

# The Wildlife Protection Act, 1972

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# India's Rich Wildlife

Expectation



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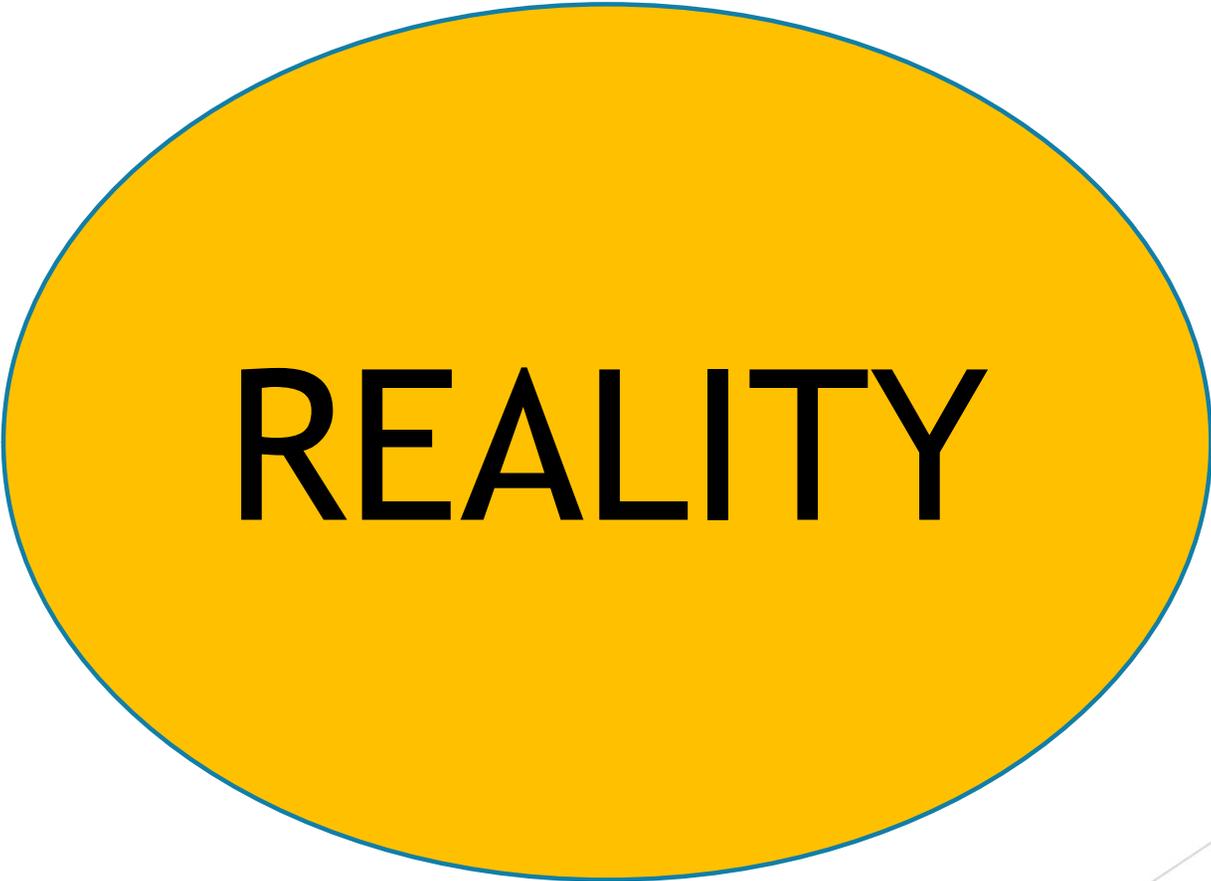


Dr Shubhangi Panchal, DCLL



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# REALITY



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# Wildlife Protection Act 1972 :Legislative History

- ▶ Passed under Art 252 of the India Constitution on request of 11 States
- ▶ **Objective** : An Act to provide for the protection of [Wild animals, birds and plants and for matters connected therewith or ancillary or incidental thereto.
- ▶ Works on two conservation Strategies

