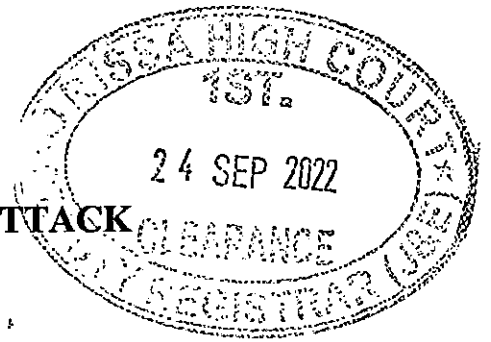


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IN THE HIGH COURT OF ORISSA: CUTTACK

W.P.(C) 14706/ 2022



Gita Rout

..... Petitioner

VERSUS


State of Odisha and Others Respondents

Additional Affidavit filed by Intervener

I, Purabi Patra aged about 37 years D/O D. Patra At Patra Pada Bhubaneswar-751019 P.O/P.S- Khandagiri do solemnly affirm and state here as follows:-

1. That the Hon'ble Court after taking cognizance of uncontrolled poaching in the state vide order dated 25/08/2022 directed following order :-

. "....5. Considering the number of petitions raising these very issues pending before this Court, a direction is issued that counsel in each of the petitions will prepare a short summary of their respective suggestions and provide them to the Advocate General within a week's time to enable him to examine all the suggestions and place it before the JTF for its


DEBENDRA PRASAD RAY
NOTARY, CUTTACK, ODISHA
REGN.No.ON-107/2009


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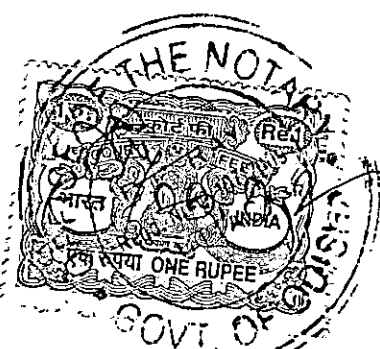
consideration. This would include examining the orders dated 13th February, 2012 of the Supreme Court in T.N. Godavarman Thirumulpad v. Union of India (2012) 3 SCC 277 concerning the "Asiatic Wild Buffalo", the judgment of the Karnataka High Court in Suo Motu v. State of Karnataka (W.P.(C) No.14029 of 2008), the judgment of the Madras High Court in S. Manoj Immanual v. Union of India (W.P.(MD) No.19711 of 2018) and the decision of the Supreme Court in Hospitality Association of Mudumalai v. In defence of Environment and Animals (2010) 10 SCC 589. Further, the measures taken by the State of Assam in tackling similar problems in that state concerning elephant-human conflict will also be examined by the JTF....."

2. That in consonance of the said order a brief suggestion was prepared keeping in view the present status of elephant in the state. True copy of suggestion has been annexe here as **Annexure**

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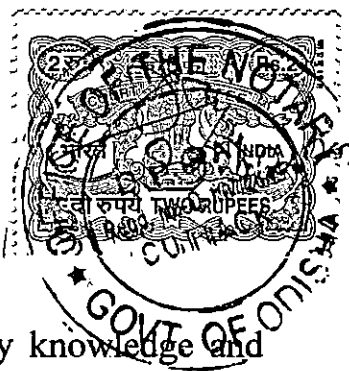

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That the facts stated above are true to best of my knowledge and belief:-

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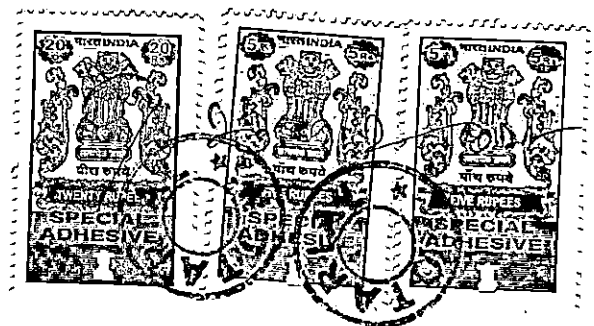
Date 23/09/2022

