IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A. No. OF 2018

IN

SPECIAL LEAVE PETITION (CIVIL) NO. 13838 OF 2010

IN THE MATTER OF:

The Kerala State Transport Department & Ors.....Petitioner

Versus

L. Srinivasa Babu & Ors. .....Respondents

AND IN THE MATTER OF:

Waynaad Prakruthi Samrakshna Samithi
Through its President N.Badushah
Naikatty House, Naikatty Post,
Sultan Batheri Taluk
Waynaad Distt.
Kerala State. 673592.

....Applicant

To

The Hon'ble the Chief Justice of India

And His Companion Justices of the

Hon'ble Supreme Court of India

The Humble Petition of

The Applicant above named

MOST RESPECTFULLY SHOWETH

1 The above special leave petition is filed by the Kerala State Transport Department and others against the judgment of the

WAYANAD PRAKRUTI SAMRAKSHNA SAMITI

President/Secretary

WAYANAD PRAKRUTI SAMRAKSHNA SAMITHI

High Court of Karnataka dated 09.03.2010 in writ petition 17498 of 2009 filed by L. Srinivasa Babu against The State of Karnataka & Ors.

2 That by the impugned common Judgment the High Court three writ petitions i.e. writ petition No. 26621-629 of 2007 filed by P.K. Fravesh vs. State of Karnataka; Writ Petition No 17498 of 2009 filed by L. Srinivasa Babu against the State of Karnataka & Ors and writ petition No. 919 of 2010 filed by Anup B. P., were disposed off. However, for reasons best known to the petitioners, they have filed special leave petition only in Writ Petition No 17498 of 2009 filed by L. Srinivasa Babu. As a result the petitioners in the connected petitions are not made parties and this will seriously prejudice their case. A true copy of the Judgment of the High Court dated 09.03.2010 is annexed hereto and marked **ANNEXURE – A. 1.**

3 The Applicant was the 2nd petitioner in writ petition No. 919 of 2010 and therefore ought to have been impleaded as a party to the above special leave petition. That since the High Court has allowed their writ petition, the Applicant is a necessary and proper party to the above petition. The Applicant is therefore making this application to be impleaded as a party respondent to the above special leave petition.

4 That the Applicant has not made any other application seeking impleadment in the above petition.

PRAYER

It is therefore most respectfully prayed that under the circumstances, the Applicant may be directed to be impleaded in the above special leave petition as party respondent and pass such other and further orders as this Hon'ble Court may deem it fit and proper in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY

Dated: 2018

Drawn and Filed by

P.K. MANOHAR
Advocate for the Applicants

2. . I have gone through a copy of the Application for permission to file additional documents Annexures **1** to ..... and I say that the contents thereof are true and correct to the best of my knowledge.

3. I say that the Annexures to the above application are true and correct copies of their respective originals.

Dated this ..... day of August, 2018.

DEPONENT

Verification

I, the above named deponent do hereby verify and state that the contents of the above affidavit paras 1 to 3 are true and correct to my knowledge and nothing material has been suppressed therefrom.

Verified this the .....day of August, 2018.

DEPONENT

Identified, sworn on oath and signed before me at Sultan Bathery on .....

Seal (Advocate)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL PPEAL NO. OF 2019

IN THE MATTER OF:

WAYANAD SAMRAKSHNA SAMITHI. ...PETITIONER

VERSUS

UNION OF INDIA & ORS ...RESPONDENTS

AFFIDAVIT

I, N. Badushah, son of ....., aged about .....years, resident of .....Sulthan Bathery, Wayanad District, Kerala State, do hereby solemnly affirm and state as under:

1. I am the President of the petitioner society and as such I am conversant with the facts and circumstances of the case. I am competent to swear to this affidavit.

2. I have gone through the accompanying Appeal having paras 1 to 41 and pages 4 to 31 and the Synopsis and List of Dates at pages B to K and I say that the contents thereof are true and correct to the best of my knowledge.

3. I have gone through the documents which are marked as Annexures A-1 to A-10 and I say that the same are true and correct copies of their respective original documents.

4. I have gone through a copy of the accompanying Application for interim reliefs and I say that the contents thereof are true and correct to the best of my knowledge.

5. I have not filed any other Appeal against the impugned judgment of the National Green Tribunal.

Dated this the ..... day of April, 2019

DEPONANT

VERIFICATION

I N. Badushah, the deponent above named do hereby solemnly verify and state that the contents of the above affidavit in paras 1 to 5 are true and correct to the best of my knowledge and believed to be true.

Verified this the day of April, 2019

DEPONANT

Identified, Sworn on oath and verified before me at my office at Sulthan Bathery on .....

Advocate
Bar Enrollment No.
Rubber Stamp

Karnataka & Ors., before the High Court and as such I am conversant with the fact and circumstance of the case. I am competent to swear this affidavit.

2. I have gone through a copy of the Application for Impleadment having paras 1 to 3 and I say that the contents thereof are true and correct to the best of my knowledge.

3. I say that the Annexure to the petition is a true and correct copy of the original document.

Dated this ..... day of ....., 2018.

WAYANAD PRAKRUTI SAMRAKSHANA SAMITI PO SULTHAN'S BATHERY WAYANAD President/Secretary

N. Badusha

WAYANAD PRAKRUTI SAMRAKSHNA SAMITI

DEPONENT

Verification

I, the above named deponent do hereby verify and state that the contents of the above affidavit paras 1 to 3 are true and correct to my knowledge and nothing material has been suppressed therefrom.

Verified this the ..... day of ....., 2018.

WAYANAD PRAKRUTI SAMRAKSHANA SAMITI PO SULTHAN'S BATHERY WAYANAD President/Secretary

N. Badusha

WAYANAD PRAKRUTI SAMRAKSHNA SAMITI

DEPONENT

Identified, sworn on oath and signed before me at my office at

..... on .....

Seal (Advocate)

N Badusha
Legal / Court
documents
Part 4/4

filed on 20/9/18 SD

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SLP (CIVIL) No. 13838/2010

IN THE MATTER OF:

The State of Kerala Transport Department ...Petitioner (s)

VERSUS

L. Srinivasa Babu and Ors. & Ors. ... Respondent (s)

For Intervention Application on IA 8/2012 for
Intervention Application on IA 9/2014 for
Impleadment Application On IA 10/2015)
WITH

SLP(C) No. 16588/2010 (IV-A)

SLP (C) No. 24865-24866/2012 (IV-A)

REPORT

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11. ANNEXURE-10 119-125
Copy of the Letter/D.O. No.RW/NH/12024/2/2018-KNT 13.08.2018 of the Secretary, Govt. of Karnataka to the Secretary, MoEF&CC New Delhi along with enclosures

12. ANNEXURE-11 126-178
Copy of the Office Memorandum dated 20th August, 2018 of Government of India, Ministry of Environment, Forest and Climate Change, NTCA, New Delhi along with enclosures

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SLP (CIVIL) No. 13838/2010

IN THE MATTER OF:

The State of Kerala Transport Department ...Petitioner (s)

VERSUS

L. Srinivasa Babu and Ors. & Ors. ... Respondent (s)

For Intervention Application on IA 8/2012 for Intervention Application on IA 9/2014 for Impleadment Application On IA 10/2015)

WITH

SLP(C) No. 16588/2010 (IV-A)

SLP (C) No. 24865-24866/2012 (IV-A)

Submissions on Affidavit on Behalf of Respondent

May It Please Your Lordships:

I, Y. S. Malik, son of Sh. H. S. Malik, aged about 59 years, resident of Bungalow No. 58, New Moti Bagh, New Delhi, presently posted as Secretary, Ministry of Road Transport and Highways, Transport Bhawan, New Delhi, do hereby solemnly affirm and declare on oath as under:

NOTARY
Rajendra Kumar
Delhi
Regd. No. 5780
Date of Expiry
27th April-2023
GOVT. OF INDIA

1. That the Hon'ble Supreme Court issued the following directions vide its orders dated 10.01.2018 in the matter stated above:

> "The Learned Attorney General suggests that one way out of the present impasse is to set-up a Committee headed by the Secretary, Ministry of Road Transport & Highways (MoRTH), in which there would be representatives of the State of Kerala, Karnataka and Tamil Nadu. In addition, a representative from the National Tiger Conservation Authority, functioning under the Ministry of Environment & Forests will also participate. The aforesaid Committee should have its first meeting within a month from the date a copy of this order is served. The report from this Committee is expected within a period of three months thereafter which is to be placed before this Court".

NOTARY
Rajendra Kumar
Delhi
Regd. No. 5780
Date of Expiry
27th April-2023
GOVT. OF INDIA

2. That as per the aforesaid directions of the Hon'ble Supreme Court, the State Governments of Karnataka, Tamil Nadu and Kerala along with Secretary, Ministry of Environment and Forests, were requested by the Ministry of Road Transport and Highways to nominate their respective authorized representatives, who would be members of the Committee to find an amicable resolution of the issues. Accordingly, after receiving the nomination of authorized representatives from the State Governments and the Ministry of Environment & Forests, a Committee was constituted under the chairmanship of Secretary, Ministry of Road Transport and Highways vide MoRT&H O.M. dated 05.02.2018, consisting of the following:

1	Sh. Y.S. Malik	Secretary, MoRT&H	Chairman
2	Sh. K.R. Jyothilal	Principal Secretary, Transport Department, Government of	Member

NOTARY
Rajendra Kumar
Delhi
Regd. No. 5780
Date of Expiry
27th April-2023
GOVT. OF INDIA

		Kerala	
3	Dr. Rajeev Ranjan	Additional Chief Secretary to Government, Highways and Major Ports Department, Government of Tamil Nadu	Member
4	Sh. N. Lakshmana Rao Peshve	Chief Engineer, Karnataka, representing Government of Karnataka	Member
5	Representative from the National Tiger Conservation Authority	Ministry of Environment and Forest	Member

3. That the Committee held meetings and deliberated on the issues on different dates though no consensus could be reached during these deliberations.

4. That notwithstanding the above, a report has been prepared incorporating the suggestions of the Ministry of Road Transport and Highways.

NOTARY
Rajendra Kumar
Delhi
Regd. No. 5780
Date of Expiry
27th April-2023
GOVT. OF INDIA

The said Report is attached herewith along with all the Annexures.

5. That the averments made in the report and the contents of the affidavit may kindly be taken on record and orders as deemed appropriate may kindly be passed.

DEPONENT
युद्धवीर सिंह मलिक / Y. S. MALIK
सचिव / Secretary
सड़क परिवहन एवं राजमार्ग मंत्रालय
Ministry of Road Transport & Highways
भारत सरकार / Government of India
नई दिल्ली / New Delhi-110001

VERIFICATION:

I, the above named deponent, do hereby verify that the contents in para 1 to 5 of this affidavit are true and correct to the best of my knowledge. No part of it is false and nothing material has been concealed or withheld therein.

Verified at Delhi on this 19th day of September, 2018.

19 SEP 2018

NOTARY
Rajendra Kumar
Delhi
Regd. No. 5780
Date of Expiry
27th April-2023
GOVT. OF INDIA

DEPONENT
युद्धवीर सिंह मलिक / Y. S. MALIK
सचिव / Secretary
सड़क परिवहन एवं राजमार्ग मंत्रालय
Ministry of Road Transport & Highways
भारत सरकार / Government of India
नई दिल्ली / New Delhi-110001

ATTESTED
RAJENDRA KUMAR
NOTARY, DELHI-R-5760
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
Registrar Regd. No.
Ph. 9899446200

19 SEP 2018

CERTIFIED THAT THE CONTENTS EXPLAINED TO THE DEPONENT EXECUTIVE WHO IS SEEMED PERFECT TO UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT DELHI ON 19 SEP 2018 INDENTIFIED BY IDENTIFY THE EXECUTIVE / DEPONENT WHO HAS SIGNED IN MY PRESENCE

IDENTIFIED

Report of the committee constituted in terms of the orders of the Hon'ble Supreme Court of India in SLP (Civil) No.13838 of 2010 - State Government of Kerala vs. Shri. L. Srinivasa Babu & Ors.

1. Background

1.1 NH-212 (New NH No. 766) is an important National Highway connecting Kollegal in Karnataka with Kozhikhode in Kerala via Mysore. Out of the total 272 km length of this National Highway, 34.60 km stretch of this highway passes through the Bandipore & Wayanad National Park. NH-67 (New NH No.181) originates at Nagapattinam in Tamil Nadu & terminates at Gundlupet (Junction with NH-212) in Karnataka. Total length of NH 67 is 530 km, out of which 36.0 km is passing through Bandipur & Mudumalai National Park. The length of NH-212 and NH-67 in the Wild Life Sanctuary area (in km) in all three states and corresponding lengths in the Core and Buffer areas is given below:

NH – 212			
State	Karnataka	Kerala	Total length
Sanctuary name	Bandipur	Wayanad	
Core Zone	19.70	4.80	24.50
Buffer Zone	4.50	5.60	10.10
Total (km)	24.20	10.40	34.60

NH – 67			
State	Karnataka	Tamil Nadu	Total length
Sanctuary name	Bandipur	Mudumalai	
Core Zone	13.80	15.10	28.90
Buffer Zone	5.90	1.20	7.10
Total (km)	19.70	16.30	36.00

Map of NH 212 & 67 is at Annexure-1.

1.2 These National Highways are important for seamless connectivity between the states of Karnataka, Tamil Nadu & Kerala and serve as the shortest routes for transportation of people and goods among these states. At present, traffic restrictions operate on plying of vehicles during the night hours between 9.00 pm and 6.00 am.

1.3 The present SLP, which led to an interim order, has been filed by the Transport Department, Government of Kerala challenging the judgment and order dated 09.03.2010 passed by the Hon'ble High Court of Karnataka in Writ Petition No. 17498/2010. The said SLP was listed for hearing before the Hon'ble Supreme Court of India on 10.01.2018. The Hon'ble Supreme Court directed to set-up a committee headed by the Secretary, Ministry of Road Transport and Highways (MoRTH) and comprising of representatives from the States of Kerala, Karnataka and Tamil Nadu vide its order dated 10.01.2018 (Annexure-2). In addition, a representative from the National Tiger Conservation Authority (NTCA) functioning under the Ministry of Environment and Forest (MoEFCC) was also to participate in the deliberations. The Hon'ble Supreme Court was further pleased to direct that the aforesaid committee should have its first meeting within a month from the date of service of this order. The report from this committee was expected within a period of three months thereafter, which is to be placed before this court. The matter may be listed for next hearing any time now.

2. Constitution of the Committee

As per Hon'ble Supreme Court orders dated 10.01.2018, the State Governments of Karnataka, Tamil Nadu and Kerala along with Secretary, Ministry of Environment and Forests were requested by the Ministry of Road Transport and Highways to nominate authorized representatives, who would be members of the Committee to find an amicable resolution of the issues. Accordingly, after receiving the nomination of authorized representatives from the State Governments and Ministry of Environment and Forests, a committee was constituted under the chairmanship of Secretary, Ministry of Road

Transport and Highways vide MoRT&H O.M. dated 05.02.2018 (Annexure-3) consisting of members detailed below:

1	Sh. Y.S. Malik	Secretary, MoRT&H	Chairman
2	Sh. K.R. Jyothilal	Principal Secretary, Transport Department, Government of Kerala.	Member
3	Dr. Rajeev Ranjan	Additional Chief Secretary to Government, Highways and Major Ports Department, Government of Tamil Nadu	Member
4	Sh. N. Lakshmana Rao Peshve	Chief Engineer, Karnataka, representing Government of Karnataka	Member
5	Representative from the National Tiger Conservation Authority	Ministry of Environment and Forest	Member

3. Details of Committee Meetings

The Committee held a series of meetings, field visits and secondary desk research to understand the need and effectiveness of mitigation measures for wildlife and has drawn inference from all these activities.

3.1 First Meeting of the Committee held on 07.02.2018, New Delhi

(i) The first meeting of the Committee was held on 07.02.2018 at New Delhi and views of all the stake-holders were taken on record.

(ii) Additional Chief Secretary, Highways and Major Ports Department, Government of Tamil Nadu mentioned that the state of Tamil Nadu was comfortable with the existing restrictions on plying of traffic during the night hours and did not feel the need for reviewing the same as these were meticulously in operation since 2010. Therefore, status quo for restriction of night movement of traffic on NH 67 may be maintained.

(iii) Principal Secretary, Transport, Government of Kerala mentioned that NH-212 serves as the shortest route for transportation of people and goods between Kerala and Karnataka. Though Kerala was exploring various alternative options, these were constrained by geographical terrain conditions and any alternative route would not only be considerably longer, but also extremely cost intensive. He requested that the most preferred option was to keep NH-212 open to traffic on 24-hour basis with provision of such mitigation measures as could be allowed/ permissible under the latest policy guidelines of the MoEF&CC.

(iv) Chief Engineer, Government of Karnataka also supported the proposal to allow 24-hour traffic between Kerala and Karnataka through the existing NH-212, if otherwise found feasible with provision of mitigation measures.

(v) Secretary, MoRTH enquired about the details of mitigation measures suggested in the latest policy guidelines of MoEF&CC and if the request of the State of Kerala could be considered. DIG, National Tiger Conservation Authority (NTCA) mentioned that MoEF&CC had recently issued broad guidelines on mitigation measures but the proposal would need to be examined in detail by the local Regional Officer of MoEF and a site specific solution could be worked out only after a joint site inspection of the stretch. Secretary, MoRT&H requested DIG, NTCA to coordinate a joint site inspection and hold a meeting with all the stakeholders at site with a view to finding a mutually acceptable resolution of the issue within two weeks' time. Minutes of the meeting are enclosed as Annexure-4.

3.2 Field visit & subsequent meetings by DIG-NTCA (Member of the committee) on 06.03.2018 and 07.03.2018 at Bangalore/ Bandipur.

(i) A meeting was convened by DIG, NTCA, MoEF&CC with all the stakeholders at Bangalore on 6th March 2018, followed by joint site visit of the stretch passing through Bandipur National Park on 7th March 2018. Both, the State Government of Karnataka and Tamil Nadu were in favour of the ban and restrictions while State Government of Kerala

requested to keep NH-212 open to traffic on 24-hour basis with provision of such mitigation measures as could be allowed/ permissible under the latest policy guidelines of the MoEF&CC. In the light of the deliberations held with all the stakeholders, field visits and certain records, DIG, NTCA, MoEF&CC also submitted his report to the Committee Chairman, (Secretary MoRTH) vide his letter dated 23.03.2018. The said report is enclosed as Annexure-5.

(ii) DIG, NTCA, MoEF&CC has suggested in his report to maintain status quo on account of the following:

(a) Current prevailing situation does not warrant any changes and there seems to be no need for any changes in the current bus volume that are permitted during the restricted hours.

(b) Wildlife have behaviorally adjusted to the restricted traffic at night times which is beneficial to the long-term conservation of these species.

(c) The steps taken by Government of Karnataka in relation to the order of the High Court to repair and improve the alternative road is satisfactory and leaving no hardships either to the passengers or goods transporters.

(d) There are no restrictions on emergency vehicles, hence, does not affect such situations.

(e) Under the Bharatmala Project, there is a proposal to connect Bangalore with places in Kerala in which the alignment is proposed in such a manner that it would avoid protected areas.

3.3 Second meeting on 13.04.2018, New Delhi

(i) The second meeting of the Committee was held on 13th April, 2018 at New Delhi with a view to finding a permanent solution of the problem by adopting the mitigation measures as per the MOEF&CC guidelines and come out with mutually agreeable recommendations to be placed before the Hon'ble Supreme Court for taking a final decision in the matter.

(ii) Additional Chief Secretary, Forest Department, Government of Karnataka submitted that despite night time restrictions, eight buses [four buses from Karnataka to Kerala, four from Kerala to Karnataka) were permitted from two state transport departments and movement of emergency vehicles was also being allowed on NH-212. She stated that the arguments taken by the State of Kerala were not tenable especially when there was an alternate route, which was only about 35 kms longer. An alternative route with a detour of about 40 km has been constructed from Mysuru to Kutta by the Karnataka PWD. She further stated that the Karnataka State Government was strongly in favour of continuance of the night-time restrictions on NH-212 as it has shown a considerable improvement in reduction/ decline in animal & human killings after the introduction of these restrictions. A note on the stand taken by the Karnataka Government has been received from Additional Chief Secretary, Forest Department vide letter dated 19.4.2018, and enclosed as Annexure-6.

(iii) Chief Secretary, Government of Kerala observed that Kerala suffers the most due to non-operation of vehicles on this National Highway. He argued that maximum animal movement takes place at dusk and dawn and to prevent animal-human conflict, Karnataka Forest Department could adopt a convoy system for traffic movement during night. It was further mentioned that no traffic restrictions had been imposed by NTCA in 50 wildlife Parks in India and that Bandipur Reserve was the lone exception. Principal Secretary, Transport, Kerala submitted that an earlier proposal of an underground railway line through the wild-life sanctuary was also deferred. The representatives of the Kerala State Government requested for providing elevated corridors in the identified animal crossing areas along with mitigation measures for ensuring 24 hours traffic movement between the three Southern states.

