the Biology Laboratory of the School, it was found that School laboratory was earlier in the possession of many Wildlife specimens like Pitcher Plants, Sea Horses, Snakes, Sharks, Tortoises, etc. and also two dozen of brushes without any ownership Certificates or license issued by the Competent Authority. The burden of proof was on the Petitioner to show that his possession of the Mongoose hair brushes and other Articles was lawful, in terms of Section 57 of the Act. There is no explanation forthcoming from the Petitioner to explain the possession of the seven paint brushes. Therefore, presumption under Section 57 of the Act proves that the possession of the brushes was unlawful.

35. It is therefore, submitted that there is no merit in the present Petition, which is liable to be dismissed.

36. Petitioner in its Rejoinder to the Reply filed by the Respondent, has reaffirmed and reiterated his assertions made in the Petition.

37. *Written submissions* have been filed on behalf of the Petitioner as well as WCCB.

38. The Petitioner has raised additional grounds and has submitted that the procurement was valid and not in contravention of any law. It is further submitted that the Complaint was confined against the Petitioner, which is violative of the mandate of Section 58 of the Act. Thus, it is argued that the Complaint be quashed.



Submissions heard and record perused.

39. The instant Petition challenges the criminal proceedings initiated on a Complaint filed by Sh. B. S. Khati, Wildlife Inspector, pursuant to a raid at an educational institution's Bio-lab, resulting in the recovery of wildlife Articles used for educational purposes.

Raid by Volunteers:

40. The raid conducted on 24.07.2013, was on the complaint of a WCCB volunteer Gaurav Gupta/the Complainant, who was enrolled under the Volunteer Scheme effective April 2013. The reply to the RTI in regard to the authority of these volunteers, confirms that 177 such enrollments were made for a period of one year, but the Scheme explicitly limits their role to “*assisting WCCB in collection of information on wildlife crime and illegal wildlife crime trade and capacity building, sensitization and public awareness*” sans any enforcement powers.

41. Sections 38Y and 38Z empower WCCB to ***collate intelligence and disseminate to authorities***, and not to conduct searches under Section 50, which vests such powers exclusively in the Director/Chief Wildlife Warden or authorized Police/Forest Officers.

42. However, it is evident from the record that Sh. Gaurav Sharma, volunteer had merely given the information to the Police and had accompanied the Police party from PS Shakarpur and he did not exercise any authority independently, to conduct raid.



43. He was only the informant and, on his statement, the FIR was registered.
44. *The contention that he conducted the raid is, therefore misplaced.*

Conduct of Raid Without Search Warrants:

45. *The next ground asserted is that the raid was conducted without a search warrant, as has been provided under S.50(8).* In this context, it is pertinent to refer to *Chapter 6 of the Act titled “Prevention and Detection of Offences”* wherein Section 50 deals with power of entry, search, arrest and detention. The same is extracted as under:

“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 Wild Life 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, -”

46. Sub-Clause 1 provides that the Director or any other officer authorized by him in this behalf or the Chief Wild Life Warden or the Authorized Officer or any Forest Officer or any Police Officer, not below the rank of Sub-Inspector, may, *if he has reasonable grounds for believing that any person has committed an offence against this Act*, against that person, may seek production of captive articles or seize the same, in respect of which an offence under this Act, appears to have been committed.
47. *The case of the Complainant* is that on 24.07.2013, on receiving information from Sh. Gaurav Gupta, Volunteer, WCCB, a raiding team was



constituted by SI Sh. B. L. Sharma comprising of Police officials and two volunteers namely Saurabh Gupta and Smt. Pooja Mahajan, Member of People for Animals, Sanjay Gandhi Animal Care Centre. It is pertinent to mention that as per the Complaint, the information was duly conveyed by the Police officials to Senior Officials of WCCB and Sh. B. S. Khati, Wildlife Inspector of WCCB/NR, joined the raiding team and they all went to the school and seized the *seven mongoose hair brushes* and other articles were seized *vide* Seizure Memo, which was prepared by SI B. L. Sharma.