Ronabi Patra
Deponent

Identified By

Advocate

Advocate



Certified that the above named Deponent(s) being Identified by..... Advocate solemnly affirms and states before me that the contents of this affidavit are all true to the best of their/its/her knowledge

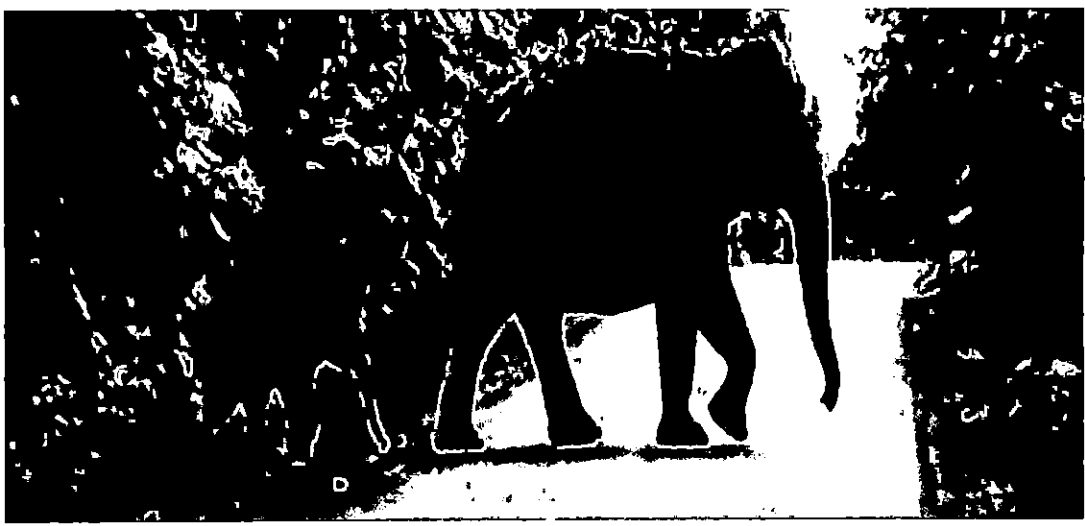
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Annexure 1

ASSESSMENT OF RECENT ELEPHANT POACHING & PROTECTION INITIATIVES



Suggestion by Afraaz Suhail

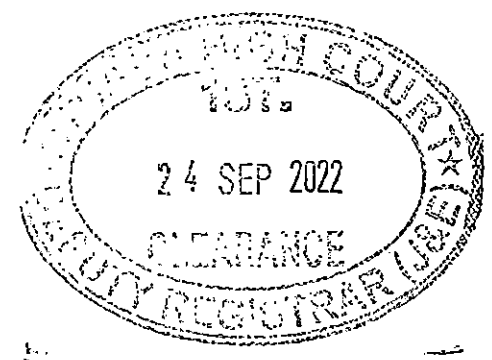
Mob- 9040535655

Counsel for Intervener in WP(C) 14706/2022 as per order dated 25/08/2022

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BACKGROUND

Elephants are the largest terrestrial mammals in the world and have distinctly massive bodies, large ears and long trunks. Elephants are mostly organised into intricate social structures with females and calves under the leadership of a matriarch, whereas male elephants often live in isolation or in tiny bachelor groups. Poaching & other Unnatural deaths of Odisha Elephants & other wildlife continue unabated due to failing protection measures, lackadaisical investigation, lack of intelligence gathering, a virtually defunct wildlife crime cell and extremely poor conviction rates. As a result of this nearly 50 % of elephant deaths in Odisha are unnatural, mostly due to poaching and no responsibility is ever fixed on senior officers for negligence.