(iv) The matter was deliberated by the Committee. Secretary MoRTH observed that the current system of night time restrictions was in the nature of an adhoc arrangement and it could not be stated this was a permanent solution because the conflict situations continued to remain present during 15 hours when the restrictions did not operate. He further

observed that it would be in the interest of all if a permanent solution could be found. Secretary, MoRTH suggested in this behalf that a plan could be devised for construction of about 5 elevated sections of 1 km length each in the core zone of the Bandipore & Wayanad National Park, milling of the road section under the elevated portions so as to provide a continuity of the forest landscape for the wild-life, provision of about 8 ft. high fencing in the portions of the road running "At Grade", and a uniform carriageway of about 10 mtrs as against the present carriageway of 7 mtrs as a comprehensive permanent solution of the problem, whereby the NH could remain operational on a 24-hour basis. He further observed that the locations of the elevated road sections would be finalized by Karnataka and Kerala Government in consultation with the wildlife authorities. Forest department also has to allow for a minimum and uniform 15m wide RoW corridor required for construction of a 2-lane with paved shoulder configuration. MoRT&H would be willing to fund 50% cost of the mitigation measures and road improvement and the balance will have to be funded by the Government of Kerala. Minutes of the meeting are enclosed as Annexure-7.

4. Conclusions of the Committee

Taking note of all the meetings, field visits and report of DIG, NTCA, following were the conclusions of the Committee:

(i) Since the State Government of Tamil Nadu has no issues or objections with the restrictions imposed on plying of traffic during night hours on NH-67, status quo may be maintained for restrictions on night movement of traffic on NH-67.

(ii) The State Government of Karnataka stuck to its view of continuance of the restrictions during night hours on NH-212, especially keeping in view the availability of an alternative route via Mysuru-Hunsur-Gonnikoppal-Kutta, and that the commuters have already got used to travelling on the alternative road since the last nine years.

(iii) The State Government of Kerala consistently argued in favour of

opening of the NH-212, as the detour is substantially longer (confirmed to be 44 km) and the traffic faces a lot of hardships in crossing the National Highway No. 212 with restrictions.

(iv) National Tiger Conservation Authority also suggested maintaining status quo as the wildlife have behaviourly adjusted to the restricted traffic at night, steps taken by the Government of Karnataka to repair and improve the alternative road are satisfactory and there are no restrictions on emergency vehicles.

(v) Since there was no consensus among the parties, Secretary MoRTH informed the representatives of the States that he would submit his considered recommendations of MoRTH for consideration of the Hon'ble Supreme Court.

5. Subsequent developments:

5.1 While the report on the subject was almost finalized for submission before the Hon'ble Supreme court, the Chief Minister and the PWD Minister of Karnataka happened to come for a meeting with the Union Minister for Road Transport and Highways on 17.07.2018. During discussions, the issue of stalemate qua NH-212, and the course of action proposed by MoRTH was also mentioned before these dignitaries. Both, the Chief Minister and the PWD Minister immediately consented to the proposed solution and stated that a formal reference be made to the Chief Secretary and that the State Government of Karnataka would furnish its concurrence with the proposed scheme. Finding this an opportunity to amicably resolve the issue as a permanent solution, a reference was made to the Government of Karnataka vide letter dated 21.07.2018 (Annexure-8) for a formal consent of the State Government of Karnataka for the proposed scheme. However, this effort also did not yield any positive outcome as the formal response received from Government of Karnataka vide its letter dated 07.08.2018 whereby the proposed scheme has not been accepted and the Government of Karnataka reiterated its earlier position in the matter. Copy of the letter of Karnataka Government is enclosed at Annexure-9.

5.2. Further, a reference was also made to the Secretary, MoEF&CC vide DO

letter dated 13.08.2018 along with a copy of the proposed Scheme (copy enclosed for ready reference Annexure - 10). However, the response to the said D.O letter came from the National Tiger Conservation Authority vide their letter dated 20.08.2018 reiterating their earlier stand (Annexure - 11).

5.3. It is clear from the above that all attempts made even after the meeting of the Committee have not succeeded, and no consensus could be reached in the matter amongst the parties and all persuasions to bring the concerned stake holders on one common platform have not succeeded.

6 Recommendations of MoRTH

6.1 National Highway No. 67

As far as NH 67 passing through the States of Karnataka and Tamil Nadu is concerned, it needs no further action as the state of Tamil Nadu has no problems with the restrictions on night-plying of traffic through the area. Therefore, the issue pertaining to the NH 67 may be closed warranting no further action as the present arrangements are operating to the satisfaction of both the states of Karnataka and Tamil Nadu.

6.2 NH - 212

As regards the issue of NH 212, it emerged during the deliberations that the States of Kerala and Karnataka are stuck-up with their respective positions and appeared reluctant to think in terms of an objective and long lasting solution. View-points of both the states have already been detailed in the foregoing paragraphs. The issue has been examined in-depth in the Ministry of Road Transport & Highways at the level of Secretary, as brought out in the following paragraphs.

7. NH-212 - Analysis

7.1 As stated earlier, NH-212 (New NH No. 766) is an important National Highway connecting Kollegal in Karnataka with Kozhikhode in Kerala via Mysore. Out of the total 272 km length, 34.60 km length of this highway passes through the Bandipore & Wayanad National Park. The salient features

of this NH are re- iterated below for ready reference:

NH 212			
State	Karnataka	Kerala	Total length
Sanctuary name	Bandipur	Wayanad	
Core Zone of the Sanctuary	19.70 km	4.80 km	24.50 km
Buffer Zone of the Sanctuary	4.50 km	5.60 km	10.10 km
Total (km)	24.20 km	10.40 km	34.60 km

7.2 It is an admitted position that this NH remains open to traffic for about 15 out of 24 hours as the restrictions operate from 9.00 pm to 6.00 am. Admittedly, it is not the case that no accidents or casualties have been reported during these day-time operational hours, leading to a conclusion that the wildlife and the human beings remain equally susceptible to accidents and conflicts during these 15 hours.

7.3 The Additional Chief Secretary, Karnataka laid a lot of emphasis on the availability of an alternate route, (which is a State Highway and on which the MoRTH has no jurisdiction), for travelling from Gonikoppal (Karnataka), Kutta (Karnataka), Kattikulam (Kerala), Karakkamala Road (Kerala), Kainatty (Kerala) of which a substantial part is hilly terrain, and is about 44 kms longer. Adoption of the alternate existing route would certainly result in avoidable consumption of fuel (which is a huge import burden for the country) besides causing the incremental vehicular emissions, which also acts against the environmental eco-system. It goes without saying that forcing people to take to a longer route with sub-optimal fuel consumption on account of terrain conditions is certainly not the optimal solution as long as there are alternatives which ensure safety of human and the wild life.

7.4 Coming to the safety of wild-life in the sanctuary, it is also an admitted position that the core area of Bandipur Wildlife Sanctuary has a variety of Wildlife, including Elephants and Tigers and a number of other species.

These animals move to and fro within the core area of the sanctuary and their free movement and safety has to be ensured. The safety and free movement of these animals and the safety of human lives remains at risk for 15 hours during 6.00 am to 9.00 pm when traffic flows on this road without any restrictions.

7.5 The Wildlife Institute of India (under the MoEF&CC), together with the World Bank and the NHAI, has come out with an illustrative publication titled *"Eco- friendly Measures to Mitigate Impacts of Linear Infrastructure on Wildlife"* only recently (January 2017). These guidelines have been studied in the context of NH-212. Further, the Secretary, Ministry of Road Transport and Highways also had an opportunity to discuss the issue with an eminent subject expert, Sh. Vivek Mohan, who is the Executive Director & CEO of the Wildlife Trust of India. It emerged during discussions that Nature and Infrastructure need not be always at logger-heads. It was also recognized that while the Elephants always stick to the passages they adopt, the other species of Wildlife also invariably take to the passages often used by them. There are enough measures that can be put in place to ensure safe passage to our wildlife while not compromising the development goals.

7.6 Keeping in view the limiting factors as mentioned in the sub-paras above, MoRTH is of the considered view that NH-212 would be a good case for 24*7*365 operations with significant improvements and improvisations in a length of about 25 kms of the Core Zone of the Sanctuary/ Park of this Highway.

8. Measures proposed:

(i) The Highway needs to be developed with a total five elevated Sections of 1 km length each (04 in Bandipur Area and 01 elevated Section in the Wayanad Area). Locations of these elevated sections and other measures like hume pipes culverts, road signage, etc. would be finalized in consultation with the Wildlife authorities of both the states. The metaled road portion underneath these elevated sections would be milled and converted into a forest landscape so as to maintain the

continuity of the forest under these elevated sections for ease of movement of the wildlife without any barriers.

(ii) The "At-grade" portion of the Highway would be provided with steel-wired 8 feet high fencing on both sides along the entire length to prevent wildlife from crossing the road at any time so as to ensure against any wildlife and vehicle/ human conflict. Steel-wired fencing would also ensure that the animals only use the elevated underpasses for movement. This would prevent vehicle-animal accidents and ensure safe passage for both animals and vehicles during day as well as night-time. This scheme of development would provide a comprehensive and permanent solution in which both animals and humans can co-exist.

(iii) The existing Highway stretch is a two-lane road (7mtrs blacktop carriageway) with a Right of Way (RoW) varying between 10 mtrs to 15 mtrs along the stretch. It needs to be developed as a Highway with a configuration of two-lane with paved shoulders (i.e. 10 mtrs wide carriageway), which necessitates a uniform RoW of 15mtrs width. Since the 5 kms long road sections under the elevated sections would be converted into forest after milling of the metaled portions, the Forest Departments of Karnataka and Kerala should make the land available for achieving a uniform RoW of 15 mtrs in the remaining at-Grade stretches. The land in exchange for this 5 kms stretch should more or less meet this requirement.

9. Cost-Estimates

(i) Tentative cost of above mitigation measures and road improvement has been worked out to about Rs. 450.00 to Rs. 500 crore crore. Final costs would be worked out after detailed surveys, finalization of elevated structures and Detailed Project Report.

(ii) MoRTH would be agreeable to share 50% of the cost burden of developing this road with necessary mitigation measures and road improvement, while the balance 50% of the cost would have to be borne by the State Government of Kerala.

10. Conclusion:

The Hon'ble Supreme Court may be pleased to consider the measures proposed by MoRTH for sustainable development of ecosystem with all mitigation measures and avoidance of any adverse impact of road infrastructure on the wildlife. While a final decision in the matter has to be taken by the Hon'ble Supreme Court, it is important to highlight that in the event of the Hon'ble Court accepting the scheme proposed by MoRTH as a long lasting/ permanent solution, it is humbly submitted that implementation of the project would face a lot of challenges in the absence very pro-active cooperation of all the stakeholders i.e. all the concerned departments of the State Government of Karnataka and the State Government of Kerala. In that event, the Hon'ble Court may also consider issuing the following specific directions:

(i) NH-212 would be developed by the NHAI adopting all the features of the Scheme as proposed in this report;

(ii) The State Forest Department to provide for land in exchange for the land re-converted into forest for a length of 5-km under the elevated sections in order to achieve a uniform RoW of 15 mtrs;

(iii) The Wildlife Departments, together with the Forest Departments, of both states would jointly decide about the locations of elevated sections;

(iv) The State Government of Kerala to bear 50% cost of the development of this road along with provision for all the mitigation measures;

(v) The concerned Departments of both the State Governments would extend all necessary support in execution of the project;

(vi) The night-time restrictions on plying of traffic would be lifted after the project is completed.

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(20)

ITEM NO.56 COURT NO.12 SECTION IV-A

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Annexure 2

Petition(s) for Special Leave to Appeal (C) No(s). 13838/2010
(Arising out of impugned final judgment and order dated 09-03-2010 in WP No. 17498/2009 09-03-2010 in WP No.17498/2009 passed by the High Court of Karnataka at Bengaluru)

THE STATE OF KERALA TRANSPORT DEPARTMENT Petitioner(s)

VERSUS

L. SRINIVASA BABU AND ORS. & ORS. Respondent(s)

(FOR INTERVENTION APPLICATION ON IA 8/2012 FOR INTERVENTION APPLICATION ON IA 9/2014 FOR IMPLEADMENT APPLICATION ON IA 10/2015)

WITH

SLP(C) No.16588/2010 (IV-A)

SLP(C) No.24865-24866/2012 (IV-A)

Date : 10-01-2018 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s)
Mr.Gopal Subramanium, Sr.Adv.
Mr.G.Prakash, Adv.
Ms.Beena Prakash, Adv.
Ms.Priyanka Prakash, Adv.
Mr.Jishnu M.L., Adv.
Mr.Vijay Shankar V.L., Adv.

Mr.Vikas Mehta, AOR
Ms.Anushree Menon, Adv.
Mr.Jai Wadhwa, Adv.

Mr.P.S.Sudheer, Adv.
Mr.Rishi Maheshwari, Adv.
Ms.Shruti Jose, Adv.
Ms.Subhoshree Sil, Adv.

Mr.Radha Shyam Jena, AOR

Signature Not Verified
Digitally signed by SANJAY KUMAR
Date: 16:46:22 IST
Reason:

For Respondent(s)
Mr.K.K.Venugopal, AG
Mr.P.S.Narsimha, ASG
Ms.Diksha Rai, Adv.
Mr.Rohit Bhatt, Adv.
Mr.G.S.Makker, Adv.

Mr.V.Giri, Sr.Adv.
Mr.Deepak Prakash, Adv.
Mr.Subhash Choudhary, Adv.
Mr.Sri Ram, Adv.
Ms.Yanmi Phazang, Adv.
Mr.Raneev Dahiya, Adv.
Mr.Nachiketa Vajpayee, Adv.

Mr.S.Wasim A. Qadri, Adv.
Mr.Jubair Ahmad Khan, Adv.
Mr.Zaid Ali, Adv.
Mr.Tamim Qadri, Adv.
Mr.Mudasir Nabi, Adv.
Mr.Saeed Qadri, Adv
Mr.L.R.Singh, Adv.

Mr.Shekhar G Devasa, Adv.
Mr.G.R.Mohan, Adv.
Mr.Manish Tiwari, Adv.
Mrs.Sudha Gupta, AOR

Ms.Anitha Shenoy, Adv.
Ms.Srishti Agnihotri, Adv.

Mr.S.Gowthaman, AOR

Ms.Manjula Gupta, AOR

Mr.Lakshmi Raman Singh, AOR

Mr.T.G.Narayanan Nair, AOR

Mr.Samir Ali Khan, AOR

Mr.E.C.Vidya Sagar, AOR

UPON hearing the counsel the Court made the following

O R D E R

All the applications for intervention/impleadment are allowed and respective parties are allowed to intervene in the matter.

The learned Attorney General suggests that one way out of the present impasse is to set up a Committee headed by the Secretary, Ministry of Road Transport and Highways (MORTH) in which there would be representatives of the State of Kerala, Karnataka and Tamil Nadu. In addition, a representative from the National Tiger

Conservation Authority functioning under the Ministry of Environment and Forest will also participate. The aforesaid Committee should have its first meeting within a month from the date a copy of this order is served. The report from this Committee is expected within a period of three months thereafter which is to be placed before this Court.

List the matters in the month of July, 2018.

(Ashok Raj Singh)
Court Master

(Saroj Kumari Gaur)
Court Master

Annexure 3

RW/NH-12024/02/2018-KNT
Government of India
Ministry of Road Transport & Highways
(Zone III Section)
Transport Bhawan, 1, Parliament Street, New Delhi - 110001

Dated 05.02.2018

Office Memorandum

Sub: Special Leave Petition (Civil) No. 13838 of 2010 in the Hon'ble Supreme Court of India -State Govt. of Kerala V/s Shri L.Srinivasababu & Ors.

In compliance of Hon'ble Supreme Court order dated 10.01.2018, on the above mentioned subject, following committee has been constituted:

1.	Shri Y. S Malik	Secretary, Ministry of Road Transport and Highways Government of India	Chairman
2.	Shri K R Jyothilal	Principal Secretary,Transport Department Govt. of Kerala	Member
3.	Dr. Rajeev Ranjan	Additional Chief Secretary to Government, Highways and Major Ports Departments Government of Tamilnadu	Member
4.	Shri N. Lakshmana Rao Peshve,	Chief Engineer, Karnataka	Member
5.	Representative from the National Tiger Conservation Authority	Ministry of Environment and Forest	Member

2. It is decided to hold the first meeting of the Committee at 12.30 PM on 07.02.2018 in Committee Room, 5th Floor, Transport Bhawan, MoRTH New Delhi. It is requested to make it convenient to attend the aforesaid meeting.

(R.P.Singh)
Superintending Engineer (Zone III)II
For DG (RD)&SS

Copy to:
(i) PPS to Secretary (RTH), MORTH

(ii) Shri K R Jyothilal, Principal Secretary, Transport Department, Govt. of Kerala

(iii) Dr. Rajeev Ranjan, Additional Chief Secretary to Government, Highways and Major Ports Departments, Government of Tamilnadu

(iv) Shri N. Lakshmana Rao Peshve, Chief Engineer, Karnataka

(v) Representative from the National Tiger Conservation Authority, Ministry of Environment and Forest

Annexure-4

RW/NH-12024/02/2018-KNT
Government of India
Ministry of Road Transport & Highways
(Zone III Section)
Transport Bhawan, 1, Parliament Street, New Delhi - 110001

Dated 13.02.2018

Office Memorandum

Sub: Minutes of the meeting of the committee constituted in terms of orders of the Hon'ble Supreme Court of India in Special Leave Petition (Civil) No. 13838 of 2010-State Govt. of Kerala v/s Shri L.Srinivasababu & Ors.

Meeting of the aforesaid committee, chaired by Secretary (R&TH) was held on 07.02.2018 at Transport Bhawan, New Delhi on the above mentioned subject.

2. Minutes of the aforesaid meeting is enclosed herewith for necessary action.

3. This issues with the approval of Secretary (R&TH).

Encl: As above

(R.P.Singh)
Superintending Engineer (Zone III)I
For DG (RD)&SS

Copy to:

(i) PPS to Secretary (RTH), MORTH

(ii) Shri K R Jyothilal, Principal Secretary, Transport Department, Govt. of Kerala

(iii) Dr. Rajeev Ranjan, Additional Chief Secretary to Government, Highways and Major Ports Departments, Government of Tamilnadu

(iv) Shri N. Lakshmana Rao Peshve, Chief Engineer, Karnataka

(v) Shri Sanjay Kumar, Deputy Inspector General, National Tiger Conservation Authority (NTCA), Ministry of Environment and Forest, New Delhi.

Minutes of the meeting of the Committee constituted in terms of orders of the Hon'ble Supreme Court of India in SLP (Civil) No. 13838 of 2010 - State Government of Kerala vs. Shri L. Srinivasababu & Ors.

Meeting of the aforesaid Committee, chaired by Secretary (R&TH), was held on 07.02.2018 at Transport Bhawan, New Delhi on the above mentioned subject. The list of participants is at Annexure-1.

2. Secretary, RTH welcomed the participants and requested them to present their views in respect of the issues under consideration in Special Leave Petition (Civil) No. 13838 of 2010 in the Hon'ble Supreme Court of India - State Govt. of Kerala v/s Shri L. Srinivasababu & Ors. filed before the Hon'ble Supreme Court of India.

3. Dr. Rajeev Ranjan, Additional Chief Secretary, Highways and Major Ports Department, Government of Tamilnadu, stated that the state of Tamilnadu was comfortable with the existing restrictions on plying of traffic during the night hours (9.00 pm to 6.00 am) and did not feel the need for reviewing the same as these restrictions were being meticulously in operation since 2010.

5. Shri K R Jyothilal, Principal Secretary, Transport, Government of Kerala, stated that NH 212 was extremely critical for seamless connectivity between the states of Kerala and Karnataka. As Bangalore and Mysore have emerged as the IT hubs, round the clock movement of people was extremely important. Similarly, the NH 212 served as the shortest route for transportation of goods between the two states. He further stated that though Kerala was exploring various alternate options, these were constrained by geographical terrain conditions and any alternative route would not only be considerably longer but also extremely cost-intensive. As such, he requested that the most preferred option was to keep the NH-212 opened to traffic on 24-hour basis with provision of such mitigation measures as could be allowed/ permissible under the latest policy guidelines of the MoEF&CC. Shri N. Lakshmana Rao Peshve, Chief Enginner, Karnataka, an authorized representative of the Government of Karnataka, also supported the proposal to allow 24 hour traffic between Kerala and Karnataka through the existing NH 212, if otherwise found feasible with provision of mitigation measures.

6. Secretary, MORTH enquired about the details of mitigation measures suggested in the latest policy guidelines of MoEF&CC and if the request of the state of Kerala could be considered with the provision of the said measures. Shri Sanjay

Kumar, Deputy Inspector General, National Tiger Conservation Authority (NTCA), MOEF mentioned that the Ministry had recently issued broad guidelines on mitigation measures, but the proposal in this case would need to be examined in detail by the local Regional officer of MOEF and a site specific solution could be worked out only after a joint site inspection of the reach in question along with the Forest Officials from the states of Karnataka and Kerala.