Specified endangered species are protected regardless of location and

All species are protected in specified areas

## Chapters under the Act

CHAPTER 1 : Preliminary

CHAPTER II : Authorities to be appointed or constituted under this Act

CHAPTER III : Hunting of Wild Animals

CHAPTER-III A : PROTECTION OF SPECIFIED PLANTS

CHAPTER IV : Sanctuaries, National Park, and Closed Areas

CHAPTER -IV A : Central zoo authority and recognition of zoos

CHAPTER V : Trade or Commerce in Wild Animals, Animal Articles and Trophies

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

CHAPTER VI: Prevention and Detection of Offences

# Amendments -Development of law

- ▶ Crime statistics
- ▶ 42nd Constitutional Amendment 1976 : protection of wild birds and animals was in entry 20 of list II was omitted and new entries 17 A AND 17 B were added to list III ---thus both State and Parliament can legislate
- ▶ Amendment in 1982 ---scientific management, granting licenses
- ▶ 1986---Abolition of all trade internal trade in wild animals and articles, added chapter V A , Ivory trade totally banned
- ▶ 1991---Chapter on zoos management , Protection to specified plants, totally prohibition on hunting of all types, hunting only after permission of CWW
- ▶ 2003---Constitution of National wildlife Board, State wildlife Board
- ▶ Inserted chapter VI A- forfeiture of property from illegal hunting
- ▶ 2006---National Tiger conservation Authority , Chapter VI-C Crime control bureau

# Definitions under Sec 2

- ▶ (1)“animal” includes amphibians, birds, mammals, and reptiles, and their young, and also includes, in the cases of birds and reptiles, their 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 therefrom]
- ▶ (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;
- ▶ (16) "hunting", with its grammatical variations and cognate expressions, includes,-
  - ▶ (a) capturing, killing, poisoning, snaring and trapping of any wild animal and every attempt to do so,
  - ▶ (b) driving any wild animal for any of the purposes specified in sub-clause (a),
  - ▶ (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;

# Hunting 2 (16) amended in 2002

- ▶ "hunting", with its grammatical variations and cognate expressions, includes,-
- ▶ (a) capturing, killing, poisoning, snaring and trapping of any wild animal and every attempt to do so,
- ▶ (b) driving any wild animal for any of the purposes specified in sub-clause (a),
- ▶ (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;



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- ▶ (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 animal mounted in whole or in part through a process of taxidermy, and
  - ▶ (b) antler, horn, rhinoceros horn, hair, feather, nail, tooth, musk, eggs and nests;
  
- ▶ (36) **"wild animal"** means any animal found wild in nature and includes any animal specified in Schedule I, Schedule II, Schedule III, Schedule IV or Schedule V, wherever found;
  
- ▶ (37) **"wild life"** includes any animal, bees, butterflies, crustacea, fish and moths; and aquatic or land vegetation which form part of any habitat;

# Authorities under the Act

## Sec 3: Central Government

- ▶ (a) a Director of Wildlife Preservation;
- ▶ (b) Assistant Directors of Wildlife Preservation; and
- ▶ (c) such other officers and employees as may be necessary.

S 5A : National Wildlife Board

## Sec4 : State Government

- ▶ (a) a Chief Wildlife Warden;
- ▶ (b) Wildlife Wardens;
- ▶ bb) One Honorary Wildlife Wardens in each district; and
- ▶ (c) such other officers and employees as may be necessary.

Sec 6 State Wild Life Board

# Sec 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;
  - ▶ (d) Member, Planning Commission in-charge of Forests and Wild Life;
  - ▶ (e) five persons to represent non-governmental organisations to be nominated by the Central Government;
  - ▶ (f) ten persons to be nominated by the Central Government from amongst eminent conservationists, ecologists and environmentalists
  - ▶ (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
- ▶ (m) 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.

## Sec 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

(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

(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 but 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 two years on wild life in the country.