It is a matter of deep concern that in 80 % of the poaching cases, the victims are adult male breeding elephants. We lose more than 20 adult male elephants every year in Odisha, mostly due to unnatural causes including poaching. This is bound to impact the health and sustainability and could


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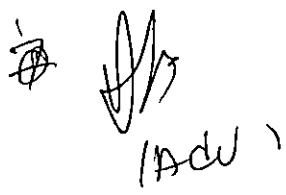
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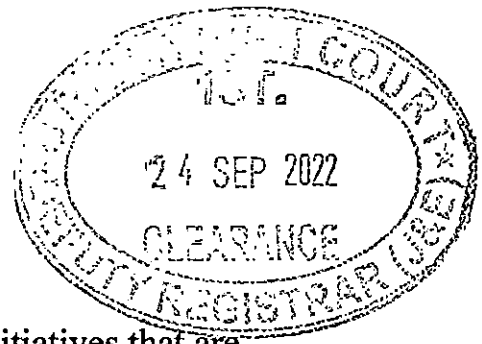
spell doom for Odisha's elephant population in the not too-distant future. It is pertinent to mention that since April, 2019, 15 leopard deaths were reported, most of them by poaching and with their skins intact, but a whopping 62 leopard skins have been seized during the same period, most of them by the Special Task Force of Crime Branch of Police (STF-CB). During this period as many as 39 Live Pangolins and large amount of Pangolin Scales were also seized, again most of them by the STF-CB. These figures speak volumes about the pathetic status of wildlife protection in our state. With the loss of habitat the human tendency, man animal conflict has become rather common.

With increase in number of cases elephant death due to poaching, electrocution, poisoning and disease Hon'ble High Court vide order dated 25/08/2022 was pleased to issue direction whereby counsel in each of the petitions will prepare a short summary of their respective suggestions and provide them to the Advocate General.

Having met with important stakeholders and visited large areas of elephant reserve, considerable information was collected regarding the


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elephant deaths, as well as about the current protection initiatives that are underway in the state. The situation in Odisha is chronic and a serious upheaval must take place. After having carried out an accurate assessment of the situation on the ground and bearing in mind that our recommendations should be simple, practical and immediately applicable, the recommendation are made under following heading

- Review Meetings
- Large number of Vacancies and absence of qualified staff
- Coordination Related Issue Between Forest department and other department
- Intensify Patrolling
- Supporting alternate Farming to distract the animals from entering into farm land
- Fixing accountability of seniors
- Using of technology for alerting people about elephant movement
- Transparent post-mortem
- Strict action for elephant death cases
- Using technology for tracking poacher and elephant movement
- Bolster crime and legal cell

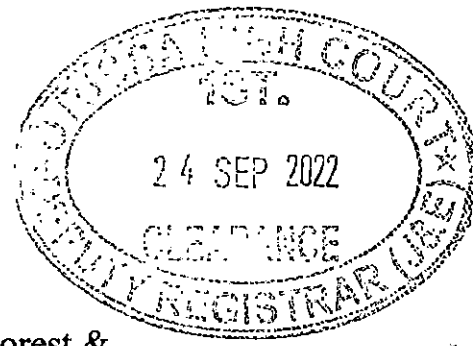
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- Special wing need to be formed for Wildlife protection and enforcement in every Forest Division
- Enforcement of Section 144 of Criminal Procedure Code for crowd management
- Need to improve ground level information system
- Need to make work friendly environment of Forest Department Staff
- Reclaim land in mining areas and to be used for elephant movement
- Special attention for critical places
- Construction of underpass or overpass for wildlife movement
- Expert Wildlife Veterinarians

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- 1. Review Meetings:** We suggest that the Minister of Forest & Environment can hold review meetings every two months to check elephant protection measures with forest department officers. Also, for such meetings to become effective, representatives from civil society and NGOs ought to be included so that realities get checked and addressed. Alternatively, the, the Minister may call for separate meetings with other stake holders, civil society and NGO representatives to ascertain the actual situation on the ground

- 2. Large number of vacancies and absence of qualified staff**
The majority of posts in the Forest Department remain vacant and are yet to be filled. As a result, the existing workforce is overburdened. For instance, under the **Regional Chief Conservator of Forest (Angul) 313 posts are vacant** . There have been numerous instances where range offices seemed to operate without any personnel or employees and staff. If these vacant positions are not filled immediately, work efficiencies cannot be attained from within the Department. Even after the formation of the Wildlife Crime Cell for restriction of crimes related to Wildlife, there has been no

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adequate employment of a basic workforce by the Forest Department to render the cell operational and functional full-fledged.