7. Secretary, MORTH requested Mr. Sanjay Kumar, Deputy Inspector General, National Tiger Conservation Authority (NTCA), MOEF to coordinate a joint site inspection and hold a meeting with all the all stakeholders at site with a view to finding an acceptable resolution of the issue within two weeks time. Secretary, MORTH further desired to hold the next meeting of this Committee after about three weeks time. Accordingly, it was also decided to hold the next meeting of the Committee on 6th March at 12.30 pm.

The meeting concluded with a vote of thanks from and to the chair.

******

Annexure-1

List of Participants

Sr. No.	Name of the Participant	Designation & Organisation
1	Shri. Y.S Malik	Secretary, MoRTH – In Chair
2	Shri. K.R Jyothilal, Member	Pr. Secy. (Transport), Govt. of Kerala
3	Dr. Rajeev Ranjan, Member	ACS, Highways and Major Ports Departments, Govt. of Tamil Nadu
4	Shri. N. Lakshmana Rao Peshve, Member	Chief Engineer, Karnataka
5	Shri Sanjay Kumar, Member	Deputy Inspector General, National Tiger Conservation Authority (NTCA), MOEF, N. Delhi

(20)

Annexure - 5

F.No. 1-5/95-PT (Part) –
Government of India
Ministry of Environment, Forest & Climate Change
National Tiger Conservation Authority
*****

B-1 Wing, 7th Floor
Pt. DeendayalAntyodayaBhawan
CGO Complex, Lodhi Road,
New Delhi-110003
Email:dig-ntca-mef@nic.in
Tel: 011-2436 2716
EPABX: 011-2436 7837-42

O/o Secretary, MoRTH
Dairy No.: 1271630
Date: 26/03/18

Dated: 23.03.2018

Ld-SE(2-R)II
28/3

To

The Secretary,
Ministry of Road, Transport & Highways,
Government of India,
Transport Bhawan, 1, Parliament Street,
New Delhi-110001

Sub: Report on the restriction of night traffic on highways passing through Bandipur Tiger Reserve, Karnataka – reg.

26/3/18

Sir,

In pursuance of decision taken during the meeting held on 07.02.2018 at Transport Bhawan, New Delhi, to coordinate a joint site inspection and hold a meeting with all the stakeholders at site with a view to finding an acceptable resolution, the said meeting was organized on 6th March, 2018 followed by field visit during 6th – 8th March, 2018.

ADG (Shri Nagpal) on file pl.
27/3

In this context, report pertaining to the said matter as mentioned under subject is enclosed herewith for your kind perusal and necessary action.

SE (Zone III) II

Encl: As above.

Yours faithfully,

(Sanjay Kumar)
Deputy Inspector General (NTCA)

Copy to:
1. PPS to Secretary, EF&CC.
2. PPS to DGF&SS, MoEF&CC.
3. PS to ADG (PT) & MS (NTCA).

(29)

Report on the restriction of night traffic on highways (NH-212, redesignated as 766 and NH-67) passing through Bandipur Tiger Reserve, Karnataka during 9.00 P.M. to 6.00 A.M.

Background

In the matter of Special Leave Petition (Civil) No. 13838 of 2010 in the Hon'ble Supreme Court of India – State Government of Kerala V/s. Shri L. Srinivasa Babu and Ors., Hon'ble Supreme Court passed an order on dated 10.01.2018, as per which a committee headed by the Secretary, Ministry of Roads, Transport and Highways (MoRTH), Government of India with representatives of Karnataka, Kerala, Tamil Nadu and the National Tiger Conservation Authority (NTCA), Ministry of Environment, Forest & Climate Change (MoEF&CC) was constituted with regard to examining restriction of movement of vehicles on the highways (NH-212 and NH-67) passing through Bandipur Tiger Reserve, Karnataka during night time between 9.00 P.M. to 6.00 A.M.

2. Subsequently, meeting of the aforesaid committee was held on 07.02.2018 under the Chairmanship of the Secretary, MoRTH, wherein it was decided that the Deputy Inspector General (DIG, NTCA), MoEF&CC would coordinate a joint site inspection and hold a meeting with all the stakeholders at site with a view to finding an acceptable resolution of the issue.

3. In compliance of the decision taken in the aforesaid meeting, a meeting of all the stakeholders was organized on 6th March, 2018 in the office of Principal Chief Conservator of Forest (Wildlife), Karnataka. This meeting was attended by all the stakeholders besides officials of the NTCA, MoEF&CC and representatives of MoRTH. All issues were discussed threadbare in which representatives of both Kerala as well as Karnataka besides Tamil Nadu put forth their views. All arguments regarding the restrictions were discussed in detail. A copy of the proceedings of the meeting along with response thereto on it from State of Kerala, is annexed herewith (**Annexure-I**).

Points put forth by Karnataka

4. Officers from Karnataka vehemently opposed any move to reconsider existing restriction imposed as per order of Hon'ble High Court of Karnataka for which they gave a number of justifications. Giving the brief history of entire episode, the Principal Chief Conservator of Forest, Wildlife (PCCF, WL) & Chief Wildlife Warden (CWLW), Karnataka underscored that the order to close the Highways (NH-212 and NH-67) passing through Bandipur Tiger Reserve from 9.00 P.M. to 6.00 A.M. was as per the guidelines of tiger conservation action plan 2007-08 to 2010-11, to maintain inviolate conditions for the tigers, elephants and all other associated wildlife in the reserve and also to avoid death of large number of wildlife due to accidents, particularly during night hours. He also mentioned that the demand for an alternate road was also met. He further elaborated that when it was alleged that the alternate road condition was in bad state, as per the order of Hon'ble Karnataka High Court to take steps to secure the safety of the commuters and transporters by repairing the bridges or culverts that are not in a good condition and to take appropriate and adequate measures to improve the condition of alternative roads, the Public Work Department, Karnataka had spent Rs. 75 Crore and repaired that alternative road to NH-212.

He also mentioned that in addition to providing alternative roads during restriction period, 16 Transport Corporation Buses of Karnataka, Kerala, Tamil Nadu and emergency service like ambulance, vehicles carrying dead bodies, police on duty and fire engines are allowed. The CWLW concluded by emphasizing that all the alibies brought out before the authorities and the

Hon'ble Court are resolved amicably and the authorities of Karnataka have responded positively to the facilities requested by the authorities and public representatives of Kerala State. Further precipitating the issues without new or valid reason is highly unreasonable as the restrictions imposed on the use of NH-212 and NH-67 passing through Bandipur Tiger Reserve is only for period of 9 hours during night. He further stated that all the members present in the meeting were aware that Bandipur Tiger Reserve was one of the first Protected Areas brought under tiger conservation during 1973. Out of 24 hours, if we do not spare at least 9 hours inviolate condition for the wild animals living in their own habitat, we as authorities are not reasonable in our decisions.

Points put forth by Kerala

5. On behalf of the Government of Kerala, Principal Secretary, Transport and Revenue suggested that Govt. of Kerala had earlier proposed permanent solution for travelling public from Sulthan Bathery area to Mysore and vice-versa based on Prof. Easa's report which may be accepted by the Karnataka Government. Citing refusal from the Karnataka Forest Department on any alternative proposal, he stated that there is a genuine demand to increase frequency of buses as it would be convenient for techies from Malabar area working in Bangalore as the alternative road is longer by 40-50 kms. and are not of National Highways standards. He requested that at least State transport undertaking should be permitted to operate public transport facility in the night. He also mentioned about the traffic congestion in the early morning, especially in Ghat areas, leading to road accidents as well as accident deaths, which gets aggravated during the pilgrim season of Sabrimala. He requested for public transport on convoy basis as short term solution till long term solution materializes.

The PCCF and Head of Forest Force (HoFF) & Chief Wildlife Warden, Kerala pleaded that the road under consideration existed even before the area was notified as a tiger reserve in 1973. As per him, major part of negative impact of closure has fallen on Kerala and that too on the Forest Department. Very high level of friction between people and Kerala Forest Department in Wayanad is directly or indirectly linked to this ban. The present ban has been imposed neither on the advice of NTCA nor under the provisions of the Wildlife (Protection) Act, Giving reasons, he suggested allowing vehicles to pass in convoy during the period which is found to be least sensitive to the wildlife, without reducing the closure period of 9 hours by starting the ban earlier than the present 9.00 P.M. and by bunching of the 16 buses which are even now allowed. The Deputy Commissioner of Wayanad cited adverse effect on economy because of longer length of alternative road.

Response of Karnataka on the observations made by Kerala

6. Responding to the observations made by officers of the Government of Kerala, the officers of Karnataka questioned the authenticity of Prof. Easa's report for no permission for doing such study was ever taken from the competent authority of Karnataka Forest Department.

On the issue of deploying convoy system, the officers of Karnataka Forest Department brought it to the notice of all that as per decision taken in meeting of Chief Minister of Karnataka and Kerala on 15.04.2015, wherein it was requested from Kerala side to examine increase in number of vehicles to 20, introduction of convoy system with speed limit of 30 km. per hour and reducing the time of night traffic ban, a meeting to take legal opinion and consult subject experts working on large mammals (elephants, tigers, leopards), wildlife in general and road ecology having extensive scientific and wildlife policy experience, was convened on 17.08.2015 to decide the above issues. This committee included experts like Dr. A.J.T. Johnsingh, Member (NTCA) and Dean (Retd.), Wildlife Institute of India, Dehradun; Shri Sanjay Gubbi, Member, State Board for Wildlife, Karnataka and large carnivore Ecologist; Shri Ajay Desai, WWF-India, Elephant Ecologist and Member, State Board for Wildlife, Karnataka and Dr. M.D. Madhusudan, Scientist,

Nature Conservation Foundation and Member, State Board for Wildlife, Karnataka, besides officers of Karnataka Forest Department. It was apprised that based on various Ecological factors and alternatives available, it was opined by the experts that the current system should be maintained status quo and no change should be implemented, if possible, the night closure should be 9.00 P.M. to 6.00 A.M. This was conveyed to the Government of Kerala from Government of Karnataka on 07.11.2015.

7. On the suggestion of upgrading the alternate road (Hunsur-Gonikoppa-Kutta) to a four lane highway by Principal Secretary, Transport, Kerala and General Manager, NHAI, PCCF (WL), Karnataka mentioned that this would involve diversion of additional forest land passing through very sensitive areas of Kodagu district. He mentioned that the elephant movement during day time itself is very high on NH-212 passing through Bandipur Tiger Reserve. Causing disturbance during night time to will lead to increased man-animal conflict.

PCCF & HoFF, Karnataka opined that most of the South Indian Rivers flowing through Protected Areas are perennial because of high density of forest cover which maintains the water balance ensuring continuous flow of water. Hence, integrity of Protected Areas should be maintained in the interest of water security of the country.

It was stated by the Director, Bandipur Tiger Reserve that very few vehicles piled up at the gates at night times and commuters including transporters had got adjusted to the existing restriction imposed.

Points put forth by Tamil Nadu

8. Representative of Government of Tamil Nadu (Chief Conservator of Forest and Field Director, Project Tiger, Mudumalai Tiger Reserve) specified that the current arrangement is suitable and tourist and other commuters have already got adjusted to the existing modalities. He also mentioned that night closure has helped the economy in many indirect ways like upcoming market in relatively smaller towns thereby fostering economic upliftment of people in nearby areas.

Site Inspection

9. It was decided that the team would inspect the site during restricted hours to have a firsthand experience of the situation. Accordingly, a field visit from the evening of 06-03-2018 to afternoon of 08-03-2018 was undertaken. Besides undersigned, those accompanied, include - Sri. K.R. Jyothilal, IAS, Principal Secretary, Transport, Government of Kerala; Sri. Suhas S, IAS, District Collector, Wayanad District, Kerala; Sri. R. Srinivas Reddy, IFS, Chief Conservator of Forests & Field Director, Madumalai Tiger Reserve, Tamil Nadu; Sri. Ambadi Madav, IFS, Conservator of Forests & Field Director, Bandipur Tiger Reserve; Sri. Rajendra Garwad, IFS, AIG, NTCA and Sri. Sanjay Gubbi, Member, State Board for Wildlife, Karnataka.

Key points of the field visit:

10. Visits were undertaken to NH-212 and NH-67 to assess the on-ground situation with regards to issues faced by commuters and wildlife. During the visit undertaken with senior officials of Kerala, Karnataka and Tamil Nadu, the following points were noted.

Visit to NH-212 and NH-67.
(Dated: 06.03.2018 and 07.03.2018 till 3.00 A.M.)

11. The number of vehicles that were waiting at the gate of NH-212 was nominal. We noticed that a total of 11 vehicles were waiting at the Maddur gate, which is the entrance to Bandipur

Tiger Reserve, on NH-212 while traveling from Karnataka to Kerala. When we discussed with the drivers, some expressed that they have got accustomed to the night closure and they plan their trip according to the restrictions currently imposed.

During the visit/drive on NH-212 (which is 18.5 km within the Bandipur Tiger Reserve) when the highway was closed to vehicular traffic (except emergency vehicles, and transport corporation buses) a total of four different elephant groups, several herds of gaur, sambar, chital, snakes and other wildlife were observed on and along the edges of the highway indicating high usage of wildlife of the area at night times. We observed many wildlife including young ones, were crossing the highway without hindrance. Wildlife has also attuned to the night closure and seems to largely benefit from this restriction.

Besides photographic and video-graphic evidences of various wild animals including tigers, leopards, elephants, wild dogs etc. crossing the road during the night time and using it fearlessly were also shown. A study done by Wildlife Conservation Foundation regarding use of road on the stretch passing through the said tiger reserve on NH-212 & NH-67 during night time also indicates a good number of wild animals using it throughout the restricted hour.

The field team visited the Moolehole checkpost on the border of Karnataka and Kerala within Bandipur Tiger Reserve where only one truck was waiting to cross. We also noticed that signages were clearly put up with regards to the night time restrictions.

A total of eight State Transport Corporation buses are permitted to travel through NH-212 during the restricted hours. The team inspected two buses that were traveling on NH-212 and also interacted with the drivers and conductors. One bus belonging to Kerala State Transport Corporation was traveling from Mysore to Calicut and the second bus belonged to Karnataka State Transport Corporation and was traveling from Calicut to Bangalore. Both buses had occupancy lesser than 50% and the interactions with the transport corporation staff revealed that the buses run on full capacity only during weekends.

When the team visited Melkaamanahalli gate, which is the entrance to Bandipur Tiger Reserve on NH-67 to travel towards Tamil Nadu, four vehicles were observed waiting at the gate. The field visit ended at 3.00 am.

Discussions with stakeholders and visit to NH-67
(07.03.2018 to 08.03.2018 till 2.00 A.M.)

12. Initially, a meeting was held at Bandipur Tiger Reserve where Sri. C.K. Saseendran, Hon'ble Member of the Legislative Assembly, Wayanad, Sri. K.R. Jyothilal, IAS, Principal Secretary, Transport, Government of Kerala, Sri. S. Suhas, District Collector, Wayanad, Sri. C.K. Sahadevan, Chairman, Sulthan Bathery Municipality, Sri. Badushah, President, Wayanad Prakritik Samrakshan Trust, Sri. R. Srinivas Reddy, CCF & Director Mudumalai Tiger Reserve, Sri. Ambadi Madhav, CF & Director Bandipur Tiger Reserve, Sri. H.N. Balakrishna, Police Circle Inspector, Gundlupete, and other stakeholders from Kerala and Karnataka participated, besides the undersigned.

While submitting representation giving long term and short term solutions, Sri. Saseendran, MLA, Kalpetta, Kerala requested for building of an elevated highway or an underground tunnel to reduce the hardships. Copy of the said representation is annexed (**Annexure-II**). Sri. Suhas, Deputy Commissioner, Wayanad (Kerala) expressed the hardships faced by people because of traveling the additional 30 km. and requested for allowing more buses during restricted period to support the economy of Wayanad. There were mixed responses from the stakeholders from Kerala with one side opposing the restrictions, and one side fully supporting the restrictions. Sri. N. Badhusha, Wayanad Prakruti Samrakshana Samiti, Sulthan

Bathery, Kerala, one of the petitioners in W.P. No. 919/2010 in faovur of night traffic ban and other people from his organization while submitting representation, expressed that the night closure should continue, giving a number of justifications in support of his opinion. The said representation (unsigned) is annexed (**Annexure-III**). Stakeholders from Karnataka who participated in the meeting supported the night closure and insisted that it should continue.

The Circle Police Inspector of Gundlupete who was deputed by the Superintendent of Police, Chamarajanagara District expressed that the vehicular accidents (both fatal and non-fatal), crime rate had decreased during night time after the night restrictions on vehicular movement was implemented since 2009. They also expressed that they are able to better handle the inter-state crimes more efficiently due to the restrictions on vehicle movement through Bandipur at night times. The police department has presented the data and facts in a letter addressed to the NTCA (copy enclosed at **Annexure-IV**).

13. The team again drove through NH-67 at night time to assess the situation on NH-67 that connects to Ooty in Tamil Nadu, a popular tourist destination. The team drove through Bandipur and Mudumalai Tiger Reserves passing through Kekkanahalla (in Karnataka), Theppakadu and Gudalur check posts in Tamil Nadu. At the Gudalur checkpost, which is at the border of Mudumalai Tiger Reserve, through which the vehicles exit to reach Tamil Nadu, we noticed that the vehicles had reached the border and exited Mudumalai Tiger Reserve by taking less than one hour to cover the distance of 27.5 km starting from the border of Bandipur Tiger Reserve. When the team interacted with the lorry drivers, they did not express any problem with the current restrictions. The team also noticed that there were posters put up at the check posts to educate the commuters about the restrictions and about the alternative roads.

While returning, the team observed that there were only seven vehicles waiting at the Melkamanahalli gate waiting to cross Bandipur Tiger Reserve to go towards Tamil Nadu side. The field visit ended at 2:00 A.M.

We were apprised both during the meeting on the 6th March 2018 and during the field visit to Tamil Nadu that there was no opposition from Tamil Nadu about the closure of NH-67 during 9.00 P.M. and 6.00 A.M. In fact, Tamil Nadu has also closed the stretch of NH-67 that passes through Mudumalai Tiger Reserve through a government order. This road continues through Bandipur Tiger Reserve.

We were also explained that a total of 16 state transport corporation buses (four from Karnataka to Kerala, four from Kerala to Karnataka, four from Tamil Nadu to Karnataka and vice-versa) are allowed to ply during restricted hours. Similarly, all emergency vehicles including ambulances, vehicles carrying dead bodies, five personnel, police and others with emergency situations are allowed during the restricted hours with a support/escort vehicle from the forest department.

Visit to the alternative road
(08.03.2018)

14. As per submissions made in the Hon'ble Karnataka High Court regarding alternative road (SH-90), the team visited the said road to assess its condition and the current usage. The alternative road was developed and improved as per the orders of the Hon'ble High Court of Karnataka (in WP 17498/2009 and WP 919/2010) based on the request of State of Kerala. It was submitted to the team that the Government of Karnataka through the Public Works Department had spent Rs. 75 Crores to repair and develop the alternative road to ensure the commuters would not face hardships.

The team while visiting the alternative road partially (SH-90, Hunsur-Gonikoppa-Kutta Sultan Bathery), noticed that it was similar to the standard of a National Highway. The road condition is very good and the team noticed that several passenger and goods vehicles from Karnataka and Kerala were using this alternative road.

Conclusion

15. In light of the deliberations made in the meetings, field visits, discussions with various stakeholders, and inspection of certain records, it is concluded that the current prevailing situation does not warrant for any changes. Similarly, there seems to be no need for any changes in the current bus volume that are permitted during the restricted hours. Importantly, wildlife such as tigers, elephants, gaur and others have behaviorally adjusted to the restricted traffic at night times which is beneficial to the long-term conservation of these species.

All arguments including convoy system, elevated highway, alternative roads, etc. have been discussed and argued at length in the Hon'ble High Court of Karnataka as well as at various joint forums of both the State Government. The steps taken by Government of Karnataka with relation to the order of the High Court to repair and improve the alternative road is satisfactory and does not lead to any hardships either to passenger or goods transporters.

The issue of distance while taking the alternative road (which is currently 35 km. longer approx.) should be taken into account from different places rather than from the boundary of Bandipur Tiger Reserve. Since, most vehicles originate from Mysore, Bangalore and other areas, the distance to calculate the alternative road should originate from Mysore. Calculation sheet depicting distance to important places through NH-212, is attached at **Annexure-V**.

As far as emergency travel is considered there are no restrictions on emergency vehicles, hence, does not affect such situations. It was also brought to my notice that there are very good quality medical, educational and other facilities within Kerala in Kalpetta, Manathavady, Vythri and other areas.

16. In light of the deliberations made in the preceding paras as above, maintaining status quo is suggested.

17. It was apprised by the consultant of Chaitanya Projects Consultancy Pvt. Ltd. (Uttar Pradesh) that under the Bharatmala Project, there is proposal to connect Bangalore with places in Kerala in which the alignment is proposed in such a manner that it would avoid Protected Areas. The proposal may be discussed with the concerned State Governments.