48. *Section 50 of the Act*, provides that Police Officer, not below the rank of Sub-Inspector, is empowered to ***inspect and seize*** the wildlife products. *SI B. L. Sharma was thus, competent to effect the seizure of Wildlife articles and the contention that the search and seizure per se is illegal, is not sustainable.*

49. The mandate of a search warrant only arises when during the course of investigation, if any subsequent search is required, the authorised officer seeks to authorise some other individual to undertake the search. The same is apparent from the bare reading of S.50(8) which is extracted as under:

“50. ...

*(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 Wild Life 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 purposes of making investigation into any offence against any provision of this Act—*

(a) to issue a search warrant;

(b) to enforce the attendance of witnesses;

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



(d) to receive and record evidence.”

50. Thus, this ground of challenge is not tenable as the search was conducted by SI Sh. B. L. Sharma along with Sh. B. S. Khati, Wildlife Inspector of WCCB/NR, who was competent to do so, under S.50 of the wild Life Act.

51. This hyper-technical objection taken by the Petitioner is therefore, not sustainable.

Registration of FIR, Complaint and the defense of double jeopardy:

52. It is asserted that the FIR No. 680/2013, registered on 29.07.2013 under Sections 9, 39, 50, 51, 58 of the Wild Life Act and 428 IPC, is misconceived.

53. The FIR, lodged following the receipt of information from a volunteer, was the necessary first step to record the information given of suspected commission of a cognizable offense i.e. the illegal possession of protected animal articles (*Mongoose hair brushes*), and set the machinery of investigation in motion.

54. The Offences under the Act are cognizable and thus, Section 154 Cr.P.C. makes it mandatory for them to register an FIR. The Police Officer who registered the FIR, was legally empowered to do so. *Section 50(1)(c)* of the Act specifically grants authority to a police officer not below the rank of Sub-Inspector to seize any animal article, if they have reasonable grounds to believe an offense against the Act has been committed.

55. A cognizable offense grants the police the power to make an arrest without a warrant and commence investigation without prior court



permission. The registration of the FIR merely performs this mandatory, preliminary function, initiating the investigation required to secure evidence like the Mongoose hair brushes in the instant case.

56. It is important to note the distinction between the police-registered FIR and the eventual **taking of cognizance which commences the Trial.**

57. Under the WPA, Prosecution can only be initiated by specific authorized officers like the Wildlife Inspector, Sh. B S Khati, in this case, through a formal Complaint filed under Section 55 of the Act. For ease of reference, the same is extracted as under:

“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 Wild Life Preservation or any other officer authorised in this behalf by the Central 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

(b) the Chief Wild Life Warden, or any other officer authorised in this behalf by the State Government [subject to such conditions as may be specified by that 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 State Government or the officer authorised as aforesaid.”



58. The registration of the FIR by the Police and the subsequent investigation, are **not barred**. They simply serve to gather facts and secure the evidence for the specialized Authority.

59. Furthermore, **Section 4(2) CrPC** states that offenses under “*any other law*” shall be investigated, inquired into, and tried according to the CrPC, unless that special law explicitly provides an exception. The Act does not explicitly bar the registration of an FIR or investigation.

60. The subsequent Complaint was filed under S.55 of the Act on 02.06.2014 by Sh. B S Khati, Wildlife Inspector, Wildlife Crime Control Bureau (NR), specifically authorized by the Director, Wildlife Preservation, Central Government, to file the Complaint u/s 55 of the WPA, 1972, before the concerned court.

61. And it followed the necessary legal steps after the initial seizure; the case was legally transferred to the Wildlife Crime Control Bureau (NR) for proper investigation by order of the Court, on 08.08.2013. The full investigation was carried out by the Investigating Officer/Complainant, Sh. B. S. Khati, which included inspecting the school’s stock register, sending the Sample for examination to Forensic Cell, Wildlife Institute of India, Dehradun and finally to file the Complaint in the Court, on which cognizance was taken by the Court on 31.05.2014.