3. Coordination Related Issue Between Forest department and other department

Coordination between Forest Department and other stakeholder

Department has always been a cause of concern. Due to delay in flow of information and delay in action taking has been major cause elephant related deaths. Detail of suggestion for implementation of coordination related programmes between different departments has been written below

• **Between Forest department and Energy Department**

In the last 12 years and little over 5 months, 154 elephants have been electrocuted - 71 by live wire poaching, 27 on Live wire fence including defunct solar powered fence and 54 by sagging and faulty power distribution lines. Earth Leakage Circuit Breakers have not been installed in any live wire poaching hot spots, most of the overhead power lines in elephant movement areas have not been insulated, many areas still have sagging power lines and majority of

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the Transformer remain unbarricaded. The miserable failure to push the Discoms to carry out preventive measures which are in fact prescribed guidelines and hesitancy to punish negligent Discom officials has led to this situation.

After a spate of electrocution deaths, a four member expert committee constituted by **MoEF & CC, led by Shri A.K.Biswal submitted a report in December, 2010.** Since then, the report is gathering dust with most of the recommendations thrown to the winds. To prevent further electrocution of elephants, the recommendation of this expert committee may please be implemented with due updating and consistent dialogue with the Energy Department be initiated at the top most level to carry out the preventive measures on a war footing. Guilty officials of TPCODL/Energy Department should face prosecution if elephant dies due to sagging wire or exposed transformer or due to hooking from naked overhead wire.

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Between Forest Department an Animal Husbandry Department

The consequences of failure in coordination between Animal Husbandry department and Forest Department have led sharp increase in the mortality rate. Such incident of deaths was first seen in “Karlapat Wildlife Sanctuary” in Kalahandi district in 2021. The elephants died due to transmission of infectious diseases from farm animals like cows and goats to elephants. Diseases like ‘anthrax’, ‘foot and mouth’ etc. are the most common diseases that spread from domestic animals to elephants and because of these disease large number of elephants die in state. The simplest approach to curb transmission of such terrible diseases is by vaccinating farm animals. But it has been seen that many domesticated animals haven’t been vaccinated as of now. A support from Animal Husbandry department is extremely necessary for it. Both the departments need to share their knowledge, experience and equipment to vaccinate all the farm animals and stop spreading of disease.

- **Between Forest department and Police Department**

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The perfect example of failure between both the departments was seen in the "Naraj incident" where one elephant and two people including one reporter died by capsization of boat during a rescue operation in Mahanadi River, Munduli Bridge.. The boat was launched without the prior consent of Forest Department and the Forest Department was completely out of mind and lacked any strategically planning of on how to rescue the animal from such a huge crowd.

The Suggestions are

- a) For capturing a criminals both the department need to get involved as Forest Department don't have power to arrest a person under Indian Penal Code, Arms Act etc.
- b) For getting information from ground level informers both the department need to coordinate on this as Police department is well experienced on these matters.
- c) For law enforcement and crowd control department need to take the help of Police Department.

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d) Every Divisional Forest officer shall have at least one officer deputed from the Police Department.

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4. **Intensify Patrolling** : Patrolling in the forests are ignored by department's field staff as senior officers seldom tour remote areas. While the Range officers and DFO's rarely review protection measures by the field staff, there is hardly any effective review of the DFO and Range Officers by the Chief Wildlife Warden. No wonder that in the last 10 years and few months (since April,2012) of the 818 elephant deaths, 188 elephant bodies have been found in varied state of decomposition, from putrefied bodies to just skeletons, which means that cause of death, most of which are unnatural, could not be ascertained in over 20 percent of elephant deaths. This excludes the eight elephant bodies dug out and two burnt bodies exposed in 2022 itself after department staff concealed poaching cases. This is possible through an enhancement in the budgets and allocation of vehicles and equipment including weapons to defend the wildlife and themselves from armed poachers. It must be made mandatory for Range Officers and the DFOs to themselves go on patrolling atleast four times in a week including two night patrolling and twice in a week including one night patrolling respectively. A senior officer


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from the head office may be deputed to review patrolling activities and submit a quarterly report on the efficiency and effectiveness of patrolling activities.