(Sanjay Kumar)
Deputy Inspector General,
National Tiger Conservation Authority
Tel: 011-24362716,
EPABX: 24367837-42

Dated: 23.03.2018

LIST OF ANNEXURES

1. Proceedings of the meeting along with response thereto on it from State of Kerala (**Annexure-I**).
2. Representation of Sri C.K. Saseendaran, MLA, Kalpetta (**Annexure-II**)
3. Representation of Sri. N. Badhusha, Wayanad Prakruti Samrakshana Samiti, Sulthan Bathery, Kerala (**Annexure-III**)
4. Data provided by the police department (**Annexure-IV**).
5. Calculation of distances to various places passing through NH-212 and the alternative road (**Annexure-V**).
6. Map of the landscape with existing highways and the alternative road (**Annexure-VI**).
7. Pictures of the field visit (**Annexure-VII**).
8. Pictures of the highways passing through Bandipur Tiger Reserve (**Annexure-VIII**).

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(38)

ANNEXURE - I

Principal Chief Conservator of Forests
(Wildlife) Bengaluru

Office : 080-23341993
Fax : 080-23346389
E-mail: pccfwl@gmail.com
Aranya Bhavan, 2nd Floor,
18th Cross, Malleswaram,
Bangalore-560 003

Date:12-03-2018

No. PCCF(WL)/D/CR-31/2008-09

To,

Sri. Sanjay Kumar Patak, IFS
Deputy Inspector General of Forests,
National Tiger Conservation Authority,
Government of India,
7th floor, B1 Wing,
Pt. Deenadayal Anthodaya Bhavan,
CGO Complex Lodhi Road,
New Delhi-110003

Sir,

Subject: Proceeding of the Meeting held on restrictions of Night Traffic Between 9:00 pm to 6:00 am on NH 212 and NH 67 passing through Bandipura Tiger Reseve.

DIG NTCA	
Action by	

Ref: Letter No. F.No.1-5/93-PT(Part) dated: 16-02-2018 of AIG (NTCA) New Delhi.

******

A copy of the meeting proceeding and field Visit report regarding restrictions of Night Traffic Ban between 9:00 pm to 6:00 am on NH212 and NH67 passing through Bandipura Tiger Reserve held on 06-03-2018 at Aranya Bhavana Committee Room is enclosed herewith for information & needful action.

Your's faithfully,

12/3

Principal Chief Conservator of Forests,
(Wildlife) Bangalore.

Copy with compliments to the following officers for information:
(Sriyuths)

1. The Addl. Chief Secretary to Government, Forest, Ecology & Environment Dept., M.S.Building, Bangalore -500 001.
2. Punati Sridar, IFS Principal Chief Conservator of Forests (Head of Forest Force), Karnataka
3. P.K. Kesavan, IFS Principal Chief Conservator of Forests (Head of Forest Force) and Chief Wildlife Warden, Kerala

4. P.S. Somashekar, IFS Inspector General of Forests, NTCA, Regional office, Government of India, Bengaluru
5. K. R. Jyothilal, IAS, Principal Secretary, Transport, Kerala
6. Suhas S, IAS, District Collector, Wayanad District, Kerala
7. Y.V.Prasad, General Manager (Technical), National Highway Authority of India, Regional Office, Bengaluru
8. Ambadi Madav, IFS Conservator of Forests & Field Director, Bandipura Tiger Reserve
9. R. Srinivas Reddy, IFS Chief Conservator of Forests & Field Director, Madumalai Tiger Reserve, Ooty
10. Rajendra Garawad, IFS Assistant Inspector General of Forests, NTCA, Regional Office, Bengaluru
11. Sanjay Gubbi, Member, State Board for Wildlife
12. Rajkumar D, Wildlife Conservation Foundation & Honorary Wildlife Warden
13. Praveen Ramaswamy, Nature Trust, Bengaluru
14. Ravi Shankar, Chaitanya Projects Pvt ltd, Bengaluru
15. Sharad Verma, Chaitanya Projects Pvt ltd, Ghaziabad

(38)

Proceedings of the Meetingheld on restrictions of Night Traffic between 9:00 pm to 6:00 am on NH212 and NH67 passing through BandipuraTiger Reserve.
Place: AranyaBhavana Committee Room. Time & Date:10.30pm on 06-03-2018 and field visit.

Members Present (Sriyuths)

1.	PunatiSridar, IFS Principal Chief Conservator of Forests(Head of Forest Force), Karnataka
2.	C. Jayaram, IFS Principal Chief Conservator of Forests(Wildlife) and Chief Wildlife Warden, Karnataka
3.	P.K. Kesavan, IFS Principal Chief Conservator of Forests(Head of Forest Force) and Chief Wildlife Warden, Kerala
4.	P.S. Somashekar, IFS Inspector General of Forests, NTCA, Regional office, Government of India, Bengaluru
5.	K. R. Jyothilal, IAS,Principal Secretary, Transport, Kerala
6.	Sanjay Kumar, Deputy Inspector General (DIG), NTCA, New Delhi
7.	Suhas S, IAS, District Collector, Wayanad District, Kerala
8.	Y.V.Prasad, General Manager (Technical), National Highway Authority of India,Regional Office,Bengaluru.
9.	Ambadi Madav, IFS Conservator of Forests & Field Director, Bandipura Tiger Reserve
10.	R. Srinivas Reddy, IFS Chief Conservator of Forests &Field Director, Madumalai Tiger Reserve, Ooty
11.	Rajendra Garawad, IFS Assistant Inspector General of Forests, NTCA,Regional Office,Bengaluru.
12.	Sanjay Gubbi, Member, State Board for Wildlife
13.	Rajkumar D, Wildlife Conservation Foundation & Honorary Wildlife Warden
14.	Praveen Ramaswamy, Vanya Trust,Bengaluru
15.	Ravi Shankar, Chaitanya Projects Pvt ltd, Bengaluru
16.	Sharad Verma, Chaitanya Projects Pvt ltd, Ghaziabad

The Principal Chief Conservator of Forests (HoFF), Karnataka welcomed all the participants and gave a brief introduction to the subject - imposing restrictions on the traffic passing through Bandipura Tiger Reserve between 9:00 pm to 6:00 am in NH212 for a distance of 20 kmsand NH67 for a distance of 13 kms.

"On 10-01-2018, in the Hon. Supreme Court in 13838/2010 of Special Leave to Appeal (SLP) asked to setup a committee headed by The Secretary,Ministry of Road Transport & Highways in which there would be representatives of Karnataka, Kerala & Tamil Nadu. In addition a representative from National Tiger Conservation Authority(NTCA) under the Ministry of Environment, Forests and Climate Changewill participate."

The following issues were discussed in detail;

1. Sri. Sanjay Kumar Pathak, DIG, NTCA gave a broad overview mentioning that as per the orders of the Hon'ble Supreme Court a committee has been formed headed by the Secretary, Ministry of Road Transport and Highways, Government of India (GOI). Hence this meeting was called to hold preliminary discussions and field inspections in this regardwith the representatives of Kerala, Karnataka, and Tamil Nadu to get an overview from all the stakeholders.

2. Sri. C. Jayram, IFS Principal Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden, Karnataka gave a background to the issues:.

   - In June 2009 the then Deputy Commissioner, Chamarajnagara District,based on the request of the Deputy Conservator of Forests, Bandipur Tiger Reserve passed an order to close the highways (NH-212 and NH-67) passing through Bandipur Tiger Reserve from 9.00 pm to 6.00 am,as per the guidelines of Tiger Conservation Action Plan 2007-08 to 2010-11, to maintain inviolate conditions for the tigers elephants and all other associated wildlife in the reserve during night hours and also to avoid the death of large number of wildlife due to accidents particularly during night hours.
   - Due to objections and memorandum from the Hon'ble MLA, Sultan Bathery, and objections from National Highways authorities that the Deputy Commisioner do not have powers to regulate traffic in National Highways,the Deputy Commissioner, Chamarajanagara District withdrew the order dated 03-06-2009 within one week of passing theorder restricting the movement of vehicles between 9:00 pm to 6:00 am passing through Bandipura Tiger Reserve.
   - Two Public Interest Litigations (WP. 17498/2009, 919/2010) were filed before the Hon'ble High Court of Karnataka to restore the orders dated 03-06-2009 of The Deputy Commissioner, Chamarajanagara District orders restricting the movement of vehicles during night hours passing through Bandipura Tigar Reserve. After hearing the PILs the Hon'ble High Court of Karnataka passed an interim order and restored the orders dated 03-06-2009 passed by The Deputy Commissioner, Chamarajanagara District restricting the movement of vehicles during night hours in Bandipura Tiger Reserve. Aggrieved by the interim order of the Hon'ble court nine other petitions (WP 26621-629/2009) were filed before the Hon'ble High Court of Karnataka by private bus operators and a few public representatives of Kerala and Tamil Nadu have also impleaded..
   - During the arguments before the Hon'ble Court, the counsel representing Hon'ble Members of the Parliament of Wayanad and Kozhikode constitutencies, "emphasized that if the authorities want to ban the vehicular movement during night, they should provide an alternate road", and the Learned Counsel representing State of Kerala submits "other alternate and less hazardous options are required to be explored by the authorities concerned". It was brought to the knowledge of Hon'ble court that the alternative road in case of NH-212 is the road passing through Thitimathi-Gonikoppa-

Kutta in Kodagu district and is longer by 30 kms. However, it was alleged that the alternate road condition was in a bad state. The Hon'ble Court in its final order stated "The hardship faced by the public can be compensated by directing the State Government to take appropriate and adequate measures to improve the conditions of the alternative roads and to urgently attend to the areas where the alterative roads are not in good condition."The Hon'ble Court ordered "The respondent State shall take steps to secure the safety of the commuters and transporters by repairing the bridges or culverts that are not in a good condition". The alternative road in respect of NH67 is NH-209 passing through Chamarajanagar and Satyamangalam and the road is longer by 70 kms, however the road is in good very condition.

- In obedience to the orders of the Hon'ble High Court the Government of Karnataka, the Public Works Department has spent Rs.75 crores and repaired the alternative road to NH-212.
- In addition to providing alternative roads between 9:00 pm to 6:00 am sixteen Transport Corporation buses of Karnataka, Kerala, Tamil Nadu and emergency services like ambulance and fire engines are allowed during the restricted hours.
- After deliberating all the issues, the Hon'ble Court has allowed the Public Interest Litigations and directed the National Highways authorities to ensure the restrictions of the movement of vehicles passing through NH212 and NH67 in Bandipura Tiger Reserve between 9:00 pm to 6:00 am are strictly enforced.
- Now, a SLP (13838/2010) is pending before the Hon'ble Supreme Court and a caveat by B.P.Anup, Bangalorehas also been filed before the Hon'ble Supreme Court on 25/03/2010.
- To conclude C. Jayaram IFS, PCCF Wildlife has emphasised that all the alibies brought out before the authorities and the Hon'ble Court are resolved amicably and the authorities of Karnataka have responded positively to the facilities requested by the authorities and public representatives of Kerala state. Further precipitating the issues without new or valid reason is highly unreasonable as the restrictions imposed in the use of NH212 and NH67 passing through Bandipura Tiger reserve is only for a period of 9 hours during night. He further stated that all the members present in the meeting are aware that Bandipura Tiger Reserve is one of the First protected areas brought under Tiger Conservation during 1973. Out of 24 hours if we do not spare at least 9 hours inviolate condition for the wild animals living in their own habitat we as authorities are not reasonable in our decisions.

3. Sri. Jyotilal, Principal Secretary, Transport, Kerala mentioned that the proposal of Thalassery-Mysore railway line was apossible alternative. In addition he mentioned that the elevated corridor over the existing highway (NH-212) is not feasible as it would cost over 1,800 crores. A tunnel under the existing highway is also not feasible due to the exorbitant costs.
4. PCCF (WL), Karnataka responded that there is already unrest in the district of Kodagu due to human-elephant conflict which will be escalated with the new projects like new railway lines through Thalassery-Kodagu-Mysore.
5. The Deputy Commissioner of Wayanad mentioned that the alternative road is 30 km longer, the economy is affected hence night ban may be reconsidered by increasing the number of buses passing during the restricted hours..

6. PCCF (WL), Karnataka responded that alternative road is made available by spending Rs.75 crore by the Public Works Department, Government of Karnataka in obidence to the orders of Hon'ble High Court of Karnataka. In addition, 16 state transport corporation buses of Karnataka, Kerala, Tamil Nadu and all emergency vehicles (ambulance, fire, police on duty, vehicles carrying dead bodies, etc) are allowed during the restricted hours. The present buses run by the State Road Corporations generally ply with only fifty present capacity which can be verified..
7. Sanjay Gubbi, Member State Board for Wildlife mentioned that the APMC markets close at 5.00 pm and all vegetable, fruit vehicles and other vehciles carrying perishable items have enough time to pass through NH-212 through Bandipur which closes only at 9.00 pm.
8. The CCF & EDPT, Mudumalai Tiger Reserve specified that the current arrangement is suitable and tourists and other commuters have already got adjusted to the existing modalities. He also mentioned that night closure has helped the economy in many indirect ways.
9. CF & Director, Bandipur Tiger Reserve stated that very few vehicles pile up at the Bandipur gates at night times and commuters including transporters have got adjusted to the existing restriction imposed between 9:00 pm to 6:00 am.
10. HoFF & CWW, Kerala expressedthat if possible the night closure should be extended to 6.00 pm instead of the current 9.00 pm and some buses be allowed in a convoy system at later periods during night..
11. Principal Secretary, Transport Kerala and General Manager, NHAI suggested that the alternate road (Hunsur-Gonikoppa-Kutta) should be upgraded to a four-lane highway. To which PCCF (WL), Karnatka mentioned that this would involve diversion of additional forest land passing through very sensitive areas of Kodagu district .
12. The PCCF (WL), Karnataka mentioned that the elephant movement during day time itself is is very high on NH212 passing through Bandipura Tiger Reserve.Causing disturbances during night time will lead to increased man-animal conflict. Strictly speaking a minimum 12 hours is needed for the peaceful movement and existance of the wildlife as decided by an expert committees report dated 17-08-2015. This committee was formed based on the mutual agreement of the Hon'ble Chief Ministers of Karnataka and Kerala in the meeting held on 15-04-2015.
13. PCCF & HoFF Karnataka opined that most of the South Indian rivers flowing through Protected Areas are perennial because of high density of forest cover which maintains the water balance ensuring continuous flow of water. Hence integrity of protected areas should be maintained in the interest of water security of the country. The Karnataka Government has spent lots of money on improving the alternate road", he opined and added, "Taking these alternate routes to reach Wayanad is already in place andshould be continued as per the orders of the Hon'ble High Court".
14. The meeting ended with vote of thanks by the Principal Chief Conservator of Forests (Wild Life). Further, DIG (NTCA), Principle Secretary Transport Kerala, Collector Waynad wanted to inspect the site during the restricted hours. The required arrangements were made for the team and Sri. Ambadi Madhav IFS, Director, Bandipura Tiger Reserve, Rajendra Garawad, IFS AIG (NTCA), Sri Snajay Gubbi, Member State Board for Wildlife, Sri. Rajkumar Honorary Wildlife Warden accompanied the team.

15. During the field visit it was observed that the transport corporation buses which were plying during the restricted hours had occupancy below 50% of the capacity, and the vehicles that were waiting at the gates were very minimal. A lot of elephants, gaur and other wildlife were also observed on the highways during the restricted hours. The team of National Tiger Conservation Authority (NTCA) which visited the alternative road was also happy with the conditon of the alternative road (SH-90, Hunsur-Gonikoppa-Kutta) and expressed that it is better than the highways passing through Bandipur Tiger Reserve. NTCA would submit a detailed report of the field visit.

10/3/18

Principal Chief Conservator of Forests
(Wildlife), Bengaluru

(45)

K. R. JYOTHILAL, I. A. S.
PRINCIPAL SECRETARY

Transport and Revenue (Devaswom) Dept.
Government of Kerala, Secretariat
Thiruvananthapuram-695 001

Date.....
12..03..2018

No.75/2018/Prl. Secy/Trans

To

Principal Chief Conservator of Forests
(Wildlife) Bangaluru.

Dear Sir,

Sub:- Restriction of Night Traffic between 9.00 pm to 6.00 am on NH 212 and NH 67 passing through Bandipur Tiger Reserve- proceeding of the Minutes- mistakes- reg.

Ref:- Letter No. PCCF(WL)/D/CR-31/2008-09 dated 12.03.2018 of PCCF (Wildlife) Bangaluru

With reference to your letter no. PCCF(WL)/D/CR-31/2008-09 dated 12.03.2018, I am to stated that there are lot of omission and mistakes in the minutes circulated. I have suggested in the meeting that Government of Kerala had earlier proposed permanent solution for travelling public from Sulthan Bathery area to Mysore and vice versa based on Prof. Easa's report. This may be accepted by Karnataka Government. However Karnataka Forest Department has strong objections to it.

One of the earlier suggestions to have a flyover or tunnel through Bandipur Forest area was objected by the Forest Department of Karnataka. Later on another proposal was presented before Chief Secretary, Karnataka by Chief Secretary Kerala and team from DMRC for a tunnel adjoining the Nagarhole Sanctuary. This was also objected to by Forest Department of Karnataka. At last an alternate proposal avoiding the Sanctuary area, but passing through 7 kilometres of the Reserve Forest alone in Thithimathi was also presented in another meeting between Chief Secretaries of both the States. However, permission for of this was also not granted by Government of Karnataka till date, probably due to objection by public in Kodagu District. It was also stated that there is a genuine demand from State transport

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undertaking both Karnataka and Kerala to increase frequency of buses during night time by 40 Nos by Kerala State Road Transport undertaking and 32 by Karnataka STU. As most of the Techies working in Banglore are from Malabar area, they will find it convenient to travel by night after the office hours or on week ends and any alternative route through Gonikoppa- Kutta suggested by PCCF Karnataka will increase their travelling distance by minimum 40 to 50 Kilometres and the roads are not of national highway standards. Hence it was requested that at least the state transport undertaking should be permitted to operate public transport facility in the night.

Another point which was raised was that since all consumer goods including vegetables, sand, steel etc for Wayanad come from Karnataka, and these trucks have to wait for hours at the check post. All of a sudden, in the early morning, when they enter the Wayanad district; it leads to lot of traffic congestion especially in the Ghat areas leading to road accidents as well as accident deaths. This situation gets aggregated during the pilgrim season of Sabarimala. Various alternative have been proposed including Bio- Bridges as done in Netherland, Germany, USA and other developed countries. Such alternatives has to be explored as suggested in the meeting of Secretary, MoRTH so that without compromising on the environmental protection measures, a viable long term solution can be arrived at. Until the long term solution to be suggested by the committee is materialised, public transport on convoy basis may be permitted as a short term solution.

Kindly make the correction in the minutes.

K.R. JYOTHILAL

Copy to:

(1) Secretary, Ministry of Road Transport and Highways

(2) Sri. Sanjay Kumar Patak IFS, Deputy Inspector General of Forests, National Tiger Conservation Authority, Government of India

P.K KESAVAN IFS
PRINCIPAL CHIEF CONSERVATOR OF FORESTS
(HEAD OF FOREST FORCE) &
CHIEF WILDLIFE WARDEN, KERALA

Office of the
Principal Chief Conservator of Forests &
CWW
Forest Headquarters, 'Vanalakshmi'
Thiruvananthapuram-695 014
Kerala, India.
Phone: 0471 – 2529301, Fax: 0471 2320554
Mob: 9447979002

No.WL4-6875/2009

Dated: 20/03/2018

To

Sri. Sanjay Kumar Patak IFS,
Deputy Inspector General of Forests,
National Tiger Conservation Authority,
Government of India,
7th Floor, B1 Wing, Pt. Deenadayal Anthodaya Bhavan,
CGO Complex Lodhi Road,
New Delhi-110003.

Sub: Proceedings of the Meeting held on restrictions of Night Traffic Between 9.00 PM to 6.00 AM on NH 212 and NH 67 passing through Bandipura Tiger Reserve-reg.

Ref: 1.Letter No. PCCF(WL)/D/CR-31/2008-09 dt. 12.03.2018 of PCCF (Wildlife), Bengaluru.
2.Letter No. WL4-6875/2009 dt. 14/03/2018 of HoFF & CWW, Kerala.

Action by

Please refer to the Minutes of the above meeting circulated by PCCF (WL) vide reference 1st cited above. In the minutes, it was seen that the points raised by HoFF and Chief Wildlife Warden, Kerala recorded in Para 10 was not reflecting what was presented by him in the meeting. This was pointed out and the view expressed by HoFF & Chief Wildlife Warden, Kerala in the meeting was communicated to Chief Wildlife Warden, Karnataka vide reference 2nd cited above. Copy of the same is enclosed for reference and further necessary action.