## Sec5B: 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.

# Sec 6 : Constitution of State Board for Wild Life

- ▶ (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 a Union territory with Legislature, two members of the Legislative Assembly of that Union territory;
- ▶ (d) three persons to represent non-governmental organisations dealing with wild life to be nominated by the State Government;
- ▶ (e) **ten persons** to be nominated by the State Government from amongst eminent conservationists, ecologists and environmentalists including at least two representatives 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

- ▶ (j) an officer of-the State Police Department not below the rank of Inspector General
- ▶ (k) a representative of the Armed Forces 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 We 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.

# Sec 8 : Functions of the State Board

- ▶ – It shall be the duty of the Wildlife Advisory Board to advise the State Government,—
- ▶ (a) In the selection of areas to be declared as Sanctuaries, National Parks, and Closed Areas and the administration thereof ;
- ▶ (b) in formulation of the policy of protection and conservation of Wildlife and specified plants;
- ▶ (c) in any matter relating to any schedule;
- ▶ 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 Government.

## **Sec 9 :**

**No person shall hunt any wild animal specified in schedule I,II,III of the Act**

**Sec 11 : Permission for hunting  
Chief wildlife warden satisfied that  
(For animals in Schedule I)**

**Chief wildlife warden satisfied that**

**Wild Animal in  
Schedule I**

**has become  
dangerous to human  
life or**

**is so disabled or  
diseased as to be  
beyond recovery**

**by order in writing and stating the reasons therefor,  
permit any person to hunt such animal or cause such animal to  
be hunted**

# Sec 11 (2): For wild animal in schedule II, III and IV

**Chief Wildlife Warden / authorised officer  
satisfied that**

**Wild Animal in  
Schedule II, III, IV**

**has become dangerous  
to human life or**

**or to property  
(including standing  
crops on any land) or**

**is so disabled or  
diseased as to be  
beyond recovery**

**Can permit for hunting by order in writing and  
stating the reasons therefor,**

- ▶ (2) The killing or wounding *in good faith* of any wild animal in *defense of oneself or of any other person* shall not be an offence :
- ▶ if such person, when such defense becomes necessary, was **NOT** committing any act in contravention of any provision of this Act or any rule or order made thereunder.
- ▶ (3) Any wild animal killed or wounded in defense of any person shall be Government property.

## 12. Grant of permit for special purposes

Chief Wild Life Warden, can grant a permit, by an order in writing stating the reasons therefor,

to any person,

on payment of such fee,

To hunt the specified wild animal subject to such conditions therein, for the purpose of,-

- ▶ (a) education;
- ▶ [(b) scientific research;
- ▶ (bb) scientific Management.

Provided that no such permit shall be granted without

any wild animal specified in Schedule I, the previous permission of the Central Government, and

(b) in respect of any other wild animal, the previous permission of the State Government.]

# 12. Grant of permit for special purposes

Explanation.-For the purposes of clause (bb), the expression, "Scientific Management" means-

- ▶ (a) translocation of any wild animal to an alternative suitable habitat; or
- ▶ (b) population management of wildlife without killing or poisoning or destroying any wild animals;]
- ▶ (c) collection of specimens-
  - (i) for recognized zoos subject to the permission under section 38; or
  - (ii) for museums and similar institutions;
- ▶ (d) derivation, collection or preparation of snake-venom for the manufacture of life-saving drugs:]



**Rauwolfia  
serpentina**





## India's Endangered Plant Species



**Cycas revoluta**





# CHAPTER-III A]

## PROTECTION OF SPECIFIED PLANTS

### ▶ 17A. Prohibition of picking, uprooting, etc., of specified plants

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 :
- ▶ **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.**

# 17B. Grant of permit for special purpose

- ▶ 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.

# Chapter IV :

## Declaration of area as Sanctuary.

- ▶ **Sec 18** –Declaration of area 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, as a sanctuary.
- ▶ **Sec 18A** —Area not within reserve forest—sec 27 to sec 33A apply  
Alternative arrangement of fodder, fuel, and forest produce until settlement of claims(under 19-24)
- ▶ **Sec18 B**---Appointment of Collector within 30 days of notification
- ▶ **Sec19** –collector to inquire existence ,extent of rights in area of sanctuary.
- ▶ **Sec 20** —no right shall be acquired in the land after declaration u/Sec18, except by succession .