62. ***Thus, the Complaint has been validly filed.***

63. *Now, we may consider the defense of double jeopardy as raised by the Petitioner.*

64. As has been discussed above, **Section 55 of the Act** provides for initiation of criminal proceedings only on a Complaint filed by a competent



person. Pertinently, even though the FIR was registered, the learned ACMM *vide* Order dated 08.08.2013, handed over the investigations to the Office of Wildlife Crime Control Bureau (NR), M/o Environment, Forests and Climate Change, for further process.

65. It is also pertinent to note that the FIR has been annexed as a document along with the Complaint and no further proceedings or investigations were undertaken in respect of FIR.

66. Clearly, though the FIR was initially registered, but the investigations were carried out in terms of the Wildlife Act. The registration of FIR was only a step in investigative process and not separate proceedings or trial and the FIR stood merged in the Complaint. As per the assertions made by the Petitioner himself, there is no separate Chargesheet filed in respect of the FIR, which in fact, stands merged with the Complaint and does not constitute a second trial for the “same offense.”

67. A key requirement for double jeopardy is that the accused must have been previously prosecuted by a “competent court.” In this context, the WPA dictates a specific path for cognizance; it bars a court from taking cognizance of any offense under the WPA except upon a complaint made by the authorized officer under S. 55. Therefore, the formal Complaint is the only valid instrument for the trial to proceed, and the preceding FIR is only a preliminary document that facilitated the necessary seizure and investigation, ensuring that the principle of *autrefois acquit* (already acquitted) or *autrefois convict* (already convicted), is not triggered.



68. *The contention of the Petitioner that he is being made to face two independent proceeding and is thus, subjected to double jeopardy, is incorrect and not supported by the facts.*

Commission of the Offence:

a) Law pertaining to keeping of Banned Articles:

69. The Act imposes stringent restrictions and outright prohibitions on the possession of wild animals and their derivatives, particularly those listed in the Act's Schedules. There are various legal provisions relevant to the possession of the seized items, such as the Mongoose hair brushes.

70. The Mongoose (*Herpestes edwardsii*) is a species listed under Schedule-II of the WPA. This classification provides a high degree of protection, and offenses concerning these species or their parts attract severe penalties. Any wild animal hunted, kept, or found dead in contravention of the Act, along with any animal article (like the brushes) derived from it, is declared to be Government Property.

71. **Section 40(2)** specifically states that no person shall acquire, receive, or keep in their control, custody, or possession any animal specified in Schedule I or Part II of Schedule II, or any uncured trophy or article derived from such animal, unless acquired legally prior to the Act's commencement or by specific inheritance, which requires a Certificate of Ownership.

72. The law requires a person in possession of a wild animal, animal article, or trophy *including specimens for educational purposes*, to obtain a ***Certificate of Ownership*** from the Chief Wild Life Warden.



b) Requirement of declaration of possession:

73. Section 57 of the Act stipulates that when a person is established to be in possession, custody, or control of any animal article or uncured trophy, it shall be presumed to be unlawful unless the contrary is proved.

74. The burden is squarely on the accused/the school to demonstrate through documentary evidence, such as a *Certificate of Ownership*, that their possession was lawful. However, admittedly, the School has not produced any Certificate of ownership of the Brushes.

75. In this regard, reference be made to the Entries in the School Stock Register, which recorded the acquisition of the brushes. The entries of the Stock Register read as under:

“06.02.1997: Two dozen (24 nos.) of brushes were procured.

13.08.2000: One dozen (12 nos.) more brushes were received, totaling 36 brushes.

03.03.2001: The stock showed 9 brushes damaged, leaving 27 brushes in stock, but reportedly reflecting a balance of 3 dozen/nos. (This entry appears contradictory in the record, showing $36 - 9 = 27$ but stating “03 nos/dozens balance in possession”).

12.04.2002: The stock entry reflected ‘Nil’ balance, with nothing mentioned about the remaining 27 brushes.”