Yours faithfully,

20/03/18

Principal Chief Conservator of Forests (Head of Forest Force) &
Chief Wildlife Warden, Kerala

Copy to: Sri. P.S. Somashekar IFS, Inspector General of Forests, NTCA, Regional Office, Government of India, Bengaluru for favour of information and further necessary action.

Wayanad Wildlife Sanctuary. The Wayanad WLS has borders with Bandipur Tiger Reserve and Nagerhola Tiger Reserve. The animals freely move in this contiguous landscape. Government of Karnataka has its own point of view on the issue while the Government of Kerala also has its own view. Major part of the negative impact of the closure has fallen on Kerala and that too on the Forest Department. Very high level of friction between people and Kerala Forest Department in Wayanad is directly or indirectly linked to this ban. The present ban has been imposed neither on the advice of NTCA nor under the provisions of Wildlife Protection Act. Therefore the NTCA should take a holistic view and that is expected to be in line with what is ideal for this entire landscape.

The socio political situation on Kerala side of the landscape does not allow imposing any ban on night traffic on the stretch of the National Highway passing through Kerala. Instead of closing part of the animal territory and leaving the other part open, a better option of closing for a more acceptable duration should be considered.

It is also seen that 16 buses are allowed to pass during the closed period at different times.

Keeping all these in view, it is suggested to allow vehicles to pass in convoy during the period which is found to be least sensitive to the wildlife. This can be considered without reducing the closure period of 9 hours by starting the ban earlier than the present 9 PM and by bunching of the 16 buses which are even now allowed. NTCA should favorably consider this proposal as it is likely to be better for the animals which freely move between the two States".

The para 10 of the minutes may please be replaced with the above.

Yours faithfully,

15/03/18

Principal Chief Conservator of Forests (Head of Forest Force) &
Chief Wildlife Warden, Kerala

(42)



C. K. SASEENDRAN
KALPETTA
KALPETTA NORTH
WAYANAD-673 122

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E-mail : cksaseendranmla@gmail.com

CAMP.....

DATE.....

TEMPORARY SOLUTIONS (SHORT-TERM)

1. To permit the vehicles in convoy system from 9 pm to 6 am.
2. To limit the speed of the passing vehicles.
3. To install speed-sensing CCTV surveillance / cameras in the forest and impose fine on violating vehicles.

Thanking you,
Yours faithfully,

C.K.SASEENDRAN MLA
(KALPETTA L.A.C, WAYANAD DISRICT)

ANNEXURE-II

C. KRISHNA ENDRAN
KALPETTA
MEMBER
KERALA LEGISLATIVE ASSEMBLY
VIJAYAS
PONNADA
MANIPANKODE P.O.
KALPETTA NORTH
WAYANAD-673 121

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CAMP KALPETTA

DATE 07-03-2018

No: MLA KPTA-TVM / 62 / 2018

To,

The Chairman / Secretary, Central Surface Transport Dept,

High Level Committee on Night Traffic Ban on NH – 766

Respected Sir,

The Hon. Supreme Court has constituted a High Level Committee to submit the report regarding the night traffic ban on Kozhikode – Kollagal highway (NH 766) on 10-1-2018. I, on behalf of the people of Wayanad district submit the following suggestions for the kind consideration and discussion of the high level committee. I request the committee to help the people *by recommending lifting of the ban on night traffic*, by submitting these suggestions before the Hon. Supreme Court.

SUGGESTIONS BEFORE THE HIGH LEVEL COMMITTEE IN CONNECTION WITH THE NIGHT TRAFFIC BAN ON NH-766

PERMANENT SOLUTIONS (LONG-TERM)

1. To construct a tunnel through the forest, and permit the vehicles in "roll-on, roll-out" method from 9 pm to 6 am, as in Konkan railway.
2. To construct fly-overs, bio-bridges etc. and let the vehicles and animals pass through them.

(50)

ANNEXURE-III (25)

വയനാട് പ്രകൃതിസംരക്ഷണ സമിതി
പി.ഒ. സുൽത്താൻ ബത്തേരി
വയനാട്-കേരളം 673 592

WAYANAD PRAKRUTI SAMRAKSHANA SAMITI
P.O. Sulthans Bathery,
Wayanad-Keralam 673 592
Ph :

Dt. .....

President/Secretary

07.03.2018
Bandipur

To,
The Honourable Chairman
Committee on Night Traffic Ban on NH 212 and NH 67
(Appointed by Supreme Court of India)
Supreme Court of India
New Delhi

Respected Honourable Chairman Sir,

Sub:- Regarding Night traffic Ban on NH 212

I, (N.Badhushah) would like to present our humble representation on behalf of our Organisation, 'Wayanad Prakruti Samrakshana Samiti', based in Sulthan Bathery, Wayanad District in Kerala. We are also one of the petitioners in the Writ Petition W.P.No.919/2010 in favor of the night traffic ban. The night traffic ban is a true blessing for the large mammals as well as millions of small mammals, reptiles, amphibians and many more who inhabit these tracts of forests, all of them protected under Wildlife Protection Act 1972.

While the night traffic ban is in force, there is a significant reduction in conflict in the Wayanad district, which has one of the highest number of Human wildlife conflict incidents in the country.

I would like to emphasize on the fact that none of the agriculture based people from neither Karnataka nor Kerala were affected by the night traffic ban. There were no large scale protests or agitations in this regard from ordinary people. The only agitation or more of a demonstration was done only by vested interest and for political mileage in this region.

Contrary to the claim, people in Waynad reach out towards Kozhikode and Eranamkulam districts for emergency medical needs, the people residing in Wayanad have for a very long time depended mostly on Calicut Medical College, Kozhikode and hospitals in Eranamkulam district for medical emergencies or for specialty care.

For education requirements also the adjoining districts as well as Wayanad is also dependent on the facilities available within the district which are at par with any other educational institute in our country.

I also bring to your notice that there are 8 buses that ply between 21:00 hrs and 06:00 hrs on a daily basis between Kozhikode and Bangalore, where four buses ply from Bangalore (Karnataka) towards Kozhikode(Kerala) and four buses from Kozhikode towards Bangalore, consisting of a total of four buses operated by Kerala State Road Transport Corporation and four buses operated by Karnataka State Road Transport Corporation. The irony of the matter is that these buses are filled to capacity only on weekends and during weekdays some of these buses actually run with few seats filled or no seats filled to destination. These records exist with the respective state transport corporations and can be verified to justify the claims.

However in case people need to go towards Mysore anytime, there is also an alternate route via Kuttah, Gonnikkopal, Mysore which is only 35 kms more that the road that passes through the Tiger reserve which the Government of Karnataka had renovated in the recent past. Karnataka had undertaken renovation work at a cost of nearly 80 crore in the year 2012-2013 and this road is in good condition to commute as well as reducing the risk with any wild animals encounter that might otherwise be on the road within the Tiger Reserve especial at night hours.

Currently, for the past 8 years now, the residents of Wayanad are accustomed to the night traffic ban and it is understood since there is no adverse impact on agriculture or trade in the district. This night traffic ban is only a mild inconvenience to people where as the wildlife are benefitted in more ways that can be explained. Biotic as in Living beings and Abiotic such as the environmental factors which get adversely affected by noise pollution, air pollution, water pollution .

This Nilgiri Biosphere Reserve is one of the last remaining large contiguous forest patch in our country which has stood the test of time and still managed to support the single largest population of Asian Elephants and Tigers. If such sources of wild populations are adversely affected, then these losses are irreparable and it would mean create damage in disastrous proportions. Here in these forests the wildlife, some of the mammals have a life span of only 15-20 years, have more than three fourths of their lifetime have habituated their life with this schedule of night traffic ban and the wildlife movements have increased during this period, any alterations in this juncture, would be extremely disastrous as the animals which are 'animals of habit' and have seen 21:00 to 06:00 hrs as no disturbance time and their threat perception during night time cannot be predicted and so there could be an increase in road kills now more than ever. Any alterations during this time would create more road kills than pre-night ban times. Since most of the species prefer undisturbed time for their movement and now that they are accustomed to these timings, night traffic ban provides a solace for these poor creatures that share our planet. Rates of mortality are closely linked with movement patterns, as more movement generally incurs a greater chance of coming into contact with a road. Animals with large home ranges, such as Asian Elephants, Tigers, Leopards, Dhole with larger home ranges, have a high chance of encountering roads as they traverse such large distances. Movement during particular life stages can also result in peaks in mortality, like adult Males in search of receptive females in heat. These patterns are often associated with reproduction, and hence humans might not be in a position to restrict their movement with any structure as we have seen in very many examples in real life. Many reptiles begin dispersing immediately after hatching, which also results in mortality peaks. In Dhole (Wild dogs), the female repeatedly visits cubs at breeding sites, sometimes up to 10

(5)

times in a single night, which increases the chance for mortality. Some studies have reported movement rates as the single greatest factor influencing the risk of road mortality. Such movements are instinctive and we might lose many species experimenting our ideas.

The locomotion, ecology and behavior of animals collectively determine their vulnerability to road kill by vehicles. Especially susceptible are: slow-moving, ground-dwelling species such as mouse deer, striped neck mongoose, ruddy mongoose, porcupines, small Indian Civet, Brown palm civet which are primarily nocturnal species including many amphibians, reptiles where the locomotion per se are slow due to body weight, such as Indian rock python, Russell's Viper, Common Krait, terrapins and tortoise (which migrate to water holes during dry periods to water holes with considerably more water).

Apart from direct impacts such as road kills and movement restrictions, Roads can also be a conduit for pollutants into the environment. The oils and other pollutants that run off from roads into adjacent ponds/streams can decrease survivorship of many amphibians and bird life that depend on the water source. The frequency of vehicles per day is estimated approximately at 4500 vehicles per day and 4000 vehicle per day at NH 212 and NH 67 respectively, we can only imagine the pollution and disturbance to the precious wildlife. A reprieve of 9 hours a day is all we ask to help other creatures survive and co-exist in this planet.

I request all the members to be accommodative in their gestures and let's not forget that we live in a country that has a rich heritage where we follow, 'LOKAH SAMASTHA SUGINO BHAVANTHU' meaning let every living creature live and exist in peace and harmony.

Also humbly requesting all of us to take pride in such a blessing that these wild species can get in an island surrounded by human habitation, these last and few protected areas, rather large refugia like our Bandipur Tiger Reserve, Wayanad Wildlife Sanctuary and Mudumalai Tiger Reserve are the only places that provide some refuge for these endemic species and endangered species to survive.

Kindly do the needful and provide justice to the country's wildlife and wild spaces.

Looking forward for a positive step towards conservation,

Yours most sincerely,

(N.Badhushah)

Wayand Prakriti Samrakshana Samiti
Sulthan Bathery
Wayanad; Kerala 673592
Contact no: +91 85475 90222

(53)

ANNEXURE - IV

NO/CPI/GPET/CC/ 38 /2018

Office of the Circle Inspector of Police
Gundlupet Circle
Chamarajanagar District. Dtd 07-03-2018

To

Sri Sanjay Pathak: IFS
DIG, National Tiger Conservation Authority
New Delhi.

Copy To.

1. Principal CCF
wild life
Bengaluru

2. Superitendent Of Police
Chamarajanagara District.
Chamarajanagara.

3. Assistant Conservation of Forest
Bandipura Wild life.
Bandipura.

Respected Sir,

Sub :- Details of cases registered since 2004 in Gundlupet to Sulthan bathery Road and Gundlupet to ooty Road (in Forest Area) regarding.

Ref :- ACF/Bandipura Tiger Project/Road Accident/2017-18. Dated 03-03-2018.

* * * * *

With Reference to the subject cited above, as per your above reference letter cases which are registered since 2004 in Forest area like Madduru to Moolahoole Traffic area and Melukamanahalli to Kekkanahalla Forest area is as follows.

(BEFORE CLOSING CHECK POST DATA)

Year	Murder	Dacoity	Robbery	Accident Cases			
				Madduru to Moolehole		Melukamanahalli to Kekkanahalla	
				Fatal	Non Fatal	Fatal	Non Fatal
2004	0	0	0	01	09	02	0
2005	0	0	01	07	13	0	02
2006	0	0	0	02	04	0	3
2007	0	0	0	03	0	04	03
2008	0	0	0	01	07	01	12
2009	0	0	0	01	07	01	05
Total	0	0	1	15	40	8	25

(57)

(AFTER CLOSING CHECK POST DATA)

Year	Murder	Dacoity	Robbery	Accident Cases			
				Madduru to Moolehole		Melukamanahalli to Kekkanahalla	
				Fatal	Non Fatal	Fatal	Non Fatal
2010	0	0	0	01	05	0	04
2011	0	0	0	0	04	0	03
2012	0	0	0	01	02	0	03
2013	0	0	0	01	02	0	02
2014	0	0	0	01	01	0	01
2015	0	0	0	0	05	0	02
2016	0	0	0	02	02	0	06
2017	0	0	0	01	01	0	03
Total	0	0	0	07	22	0	24

I here by submitted the above statistics for your kind perusal

Thanking You,

You's faithfully

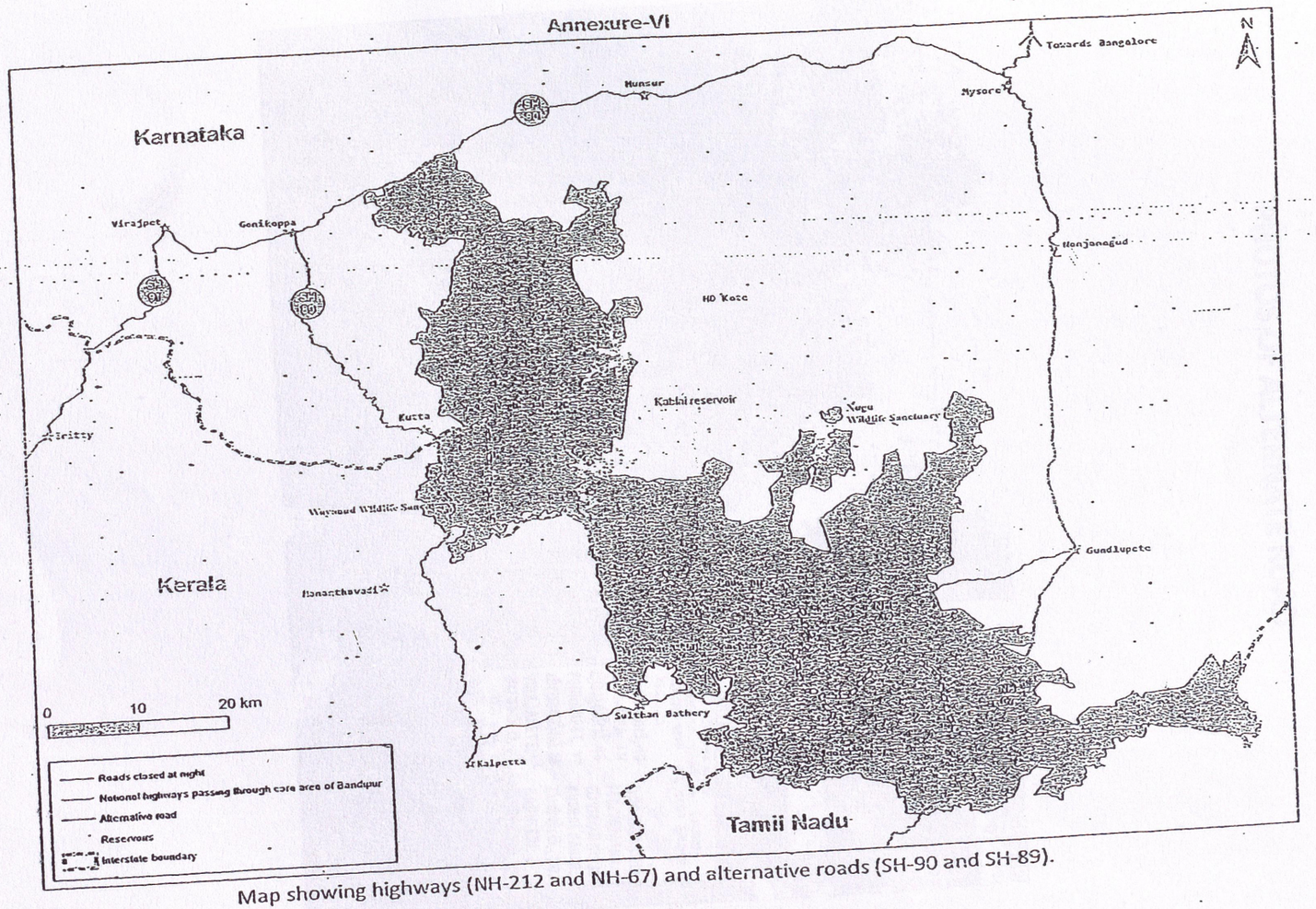
CIRCLE INSPECTOR OF POLICE
Circle Inspector of Police
Gundlupet Circle
Gundlupet Circle
Gundlupet Nagar District

Annexure-V

Distance to important places through NH-212

From	To	Distance through NH-212 (km)	Distance through alternative road (km)	Difference
Bangalore	Kalpetta (district headquarter of Wayanad)	285	323	38
Mysore	Kalpetta	135	173	38
Mysore	Mananthavadi	154	153	-1
Nanjangud	Kalpetta	114	199	86
Gundlupete	Kalpetta	77	224	147
Hunsur	Kalpetta	172	129	-43
Gonikoppa	Kalpetta	229	85	-144

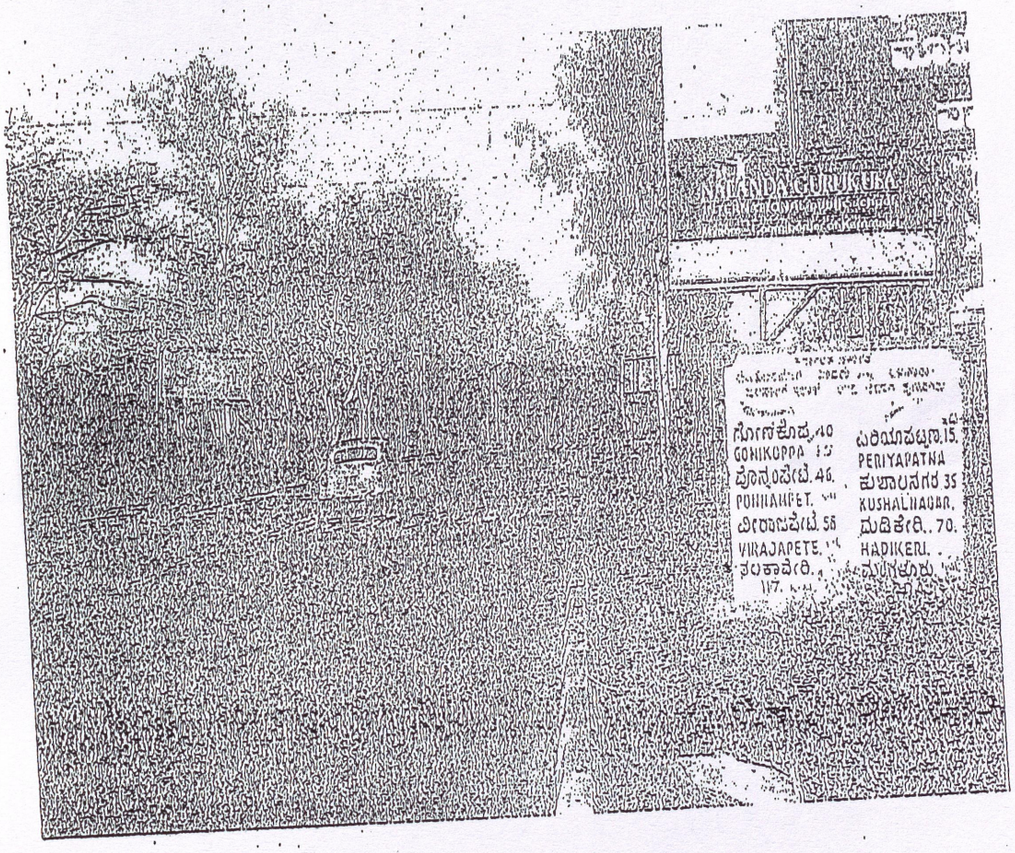
Annexure-VI



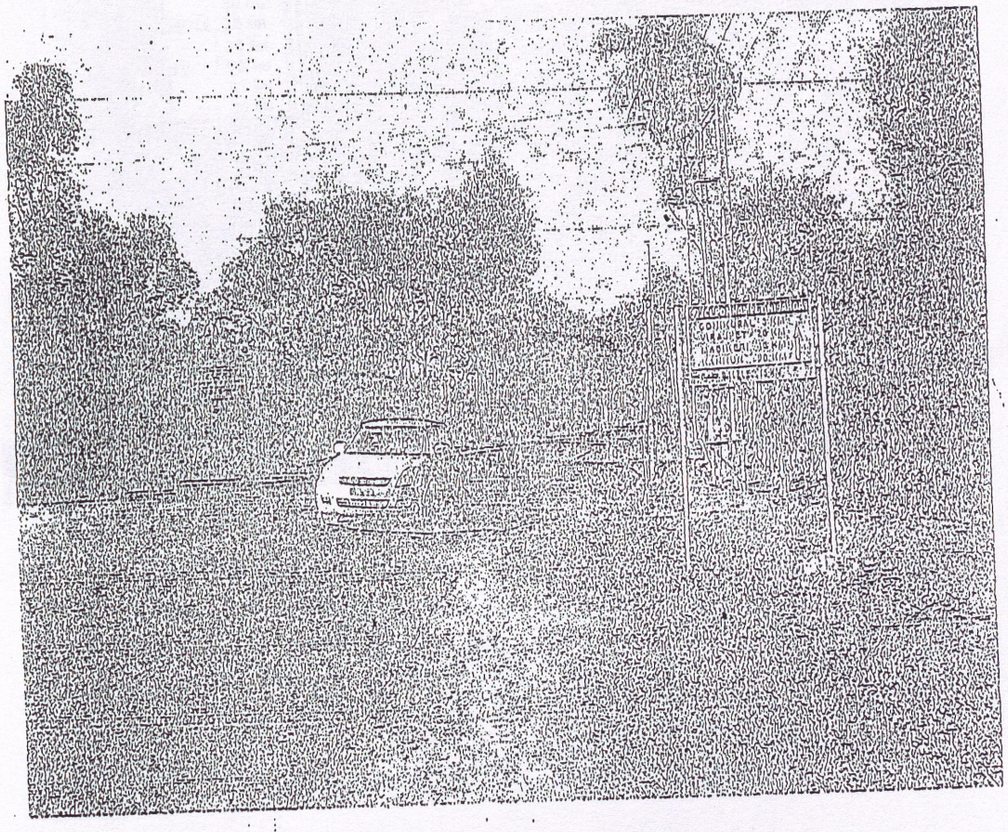
Map showing highways (NH-212 and NH-67) and alternative roads (SH-90 and SH-89).