5. Supporting alternate Farming to distract the animals from entering into farm land

It is quite evident to see that elephants are specially attracted to some crops like paddy, jack fruit etc. To distract the animals from entering into paddy fields alternate plantation methods can be utilised or supported amongst farmers. Plants which are not liked by the elephants can be planted instead of plants which are liked by elephants. Farmers should be given subsidy and other benefits to plant such trees. Even **Bio fence** method can be used to distract the animals. Bio fencing is also known as **Live Fencing**. Live fences are lines of trees or plants planted on farm or field boundaries that provide protection against wildlife, act as windbreaks, enrich the soil, provide bee forage, provide shade, and control dust. In bio fencing in the first two layers plants are planted which is unfriendly to the wild animals like chilly, lemon etc. and after those plants like paddy is planted. Bio fencing with lemon grass can

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help to divert elephant as elephant don't like the smell of lemon. It is even more economical than solar fencing and other forms of fencing.



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6. Fixing Accountability on Seniors : A special team has to be set up in the Chief Wildlife Warden's office to enquire into every unnatural elephant death to fix **accountability** on the DFO and Range Officer. Fixing of accountability of seniors is the key. The state govt should follow the example of other states like **Chattisgarh** where prompt action against several IFS officers was taken of repeated deaths of elephants. After the death of **6 elephants in 11 days in June, 2020**, nine **IFS** officials were transferred. The fear of being punished with suspension for dereliction of duty prompt lower level staff not to report an unnatural death as seniors of the division instead of lending support, promptly suspend them. Such coverup and concealment attempts by low level staff emboldens poachers since unnatural deaths are reported as natural

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7. Using of technology for alerting people above elephant movement

If an animal moving near a human habitat technology can be used to alert the people

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- For example access to **Integrated Wildlife Management System (IWLMS)** can be used to alert people through SMS or automated calls that there is presence of an elephant in a particular area and they should be cautious about it. Though this programme has been started but it is yet to be properly implemented specially in Western Odisha district.
- Usage of “**Animal Intrusion detection and Repellent System (ANIDER)**” can also be beneficial to alert people where mobile connection is poor. This is equipment to alert people through lights and alarm about the presence of elephant.

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8. **Transparent Post-mortem** : Post-mortem of Elephants should be done as per NTCA protocol for post-mortem of the Royal Bengal Tiger to eliminate any possibility of cover up of actual cause of death. This includes video recording, presence of independent wildlife experts and local Honorary Wildlife Warden

9. **Using technology for tracking poacher and elephant movement**

The technological deficiency of the Forest Department and inability to cope-up with the advanced gadgets used by the poachers is the major defect and cause of inefficiency to prevent poaching activities.

Technology like drones can be used to access difficult terrain where travelling by foot or vehicles is very difficult. The issue with drones is that it is not circulated so actively in department and every division has 1 or 2 drones available to track such a large forest area. Drones need to be made available in **range level** under a Forest Division..

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10. Enforcement of Section 144 of Criminal Procedure**Code for crowd management**

It is usually seen that when an elephant enters into a human habitat or any place close to human dwelling, people in huge crowd gather just to take a glimpse of the majestic animal. This crowd has always been a catalyst in infuriating clashes between man and animal thereby causing conflict. There are numerous instances of crowd taking law in their own hand by using force or other ways harming and injuring the animal which can be extremely fatal to the animals or they tend to do things which can make the animal more aggressive. In this type of situation with the help of Executive Magistrate Section 144 of Cr.P.C needs to be enforced and presence of police personnel is extremely necessary to monitor the crowd. Coordination of both the department is extremely required here. The failure of crowd management was perfectly seen in "Naraj issue".

11. Bolster Crime & Legal Cell

Since the field staffs were unarmed they do not dare to face the poachers. Though the department has poor investigation skills, they are reluctant to hand over difficult cases to the STF- CB of Police

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and allow the poachers to escape. This lacunae is further weakened since there is no attractive reward for Informers and the **Toll Free no. for Wildlife Crime** is virtually non-existent. Chief Wildlife Warden's and every Regional Chief Conservator of Forests office must have an exclusive senior officer in charge of wildlife crime and a legal advisor to frame charges in legal proceedings. The Crime Cell should include a **24x7 call center** to receive information on wildlife related crime and other issues. Handsome cash rewards ought to be given to Informers and their protection has to be ensured. The Chief Wildlife Warden should review the status of prosecution of cases involving **Schedule I & II animals** like Elephant, Tiger, Leopard, Pangolin every month and seek a progress report from the DFO. He should fix **accountability** for dismissal of cases in trial courts and should always insist on filing of criminal appeals.