# 21. Proclamation by Collector

- ▶ When a notification has been issued under section 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;
- ▶ (b) requiring any person, to prepare 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 compensation, if any, claimed in respect thereof.
- ▶ **Sec 22 Serving of notice to claimant and enquire into the claim and existence of rights if any**

# 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 authorize any other officer to do so;
  - ▶ (b) the same powers as are vested in a civil court for the trial of suits.

# 24. Acquisition of rights

- ▶ (1) The Collector shall pass an order admitting or rejecting the claim in whole or in part.
- ▶ (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, on payment of such compensation, as is provided in the Land Acquisition Act, 1894.

except where by an agreement between the owner of such land or 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

- ▶ <sup>28</sup>[(c) allow, in consultation with the Chief Wild Life Warden, the continuation of any right of any person in or over any land within the limits of the sanctuary.]

- ▶ Sec 25A -Collector to complete the acquisition proceedings within 2 years of declaration of Sanctuary u sec/ 18
- ▶ But notification shall not lapse if proceedings not completed within 2 yrs

# (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 have been disposed of by the State Government; or
- ▶ (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.

# Sec 27 :Restrictions 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 Wild Life 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 **dependants** of the person referred to in clause (a), clause (b) or clause (c), shall enter or reside in the sanctuary, except under and in accordance with the conditions of a permit granted under section 28.

## Sec 27(2) Every person shall, so long as he resides in the sanctuary, be bound-

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

(b) 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 Wild Life Warden or the authorized officer takes charge

to extinguish any fire in such sanctuary of which he has knowledge or information and to prevent from spreading;

to assist any Forest Officer, Chief Wild Life Warden, Wild Life Warden or Police Officer demanding his aid for preventing the commission of any offence or in the investigation of any such offence.

## Sec 29. Destruction, etc., in a sanctuary prohibited without permit (AA 2000)

- ▶ No person shall, except under and in accordance with a permit granted by the Chief Wild Life Warden,
- ▶ destroy, exploit or remove any **wild life** from a sanctuary or
- ▶ destroy or damage the habitat of any wild animal or deprive any wild animal of its habitat within such sanctuary and
- ▶ divert, stop or enhance the flow of water into or outside the Sanctuary.
- ▶ no such permit shall be granted unless the State Government, being satisfied that such destruction, exploitation or removal of wild life from the sanctuary is **necessary for the improvement and better management of wild life** therein, authorizes the issue of such permit.
- ▶ Explanation.-For the purposes of this section, grazing or movement of live-stock permitted under clause (d) of section 33 shall not be deemed to be an act prohibited under this section.]

# Prohibitions

- ▶ **Sec 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.
- ▶ **Sec 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.
- ▶ **Sec 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

# 33. Control of sanctuaries

The Chief Wild Life 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 carryout such other works as he may consider necessary for the purposes of such sanctuary;
- (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 wild life, as he may consider necessary for the improvement of any habitat;
- (d) may regulate, control or prohibit, in keeping with the interests of wild life, the grazing or movement of live-stock

# 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 wild life therein or its environment, it may, by notification, declare its intention to constitute such area as a National Park:
- ▶ The collector shall not pass any order allowing the continuation of any rights of any person in or over any land in National Park , as is permissible under sanctuary
- ▶ No grazing of livestock shall be permitted in National park as in sanctuary
- ▶ No alteration of boundaries except with recommendation of national board

# Chapter IV A (1991)

## Central Zoo Authority and regulation of Zoos

### 38A. Constitution of Central Zoo Authority

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

(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.

# 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 derecognize zoos;
- (d) identify endangered species of wild animals for purposes of captive breeding and assigning responsibility in this regard to a zoo;

# 38C. Functions of the Authority

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

# 38C. Functions of the Authority

**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.

## CHAPTER VA

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

- ▶ 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 therefrom or a manufacturer of such article; or<sup>4</sup> ]
- ▶ (ii) a taxidermist with respect to any schedule animals or any parts of such animals; or
- ▶ (iii) a dealer in trophy or uncured 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<sup>5</sup> ; or (b) cook or serve meat derived from any scheduled animal in any eating-house.