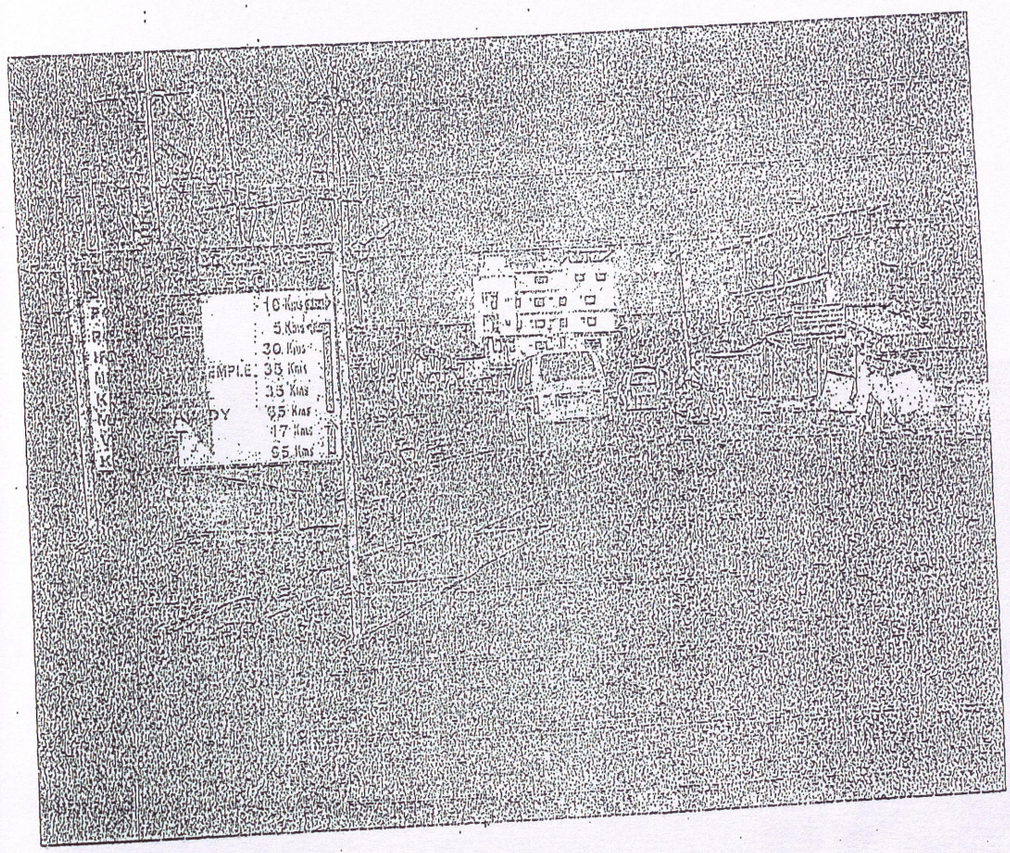
ANNEXURE - VI

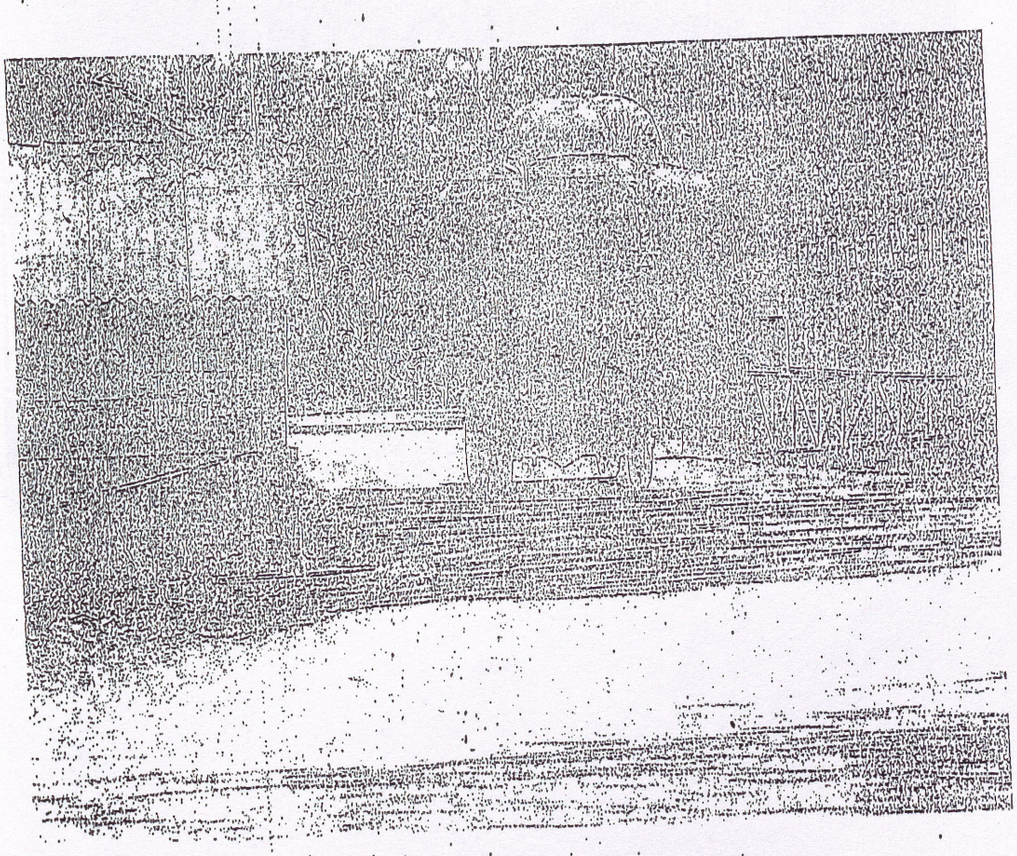
PHOTOS OF ALTERNATE ROAD

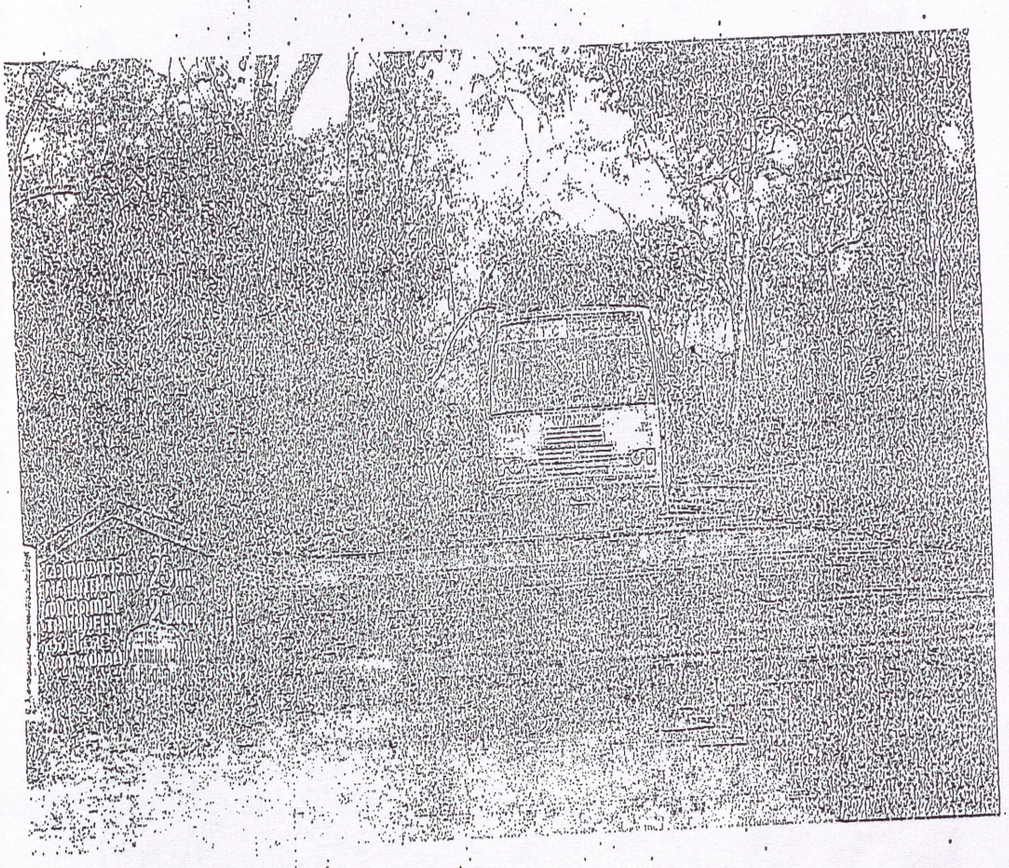


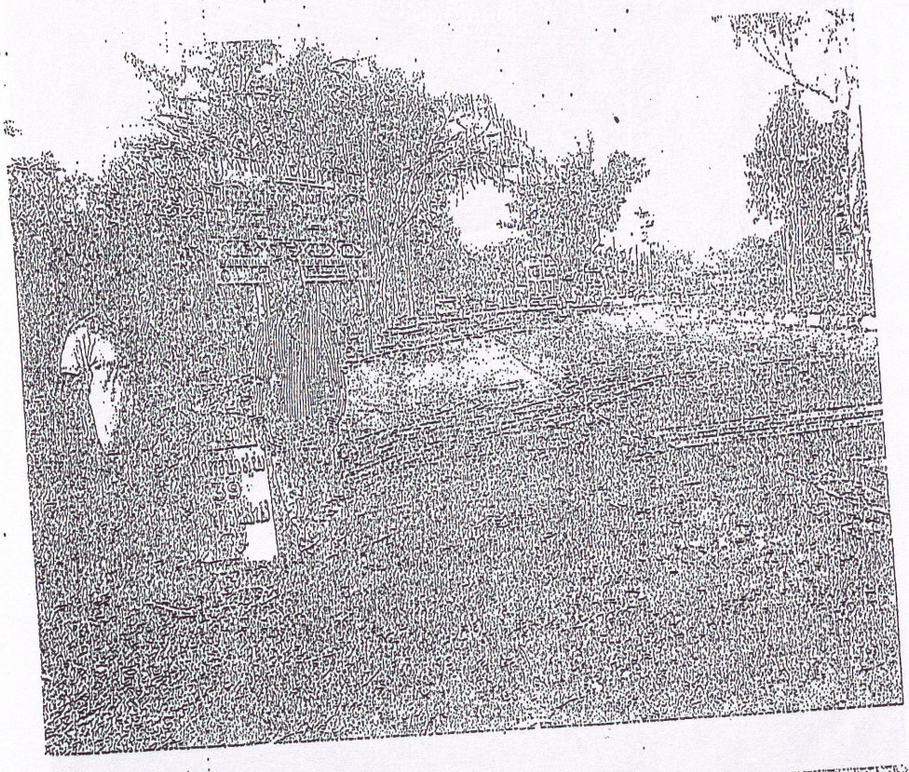


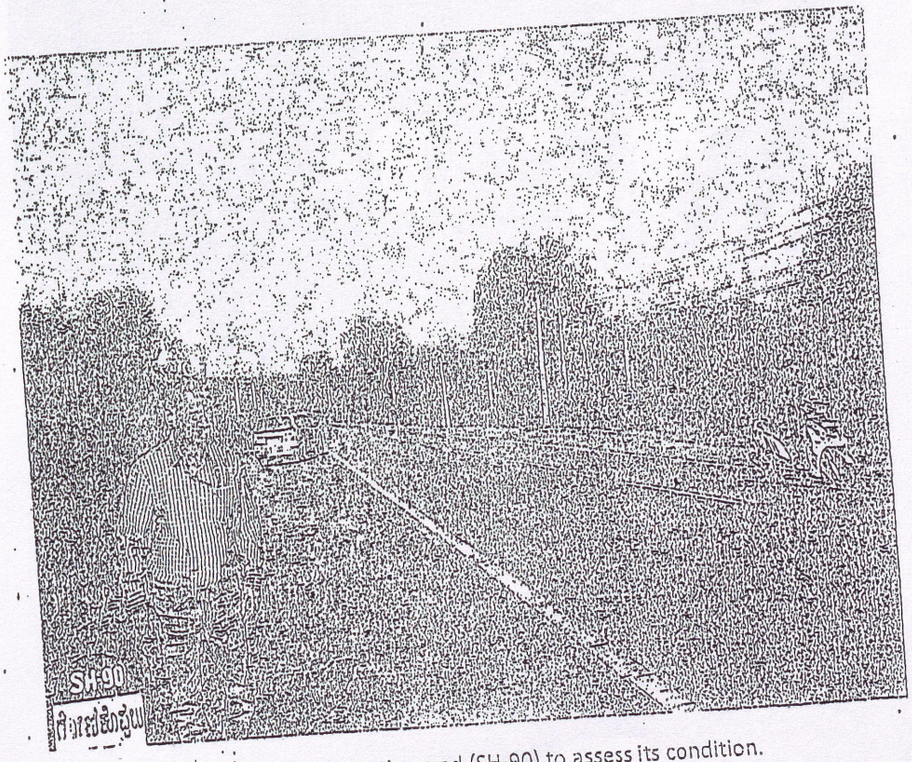



10 Kms
5 Kms
30 Kms
35 Kms
95 Kms
17 Kms
65 Kms



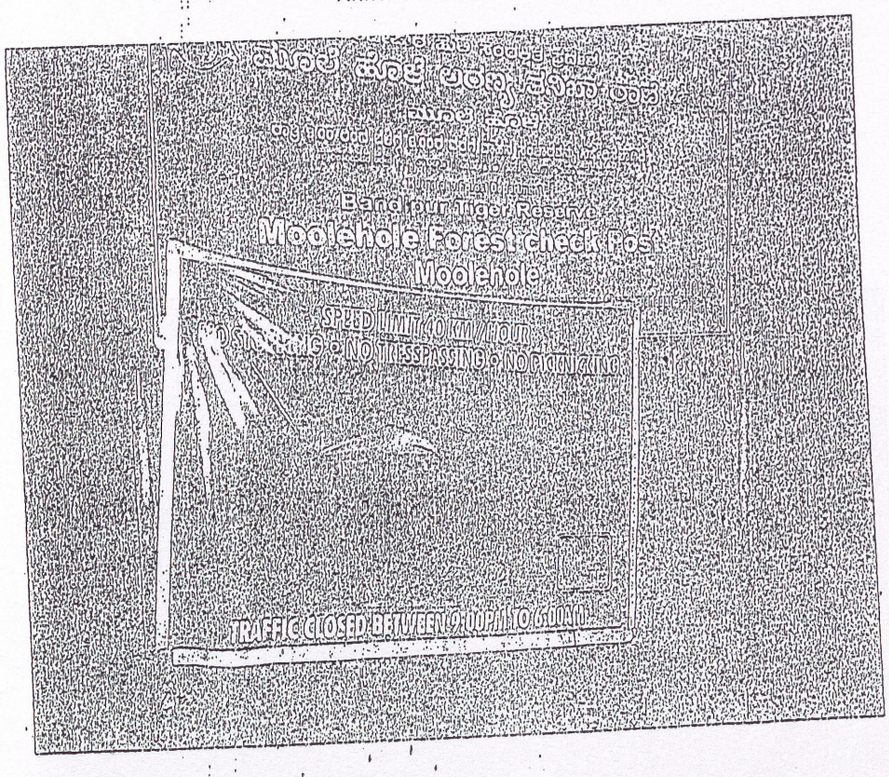


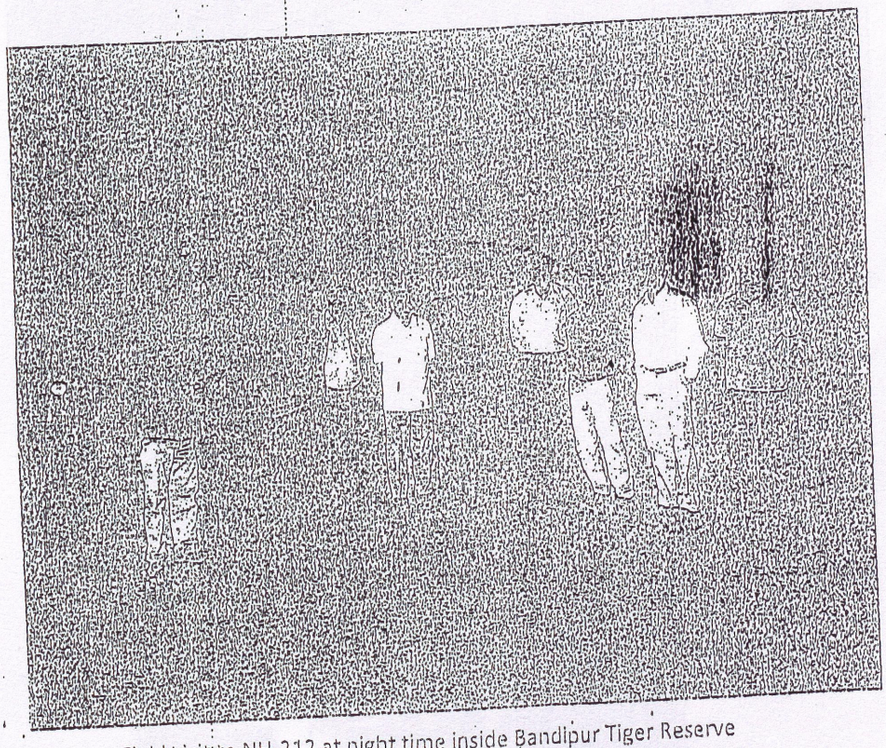




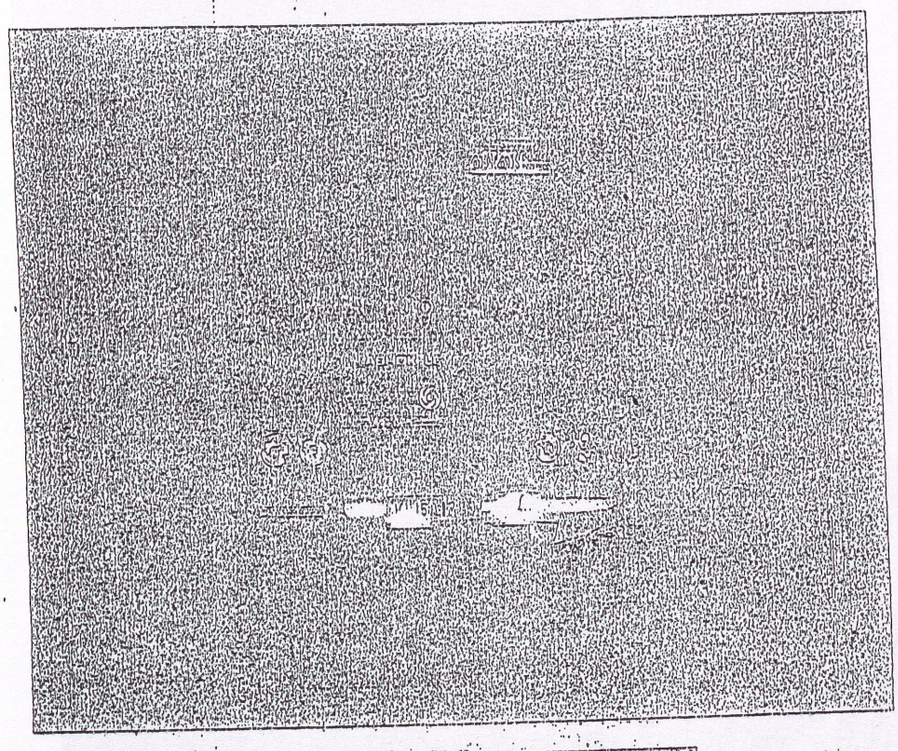
Visit to the alternative road (SH-90) to assess its condition.