76. The Stock Register clearly indicates that the batches of brushes were procured on 06.02.1997, and 13.08.2000. **Mongoose (all species of genus *Herpestes*)** was **not** a banned species under the Wild Life (Protection) Act, 1972 (WLP Act), until 30.09.2002. It was inserted into **Part II of Schedule II** of the WLP Act vide a Notification (S.O. 1085(E)) dated 30.09.2002, which was published in the Official Gazette on 11.10.2002, as under:



“(a) in Part II, at the end, after entry
15, the following entries shall be inserted, namely:
16. Mongooses (All species of genus *Herpestes*);
17. Grey jungle fowl (*Gallus sonnerati*).”

77. Thus, Mongoose was only banned by insertion in Schedule II of the WLP Act on **30.09.2002**, the brushes, even if made of mongoose hair, were acquired at a time when the possession of the animal or its articles, **was not legally prohibited**. Thus, the initial procurement of Brushes was lawful.

78. In this context, the requirement of ‘*declaration of possession*’ primarily revolves around the school’s duty to disclose lawful possession of the banned articles, in terms of **Section 40 of the Act**, which reads as under:

“**40. Declarations —**

(1) Every person having at the commencement of this Act the control, custody or possession of any captive animal specified in Schedule I or Part II of Schedule II, [or animal article, trophy or uncured trophy] derived from such animal or salted or dried skins 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 Wild Life Warden or the authorised officer the number and description of the animal, or article of the foregoing description under his control, custody or possession and the place where such animal or article is kept.

...

[(2A) No person other than a person having a certificate of ownership, shall, after the commencement of the Wild Life (Protection) Amendment Act, 2002 (16 of 2003) acquire, receive, keep in his control, custody or possession any captive animal, animal article, trophy or uncured trophy specified in Schedule I or Part II of Schedule II, except by way of inheritance.

...”

...



79. The School, in terms of S.40, was required to make the declaration about the possession of such a species, within 30 days of the Notification dated 30.09.2002, i.e. by 30.10.2002. Evidently, this has not been done, as no Certificate of Declaration, under S.40 has been produced by the School, making its continued possession after 30.10.2002, an offence under the Wild Life Act, for which the Complaint has been filed and is maintainable.

80. The Petitioners has sought to place reliance on Circulars dated 29.08.2012 & 19.07.2013 wherein it was noted that the Schools in possession of banned Articles are required to abide by the four conditions as under:

- i) To declare the list of Specimens of wild animals specified plants covered under the Wild Life (Protection) Act, 1972 lying in their school laboratories to Chief Wild Life Warden for record.*
- ii) To keep all such specimens/trophies in safe custody under lock and key, and*
- iii) To stop exhibiting wild animals specified plants and their specimens in their school*
- iv) These declared exhibits are not to be used anymore in the schools*

81. However, in view of the non-compliance of the statutory Declaration of possession as per Section 40 the Act, which was required to be made by 30.10.2002, these subsequent Circulars of 2012 & 2013 under which the first condition was the Declaration under S.40 of the Act, they are of no assistance to the Petitioner.

82. *Thus, it is held that the Complaint disclosed prima facie offence under Ss. 39/40(2)/48A Wildlife protection Act and is not liable to be quashed on this ground.*



Liability of the Petitioner/ Deepesh Gupta for the Offence under the Act:

83. The other contention of the Petitioner is that **he had no role in the commission** of the offence and thus, the Complaint cannot be maintained against him.

84. *Pertinently*, the inspection had been conducted in Bal Bhawan Senior Secondary School, which is run by Smt. Bhagwati Devi Educational & Cultural Society. The School is a Registered Society.

85. Section 58 of the Act provides the persons who are liable when the offence is committed by Company. It is *para materia* to the Negotiable Instruments Act, 1881, and reads as under:

“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.

(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 of the company, such 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.

Explanation. — For the purposes of this section, —

(a) “company” means anybody corporate and includes a firm or other association of individuals; and (b) “director”, in relation to a firm, means a partner in the firm.”