# Sec 51 :Offences and penalties

- ▶ 1) Except Chapter VA and section 38J
- ▶ Contravention of any provisions of this Act
- ▶ any rule or order made thereunder
- ▶ breach of any of the conditions of any license or permit granted under this Act
- ▶ 2) If such offence committed in relation to any animal in Schedule I or PART II of Schedule II or meat of such animal .....OR hunting in National park, Sanctuary, altering of boundaries ...
- ▶ 3) Second or subsequent offence

1) punishable with imprisonment upto 3 years or with fine extending to 25000 or with both

▶ 2) Imprisonment

3 yrs -----7 yrs AND fine not less than 10,000/-

▶ Imprisonment 3yrs---  
----7yrs

And Fine not less than 25,000/-

# Sec 51 :Offences and penalties

## Offences

- ▶ 4) Contravention of Chapter V A -- Prohibition of Trade or Commerce in Trophies, Animal Articles, etc. derived from Certain Animals.
- ▶ and Sec 38J Prohibition of teasing etc in zoo

## penalties

Imprisonment 3 yrs -  
---7yrs AND Fine not  
less than 10,000/-

# Sec 51 :Offences and penalties

## Offences

- ▶ 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,

## penalties

- ▶ First conviction ---I
- ▶ Imprisonment 3 yrs-----7 yrs AND Fine 50,000/------2 lakhs Rs.
- ▶ Second or subsequent conviction  
Imprisonment Not less than 7 yrs AND fine 5 Lakhs ----to 50 Lakhs

# Additional restrictions

- ▶ Sec 51 : any trap, tool, vehicle, vessel, or weapon used in the commission of the offence be **forfeited** to the State Government and
- ▶ that any **license or permit**, held by such person under the provisions of this Act, be **cancelled**.
- ▶ the Court may direct
- ▶ that the licence, under the Arms Act, 1959 for possession of any arm with which an offence against this Act has been committed, shall be
- ▶ **cancelled**, and that such person shall **not be eligible** for a license under the Arms Act, 1959, for a period of **five** years from the date of conviction.
- ▶ **No probation** under section 360 CrPC or the Probation of offenders Act, 1958 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.
- ▶ Sec 51 A : Conditions for bail for previously convict—PP can oppose bail
- ▶ Dr Shubhangi Panchal DCLL **Sec 52 : Attempts and abetment** same punishment as offence <sup>66</sup>

# Imp Judicial Decisions

## ▶ R. Simon v. Union of India

In this case, the petitioner was a manufacturer of caps, coats, blankets and snake skin etc. which was challenged in a 1991 amendment, which prohibits trade in animal articles. Further, it was contended by the party that the act is colourable legislation because it indirectly takes fundamental right to carry trade as per A. 19(1)(g). There are few animals which are harmful and do not serve any purpose. Delhi high court rejected the contention and stated that each animal is important for balancing ecology and every individual should save and improve the wildlife.

**Indian Handicrafts Emporium vs. Union of India**, Facts: In this case, the petitioner had challenged the constitutional validity of the 1991 Amendment, which prohibited trade in imported ivory. The Supreme Court upheld the constitutional validity of this amendment under Art.19 (6). The Court observed that a trade, which is dangerous to ecology, may be regulated or prohibited. Balancing the social interest and the fundamental rights, a total prohibition is reasonable.

- ▶ **Babran Kumawat v. Union of India**, here petitioner was into manufacturing of mammoth ivory. Due to climatic change, this animal disappeared in Alaska and Siberia. In this case, the issue was whether under the 1991 Amendment Act it be considered as imported ivory. The Supreme Court held that the Amendment of 1991 prohibits the trade of ivory of every kind. It could be elephant ivory or mammoth ivory. Hence, the petitioner is not allowed to continue the trade in mammoth ivory
- ▶ **PradeepKrishen v. Union of India**,