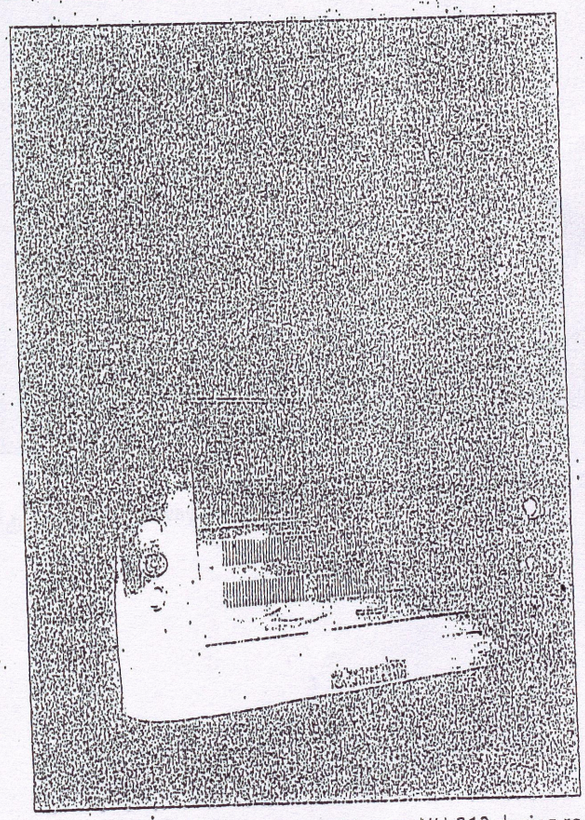
Annexure-VII



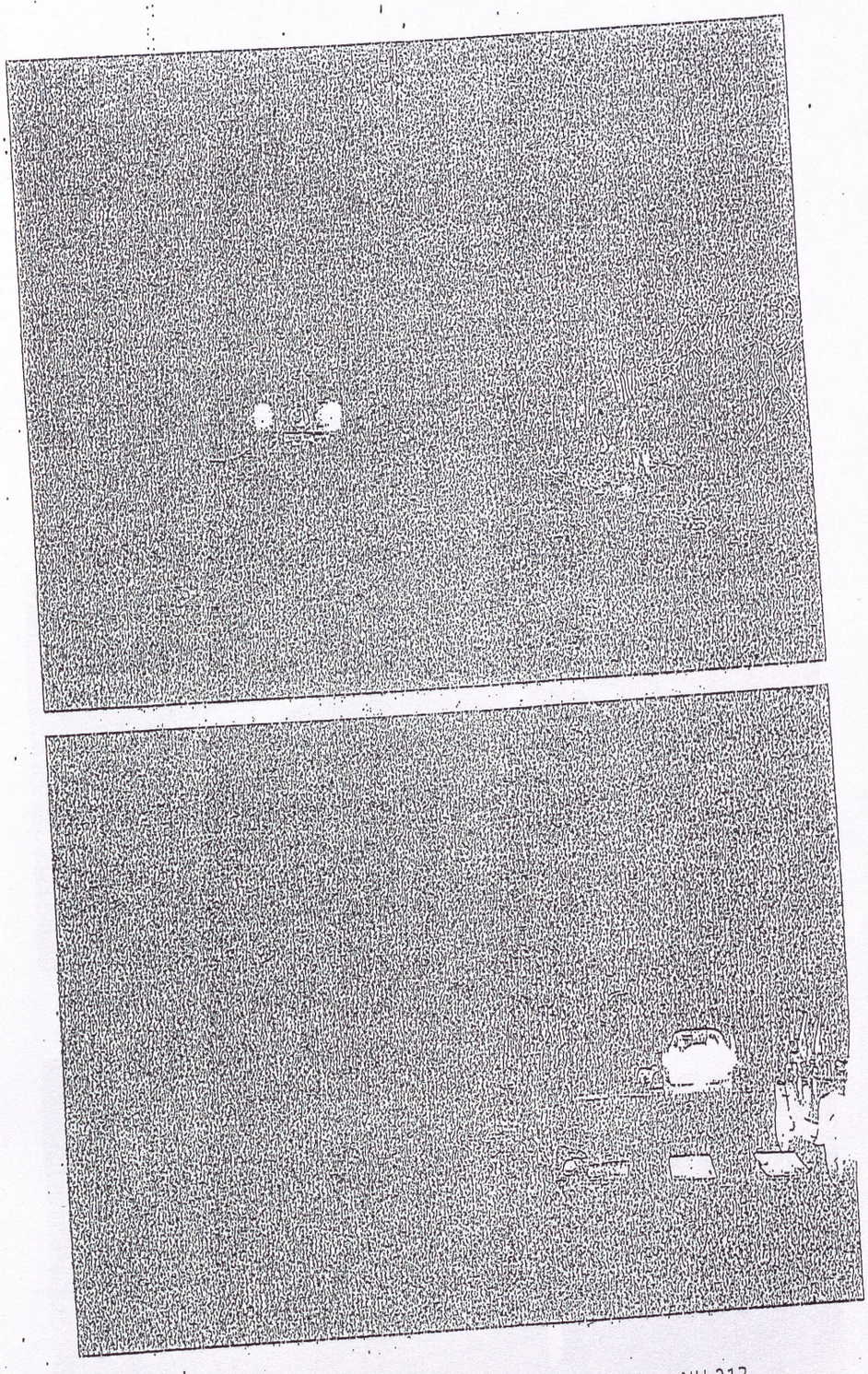


Field visit to NH-212 at night time inside Bandipur Tiger Reserve

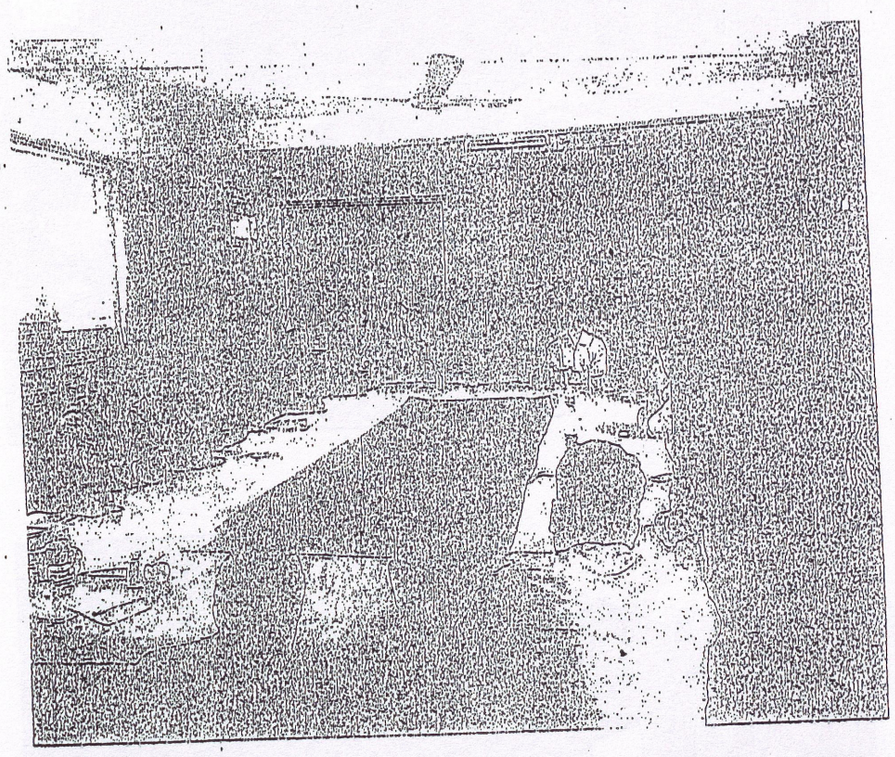


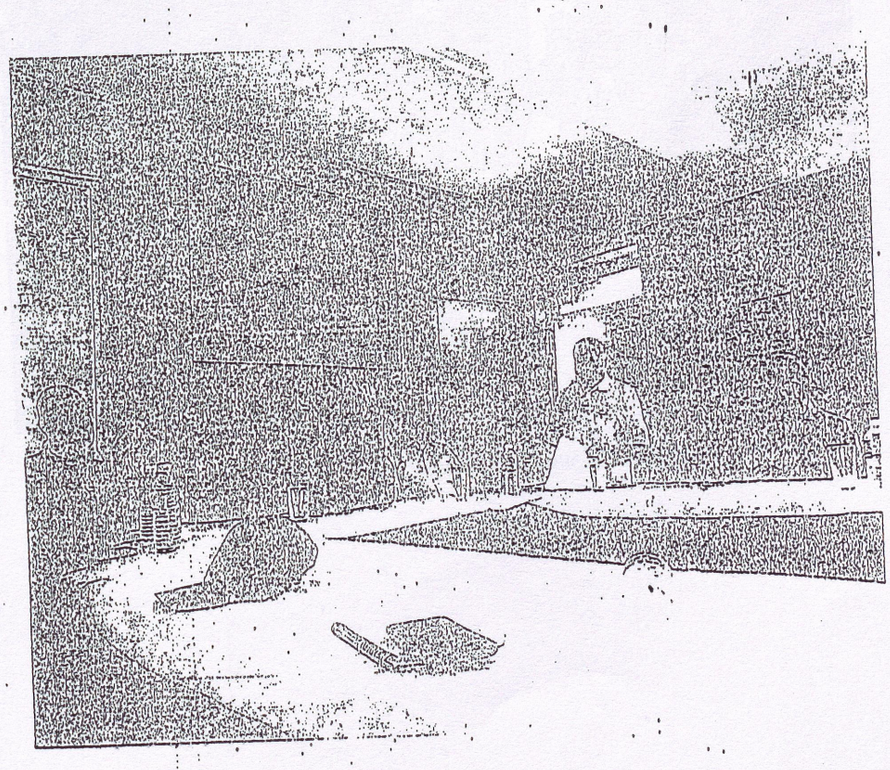


State Transport Corporation buses passing on NH-212 during restricted hours.

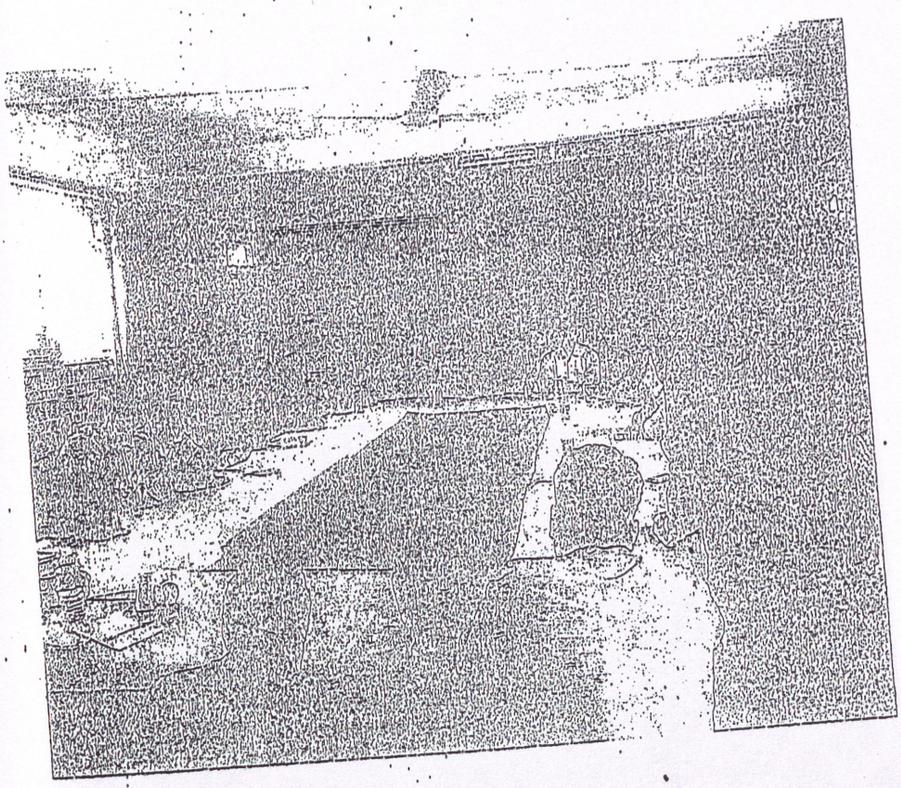


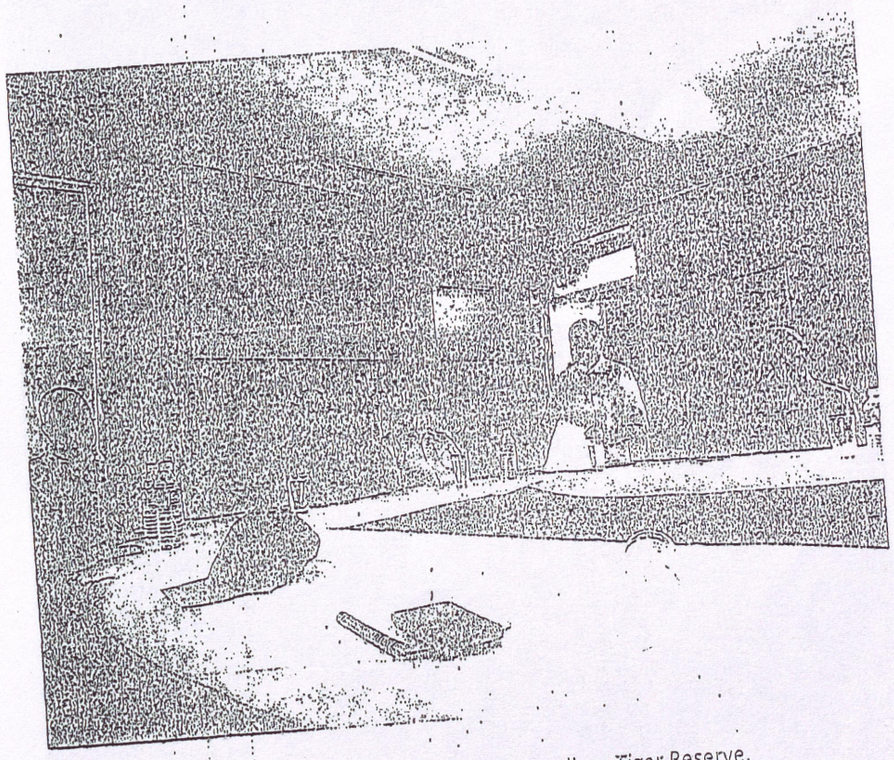
Wildlife at the highway edge and crossing the road during visit to NH-212.





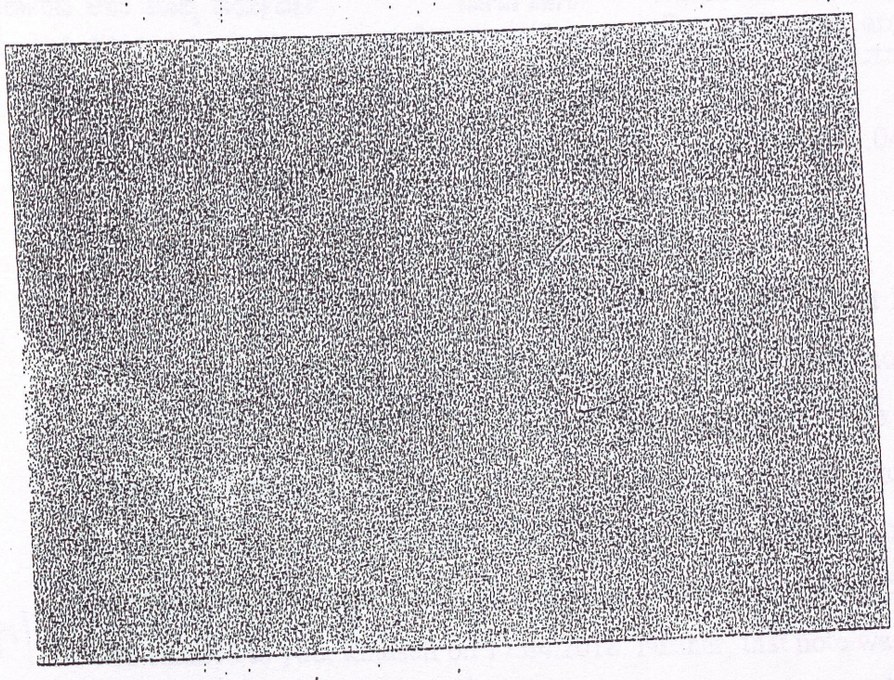
Meeting of different stakeholders in Bandipur Tiger Reserve.

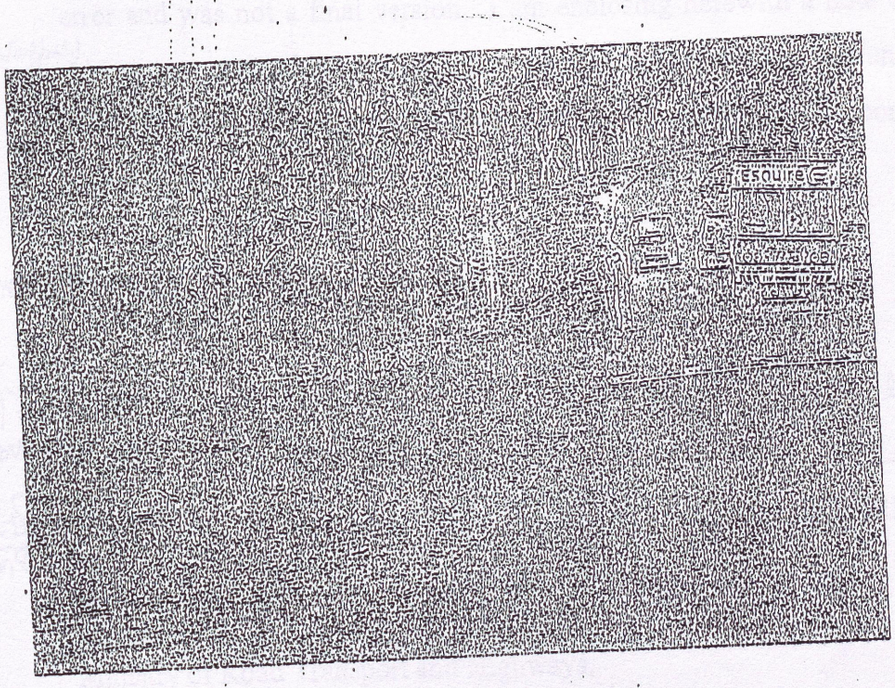




Meeting of different stakeholders in Bandipur Tiger Reserve.

Annexure-VIII





Travelers are at great risk on the highways passing through Bandipur Tiger Reserve.

(70)

Annexure-6

ವಂದಿತಾ ಶರ್ಮಾ, ಭಾ.ಆ.ಸೇ.
ಸರ್ಕಾರದ ಅಪರ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿ
ಅರಣ್ಯ, ಜೀವಿ ಪರಿಸ್ಥಿತಿ ಮತ್ತು ಪರಿಸರ ಇಲಾಖೆ

ಕರ್ನಾಟಕ ಸರ್ಕಾರ
Government of Karnataka

VANDITA SHARMA, I.A.S.
Additional Chief Secretary to Gov
Forest, Ecology and Environmen
Department

D.O. No. FEE 132 FWL 2013 (P-I) Date:19.04.2018

O/o Secretary, MoRTH
Dairy No: 127589
Date: 23/4/18

Dear Sir,

This is in pursuance to the meeting held on 13.04.2018 at 2.30 pm under your Chairmanship with regard to the Special Leave Petition (civil) No. 13838 of 2010 in the Hon'ble Supreme Court of India – State Govt. of Kerala v/s Shri L. Srinivasa L. Srinivasa Babu and others. During the meeting your kind self had ask me to send a **note** on the stand of the Karnataka State Government. Accordingly, a note had been prepared and was emailed to your kindself on 17.04.2018. Further, that note was send by error and was not a final version. I am enclosing herewith a note on this subject as requested by you. This note has 3 Annexures which are enclosed herewith. You are requested to kindly include this note in your report to be placed before the Hon'ble Supreme Court of India.

23/4/18

ADG (Shri Nagpal)

on the immediately

With kind regards,

Yours sincerely,

Vandita Sharma

(VANDITA SHARMA)

24/4

SE (Zone III) I

SE (K-III)
24/4/2018

Sri. Yudhvir Singh Malik, I.A.S.,
Secretary,
Ministry of Road Transport and Highways,
Transport Bhawan,
1, Parliament Street,
New Delhi -110 001.