12. **Special wing need to be formed for Wildlife protection and enforcement in every Forest Division**

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Re-focus on primary duties : A system needs to be in place to ensure that full time attention is there on protection of forests and wildlife as the primary responsibility instead of ecotourism and plantation. For this an order needs to be **issued by the PCCF** that protection of wildlife and achievement of conviction of wildlife poachers would be one of the key **marks for an employee's ACR**. Programmes like Compensatory Afforestation Fund Management and Planning Authority (CAMPA), Mahatma Gandhi National Rural Employment Guarantee (MG-NRGS), Green India Mission, Green Mahanadi Mission etc. are enforced by these staffs. When staffs are kept engaged on these works the proper implementation of Wildlife protection and enforcement gets diverted. **A special wing** needs to be formed whose only job would be Wildlife protection and enforcement.

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10 Need to improve ground level information system

The major success for every crime controlling system is to have proper hold in information system. It mean whenever a crime happens or is going to happen these people would have proper

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information about everything. To make this happen you need to have **proper informers** who can pass information about such incidents.

On this matter the department lacks a lot. There are hardly any informers who can help the department in crime controlling. It immediately needs to establish such a support system where information from ground level can pass and reach to the department immediately.

11 Need to make work friendly environment of Forest Department Staff

To let a person work efficiently we need to make a work friendly environment for the employee. In this matter the work environment of Forest Department is not that friendly. It mostly happens when staffs are working in extremely interior part of the jungle, he has to live in an environment which is extremely hostile to him. There is hardly any **mobile connection in those parts of jungles** which make them completely isolated from their family members. This badly affects the psychology of the employee. Programmes need to be

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made to boost the psychology of the staffs who are working in those hostile environments.

12. Reclaim land in mining areas and to be used for elephant movement

With the increase in mining activities large number of paths which was used by elephants for their movement got lost. This increased and worsened man animal conflict as their regular path was lost due to mining activities and they got diverted to places where human habitation was high. After mining is a complete in a particular area, land reclamation is done as per guidelines of Ministry of Mines. Large plantation programmes can be done so that elephants are brought back to their natural habitat which they lost due to mining activities especially in areas like Sundergarh, Angul, Bonai, Keonjhar and Jharuguda.

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13 Special attention for critical places

There are some places which have been regarded as hotspot for wildlife poaching. Special attention needs to be taken for these places like deputing extra staffs for handling these crimes. Secondly in place like 'Narsingpur' in Cuttack district large number of **country made** guns are made which in the end are used for wildlife poaching. Immediate steps needed to stop supply and manufacture of these guns. Secondly **success and failure stories** of different places needed to be taken into consideration for controlling wildlife related crime.

14 Construction of underpass or overpass for wildlife movement

This can be used where elephant movement is frequent and their normal movement can get affected due to construction of rail lines or highways. This may be a tedious process but there has been several success stories where normal movement of vehicles has not been affected and elephant are freely moving without any obstruction. Success story of **Assam** can be taken into consideration.

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15 Expert Wildlife Veterinarians : Recruitment of Wildlife trained

Veterinarians and deploy them at every elephant bearing division so that they are available in quick time and proper treatment is carried out before it is too late. Lack of veterinarians has always been an issue. Currently the local Veterinarians who are trained to treat cattle and livestock and are primarily occupied in that work are asked to treat ailing elephants and other wild animals. The same Veterinarians are asked to carry out post-mortems which at times help the department officers to coverup the actual cause of death. Since the local Veterinarians do not succeed most of times, the department has to solely depend on expert wildlife Veterinarians from the Nandan Kanan Zoo, OUAT and a just a couple more based in Satkosia and Similipal. This has led to inordinate delays in getting ailing elephants treated on time resulting in their death. Diseases like Anthrax and Herpes also become convenient excuse to cover up unnatural elephant deaths by citing these diseases due to lack of expert wildlife veterinarians

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