86. It is imperative that the law in this regard be referred. The Supreme Court in *Aneeta Hada vs. M/s Godfather Travels & Tours Pvt. Ltd.*, AIR 2012 SC 2795, after referring to judgments in *Iridium India Telecom Ltd. vs. Motorola Inc and Ors.*, 2004 (1) BOM CR 479 and *Standard Chartered Bank and others vs. Directorate of Enforcement and others*, AIR 2006 SC 1301, has observed that *“the Company can have criminal liability and further, if a group of persons that guide the business of the companies have the criminal intent, that would be imputed to the body corporate. In this backdrop, Section 141 of the Act has to be understood. The said provision clearly stipulates that when a person which is a Company commits an offence, then certain categories of persons in charge as well as the Company would be deemed to be liable for the offences under Section 138. Thus, the statutory intendment is absolutely plain.”*

87. The same was reiterated by the Apex Court in *Anil Gupta vs Star India Pvt. Ltd.*, 2014 (10) SCC 373, *Himanshu vs B. Shivamurthy & Anr.*, (2019) 3 SCC 797, and recently in *Bijoy Kumar Moni vs Paresh Manna & Anr.*, 2024 INSC 1024.

88. Law in regards to the liability of Directors has been settled in *S.M.S. Pharmaceuticals Ltd. vs. Neeta Bhalla* (2005) 8 SCC 89 wherein the Apex Court had reiterated and clarified that essentially in a case under Section



141, there *ought to be a specific averment in the pleadings of the Complainant that at the time the Offence was committed, the person accused was in charge of and responsible for the conduct of the business of the Company.* It was held that a Director would not be liable simply because they are holding that position. It needs to be shown that the Director being made liable should be in charge of and responsible for the conduct of the business of the Company at the time of committing the offence.

89. Thus, it was mandatorily required to be disclosed in the Complaint, as to how the *Petitioner was in-charge and responsible for the conduct of the affairs of the School*, in order to be held liable for the offence under Wild Life Act.

90. Onus was on the Complainant to disclose in the Complaint as to how the Petitioner was responsible for the violation of the Wildlife Act. In this context, it is pertinent to refer to the averments made in the Complaint that the statement of the Petitioner was recorded by the I.O. Complainant/Wild Life Inspector of WCCB on 12.12.2013, wherein he stated that he was responsible for the matters of administration, management, expenditure and purchase of goods for the school. However, the statement of the Petitioner recorded during investigation in the Complaint, is in the nature of a Disclosure Statement, which is of no evidentiary value.

91. Thus, except from the statement of the Petitioner himself, there is neither any single averment nor any document to show that he was the person in-charge and responsible for the management of the School and specifically for the Biology laboratory.



92. According to the Petitioner, he was pursuing BCA in Australia till 2004. The Petitioner has contended that there is nothing to implicate him in the procurement procedure, as he was not the Manager of the School during the period 1997-2001. He was pursuing his BCA degree in Australia until **April 2001**, and the brushes were procured during 1997 – 2000.

93. There is nothing to show that the Petitioner was even an employee of the School, at the time of alleged offence in 2002; or even thereafter, he was the person in-charge of the management, especially the Biology laboratory.

94. In the absence of a single averment or document in support of the aforesaid, Petitioner cannot be held responsible for the alleged dereliction found to have been committed by the School.

Relief:

95. In view of the aforesaid discussion, it is held that the Complaint fails to disclose that Petitioner was the person responsible for the matters of administration, management, expenditure and purchase of goods for the school and is therefore, is entitled to be discharged. The **Petition is allowed**, and the Complaint bearing *CC No.12/1under Ss. 9/39/50/51/ 58 of the Wild Life (Protection) Act, 1972 (hereinafter referred to as “Wild Life Act”) and Sections 420 and 468 of IPC*, is quashed *vis-a-vis* the Petitioner.

96. Petition along with pending Applications, is disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

DECEMBER 01, 2025/R