ನಂ. 448, 4ನೇ ಮಹಡಿ, ಗೇಟ್ ನಂ.2, ಬಹುಮಹಡಿ ಕಟ್ಟಡ, ಡಾ|| ಬಿ.ಆರ್. ಅಂಬೇಡ್ಕರ್ ವೀಧಿ, ಬೆಂಗಳೂರು-560 001
ದೂರವಾಣಿ: 080-2225 6722 / 2203 2509, ಫ್ಯಾಕ್ಸ್: 080-2225 8393, ಮಿಂಬರಹ: prs-fee@karnataka.gov.in / prsfee@gmail.com
No. 448, 4th floor, Gate No.2, M.S. Building, Dr. B.R.Ambedkar Veedhi, Bengaluru – 560 001
Tel: 2225 6722 / 2203 2509, Fax: 080-2225 8393, Email: prs-fee@karnataka.gov.in / prsfee@gmail.com

NOTE

Sub: Special Leave Petition (Civil) No.13838 of 2010 in the Hon'ble Supreme Court of India – State Govt. of Kerala V/s. Shri L. Srinivasa L. Srinivasa Babu & Ors. Meeting of the Committee constituted as per order of Hon'ble Supreme Court under the Chairmanship of Secretary, MoRTH.

*****

Preamble:

1. Two National Highways namely NH-212 for a distance of 20 km (between Maddur and Moolehole) and NH-67 for a distance of 13 km (between Melakamanahalli and Kekkanahalla) pass through the core of Bandipur Tiger Reserve which is a important habitat for our national animal - the tiger. Bandipur Tiger Reserve also forms part of the Nilgiri Biosphere Reserve notified by the United Nations Educational, Scientific, and Cultural Organisation (UNESCO).

2. The forest staff of the Bandipur Tiger Reserve noticed the deaths of a large number of mammals including leopards, tigers, elephants, sambar deer, spotted deer, barking deer, many species of birds and snakes due to road accidents on both the National Highways. Between 2004 and 2007 there are records of death of 89 mammals, 73 birds and 53 snakes due to the vehicular accidents on both the National Highways passing through the Bandipur Tiger Reserve. Many deaths even go unnoticed.

3. There was an outcry from the public and environmentalists to restrict the nighttime traffic passing through the Bandipur Tiger Reserve. The Deputy Conservator of Forests, Wildlife Division, Project Tiger, Bandipur in his letter dated: 23-01-2009 requested the Deputy Commissioner (DC), Chamarajnagar to

pass an appropriate order restricting the night-time traffic passing through both the National Highways. By exercising the powers under Section-115 of Motor Vehicles Act, the DC, Chamarajnagar passed an order on 03-06-2009 and restricted the movement of vehicular traffic between 9.00 pm and 6.00 am on both the National Highways passing through the Bandipur Tiger Reserve.

4. Aggrieved by the orders of DC, Chamarajnagar, public representatives of Sultan Batheri and Waynad in Kerala and the road transport authorities from Kerala requested the DC, Chamarajnagar to withdraw the order dated: 03-06-2009. The DC, Chamarajnagar withdrew the order dated: 03-06-2009 on 10-06-2009. Aggrieved by the withdrawal of the orders of DC, Chamarajnagar, two Public Interest Litigations were filed before the Hon'ble High Court of Karnataka (WP 17498/2009 and WP 919/2010). On 27-07-2009 The Hon'ble High Court of Karnataka passed an interim order and restored the first order of DC, Chamarajnagar dated: 03-06-2009 imposing the restrictions on the movement of night-time traffic on the both National Highways between 9.00 pm and 6.00 am. Aggrieved by the interim orders of the Hon'ble High Court, transport operators filed Writ Petitions before the Hon'ble High Court of Karnataka vide WP No. 26621-629/2009. During the pendency of the Writ Petitions various other persons have come up with impleading applications to air their grievances before the Hon'ble Court.

5. On hearing the legal contentions raised by all the parties, the Hon'ble High Court of Karnataka considered two important legal points out of their contentions namely;

   i. Whether, in the interest of preservation and protection of wildlife in the Bandipur National Park, it is necessary to regulate and restrict night-time traffic in the park?

(73)

ii. If so, how best the hardship caused to the transporters, traders and public can be mitigated?

The Hon'ble Court considered both the points together as they are interconnected. The Hon'ble Court appreciated the importance of conserving wildlife including tigers. Bandipur Tiger Reserve is in the forefront of tiger conservation in the country as it is one of the first Protected Areas to be brought under the Project Tiger Programme in 1973. Presently the Tiger Reserve attains global attention due to its conservation success story. Other than the tiger, the Reserve hosts a number of other endangered and threatened wildlife species such as elephant, gaur, sambar, spotted deer and a number of bird, reptile, amphibian and floral species. The extent of tiger reserve is spread over an area of 990 sq km. Bandipur Tiger Reserve is abutted by Nagarahole and Mudumalai Tiger Reserves and Waaynad Wildlife Sanctuary forming a large landscape required for conservation of species like tigers and elephants.

The protection of endangered species such as the tiger has become a challenge for mankind. At the same time, it has to be balanced with the needs of the people.

In this background, the restriction of nighttime traffic within Bandipur Tiger Reserve had to be seen in the interest of both wildlife and commuters who use these National Highways. The Members of the Parliament from Wayanad and Kozhikode constituencies in Kerala, who were also parties in the said case, indicated that an alternative road should be provided for nighttime traffic. The alternative road available with respect to NH-212 is a State Highway passing through Thithimathi-Gonikoppa-Kutta and the road is longer by 30 km and was supposed to be not in good condition. Hence, the Hon'ble Court came to a conclusion that the authorities should repair the existing alternative road to help any hardships faced by commuters due to the restriction imposed on vehicular

movement during night hours within Bandipur Tiger Reserve. The Hon'ble Court directed the Public Works Department, Government of Karnataka to undertake immediate measures to improve the conditions of the alternative road. Based on the order of the Hon'ble Court the Government of Karnataka undertook the task and improved the condition of the alternative road by spending Rs.75.00 crores. The Hon'ble High Court of Karnataka also directed National Highways Authority of India to take all the necessary action to ensure the ban during the night hours from 9.00 pm to 6.00 am for vehicular traffic on both the National Highways passing through Bandipur Tiger Reserve is effectively enforced.

6. After compliance of the Hon'ble High Courts orders by providing alternative road during the restricted hours and allowing four buses each from Karnataka, Tamil Nadu and Kerala State Road Transport Corporations in addition to allowing emergency services like ambulances, fire tenders, vehicles carrying deadbodies, police officials on duty, a few people filed Writ Petitions before the Hon'ble Supreme Court of India.

7. The Hon'ble Supreme Court on 06-05-2010 passed an interim order to explore the possibility to work out the modalities of transporting goods vehicles by means of some convoy system during the nighttime. Based on this order a meeting comprising of senior officials of Government of Kerala and Karnataka was held on 30-06-2010. During the meeting it was found that the convoy system was not feasible.

8. Further, on 15-04-2015 the Hon'ble Chief Ministers of Kerala and Karnataka met in Bengaluru to discuss the issue of restrictions imposed on nighttime traffic in Bandipur Tiger Reserve. It was decided to take the opinion of the

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experts on this matter. In this background an expert committee that included Prof.Sukumar, Indian Institute of Science, Dr.A.J.T.Johnsingh, Retd. Dean of Wildlife Institute of India, Green Oscar Winner and eminent biologist Sanjay Gubbi, elephant experts Dr.M.D.Madhusudan and Ajay Desai, Ajai Misra, Additional Principal Chief Conservator of Forests (Wildlife) and Dr.Ravi Ralph, Principal Chief Conservator of Forests (Wildlife) was formed. The committee after detailed deliberations, assessment of ecological factors felt that the disturbance to wildlife including elephants would increase if any change in night closure is made. The committee concluded that "based on various ecological factors and alternatives available, it was opined by the experts that the current system should be maintained status-quo and no changes should be implemented. If possible the night closure should be extended to 6.00 pm". A copy of the report is enclosed as Annexure - 1.

9. The Hon'ble Supreme Court in their interim order dated: 10-01-2018 passed the following orders.

"The learned Attorney General suggests that one way out of the present impasse is to set up a Committee headed by the Secretary, Ministry of Road Transport and Highways (MoRTH) in which there would be representatives of the State of Kerala, Karnataka and Tamil Nadu. In addition, a representative from the National Tiger Conservation Authority functioning under the Ministry of Environment and Forest will also participate. The aforesaid Committee should have its first meeting within a month from the date a copy of this order is served. The report from this Committee is expected within a period of three months thereafter which is to be placed before this Court".

10. Based on the orders of the Hon'ble Supreme Court and instructions from the Ministry of Road Transport, The National Tiger Conservation Authority (NTCA) had convened a meeting of the representatives of all the three States at Aranya Bhavan, Bangalore on 06-03-2018 to know the factual position of the issue under consideration. The Principal Secretary, Transport Department of Kerala, the Principal Chief Conservator of Forests (HoFF) of Kerala and the District Collector, Waynad District attended the meeting on behalf of Kerala State. The Field Director, Mudumalai Tiger Reserve participated on behalf of Tamil Nadu, and the Principal Conservator of Forests (HoFF), Principal Conservator of Forests (Wildlife) attended on behalf of Karnataka. The Deputy Inspector General, NTCA, New Delhi and officers of the National Highway Authority of India took part in the meeting.

All issues were deliberated at length and the PCCF (Wildlife), Karnataka emphasized that the night restrictions imposed as per the orders of Hon'ble High Court of Karnataka is not a watertight compartment as sixteen buses (four buses from Kerala to Karnataka, four from Karnataka to Kerala, four from Karnataka to Tamil Nadu and four from Tamil Nadu to Karnataka) were allowed. In addition, all essential and emergency services are allowed during the night closure hours. Importantly, the alternative road as identified by public representatives of Kerala (who have represented themselves before the Hon'ble Court) was repaired at the cost of Government of Karnataka and is being used by all commuters during the restricted hours.

With respect to NH-67, the state of Tamil Nadu has no grievances and has expressed that they are comfortable with the existing arrangements. The Field Director of Mudumalai Tiger Reserve who was representing Tamil Nadu expressed that the commuters have got adjusted to the present circumstances and have no grievances. In fact Tamil Nadu has also restricted nighttime traffic that passes through the adjoining Mudumalai Tiger Reserve.

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With these alternatives it may not be prudent to encroach into the inviolate hours of wild animals living peacefully in Bandipur Tiger Reserve in their own abode. More and more disturbance to wildlife, especially elephants leads to increased human-elephant conflict and several humans lives are lost annually due to such disturbances.

Wild animals and entire forest biodiversity has a right to and must survive in the interest of survival and welfare of mankind. Under the circumstances, it is very much essential that about 3% of land areas under protected areas network in the country such as wildlife sanctuaries/National Parks should be kept inviolate and all sorts of disturbance should be minimized/made nil so that the areas remain natural and interference free to develop on their own naturally. In the instant case 24 hr movement of vehicles was not only disturbing the animals but compartmentalizing the Bandipur Tiger reserve and Nagarahole Tiger Reserve in to smaller areas by containing the movement of animals like elephants, Gaur, sambar etc across the roads which is detrimental for their populations remaining healthy in addition to happening of more incidences of death of wild animals due to vehicle accidents. Since there is an alternative road which is just 30 km additional detour requiring about 30-60 minutes extra travel time; this extra little travel would be a trivial sacrifice from humans in the interest of wildlife. The proceedings of the meeting are enclosed as Annexure-2.

During the meeting the representative of NTCA suggested that the representatives of Kerala, Tamil Nadu and Karnataka should visit Bandipur Tiger Reserve to know the factual position of both the National Highways during the restricted hours. Hence, the Principal Secretary, Department of Transport, Government of Kerala, District Collector of Waynad, Field Director, Project Tiger Mudumalai, Deputy Inspector General, NTCA, a Member of the Karnataka State Wildlife Board and Field Director Project Tiger, Bandipur

visited the Tiger Reserve. The team visited both the National Highways during the night time when the restrictions were in place. As reported by them a large number of wildlife including elephants, gaur, sambar deer, spotted deer were seen on and along the highways. Many young ones of wildlife were also observed crossing the highways.

In addition the team inspected three transport corporation buses that were plying through during the restricted hours. It was found that the buses were carrying passengers less than 50% of its capacity. The same was confirmed by the trip sheets, the drivers and conductors of the buses. This highlighted the fact that the current system was prudent. The team also noticed that very few vehicles were waiting at the check posts to pass through the highways, and there was no pile up of traffic at night times at the check gates.

11. Meanwhile, the Chief Secretary, Government of Karnataka in her letter dated: 13-03-2018 has narrated the entire background to the issue and written a letter to your kind self to invite Karnataka Forest Department as a representative of your committee for placing all the facts for your kind consideration. The copy of the letter is enclosed as Annexure - 3.

12. On 13-04-2018 the undersigned along with the PCCF (Wildlife), Karnataka Forest Department attended the meeting convened by your kind self at New Delhi. With the permission of the Chair I explained the factual position to demonstrate that the present arrangements with an alternative road is not causing any hardship to the commuters and they have got used the alternative arrangements as it is in place since the past nine years. All vehicles including passenger vehicles, trucks carrying perishable and other materials, use the alternative road at night times during the restricted hours. The commuters have got used to it and the system is working well.

13. Bandipur Tiger Reserve is a very sensitive ecosystem and hosts over 100 tigers as per the recent All India Tiger Estimation. It is also home to over 1,800 elephants apart from other endangered and threatened wildlife species. Out of the 24 hours it is prudent to allow at least nine hours of inviolate time period during the night hours for the free movement of wildlife.

Your kind self had suggested the construction of underpasses, flyovers and tunnels along NH-212 within the Tiger Reserve to ensure unrestricted movement of vehicles. Bandipur Tiger Reserve is notified as a core critical tiger habitat under Sub-section 4(1) of Section 38-V of the Wildlife Protection Act 1972 vide no.FEE 299 FLW 2007 dated 20-12-2007. Hence in this highly sensitive area any disturbance including construction of mega structures through the tiger reserve is neither permitted nor appropriate. Construction of these mega structures will cause immense disturbance to wildlife and the forests, involves felling of hundreds of trees, and also create enormous debris during the construction phase. It also requires construction of new structures such as evacuation structures, emergency exits and others through the tiger reserve which is not permitted inside a tiger reserve.

Hence, considering

a. that the alternative road has been developed based on the request of Government of Kerala by spending a total of Rs.75 crores and is only 30 km longer;

b. that the commuters have already got used to travelling on the alternative road since the past nine years (during the restricted hours that's imposed for a mere nine hours);

c. that sixteen state transport corporation buses are allowed during the restricted hours;

d. all emergency service vehicles are permitted during the restricted hours;

e. Bandipur Tiger Reserve is notified as a core-critical tiger habitat;

f. that there is an increase in tiger numbers after the restrictions have been imposed during night time; and

g. that the number of animal deaths have reduced after the restrictions have been imposed

the current restriction of vehicular movement between 9.00 pm and 6.00 am should be continued. The stand of the Government of Karnataka is to continue with the existing restrictions.

Your kind self has directed me to submit a note and accordingly this note is put up for your kind consideration and further submission to the Hon'ble Supreme Court. I would like to submit that the representative of Government of Tamil Nadu present has accepted the present arrangements.

Vandita Sharma

(VANDITA SHARMA)
Additional Chief Secretary,
Dept. of Forest, Ecology and
Environment.

Date: 19-04-2018

Proceedings of the meeting held on 17-08-2015 at the office of the Principal Chief Conservator of Forests (Wildlife), Bangalore regarding night closure of highway (NH-212) passing through Bandipur Tiger Reserve.

Members present

1. Dr. Ravi Ralph, Principal Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden.
2. Sri.Ajai Misra, Additional Principal Chief Conservator of Forests (Wildlife).
3. Prof. Raman Sukumar, Indian Institute of Science, Bangalore and Member, National Board for Wildlife.
4. Dr.A.J.T. Johnsingh, Member, National Tiger Conservation Authority and Dean (Retd) Wildlife Institute of India.
5. Sri.Sanjay Gubbi, Member State Board for Wildlife and large carnivore ecologist.
6. Sri. Ajay Desai, WWF-India, elephant ecologist and Member, State Board for Wildlife.
7. Dr.M.D.Madhusudan, Scientist, Nature Conservation Foundation and Member State Board for Wildlife. (sent opinion by email)

On 15-04-2015 a meeting was held between the Hon. Chief Ministers of Karnataka and Kerala to discuss issues related to NH-212 wherein the Hon.Chief Minister of Kerala requested the following to be examined:

i) Increasing the number of vehicles to 20

ii) Introducing of convoy system with speed limit of 30 km/hr

iii) Reducing the time of night traffic ban.

In this regard it was decided that Karnataka Forest Department would take legal opinion and consult subject experts to decide on the above issues. Hence, this meeting comprising of subject experts working on large mammals (elephants, tigers, leopards), wildlife in general and road ecology, who have extensive scientific and wildlife policy experience has been convened.

Dr.Ravi Ralph and Sri.Ajai Misra invited the members and explained the preamble to the meeting. They also highlighted that a case regarding this issue is pending in the Hon.Supreme Court.

The following points were discussed as per the proceedings of the meeting held on 15-04-2015.

i) Increasing the number of vehicles to 20

Currently 16 state transport corporation buses are allowed between 9.00 pm and 6.00 am through Bandipur Tiger Reserve. This was brought to the notice of the Hon.High Court of Karnataka (wrt WP 919/2010 and 14798/2009) and was accepted by the Hon.Court. The experts opined that the current number is appropriate and any increase in number of vehicles would lead to more

disturbance to wildlife. It was also mentioned that all emergency vehicles (medical emergencies, ambulances, fire services, police on duty, vehicles carrying dead body) were allowed to ply during night closure hours. Hence, it was not found feasible to increase the number of vehicles.

ii) Introducing of convoy system with speed limit of 30 km/hr

This matter was earlier discussed in a meeting held on 30-06-2010 under the Chairmanship of Chief Secretary of Karnataka wherein senior officers of Karnataka and Kerala Governments including Forests, Transport, and National Highway Authority of India participated. In this meeting it was concluded that experts would be consulted and a response would be filed by the Karnataka Forest Department and submitted to the Hon. Supreme Court. Based on the decision taken in the meeting experts including Prof. Raman Sukumar were consulted on this matter and it has been submitted to the Hon.Supreme Court that convoy system was not found to be feasible. Prof. Sukumar has mentioned that he continues with his earlier opinion given dated 12-07-2010.

It was highlighted in this meeting that convoy system was experimented with in Andaman Nicobar Islands with regards to Andaman Grand Trunk Road which failed and increased the problems. Hence the Hon. Supreme Court has ordered for the closure of the Andaman Grant Trunk Road.

It was highlighted that the impacts of roads/highways have higher effects on wildlife over one kilometer from the road. Hence the impact is on a larger forest area not just along the highways.

iii) Reducing the time of night traffic ban.

This matter was discussed in detail that the current night closure is lesser than in other protected areas where the closure is from 6.00 pm to 6.00 am.

The activity of wildlife especially predators peak during nighttime, hence, it is not in the interest of large carnivores and other wildlife to reduce the time of the closure of night traffic. Hence, it was felt that the current closure is minimal and should not be altered.

It was highliglited that several other states have replicated this closure, and this initiative by Government of Karnataka has been appreciated by the Hon. Supreme Court in other matters.

Bandipur Tiger Reserve has been identified as a core/critical tiger habitat under 38V, Sub Sec 4(i) of the Wildlife Protection Act and these areas have to be kept inviolate.

Conclusion

Three scientific studies carried out in this landscape (Bandipur-Nagarahole-Mudumalai) highlight the adverse impacts of highways and vehicular traffic on wildlife.

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The committee based on various ecological factors and policies feel that the disturbance on wildlife including elephants would increase if any changes as suggested in night closure is made which could result in higher impact on all wildlife and their habitat.

The traffic density in the country is increasing at a rate of 12% as per the Ministry of Shipping, Road Transport and Highways hence the impact on wildlife is bound to increase in the future. In addition, the alternative road as per the request of the Government of Kerala in the Hon.High Court of Karnataka with respect to WP 919/2010 and 14798/2009 has been developed by Government of Karnataka by spending an amount of Rs.73 crores.

Based on various ecological factors and alternatives available, it was opined by the experts that the current system should be maintained status quo and no changes should be implemented. If possible, the night closure should be extended to 6.00 pm.

(Dr.Ravi Ralph)

(Ajai Misra) 7/8/15

(Ajay Desai)

(Dr.A.J.T.Johnsingh)

(Sanjay Gubbi) 4/8/2015

(Prof.Raman Sukumar)

(84)

Principal Chief Conservator of Forests
(Wildlife) Bengaluru

Office : 080-23341993
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Aranya Bhavan, 2nd Floor,
18th Cross, Malleswaram,
Bangalore-560 003

Date:12-03-2018

No. PCCF(WL)/D/CR-31/2008-09

To,

Sri. Sanjay Kumar Patak, IFS
Deputy Inspector General of Forests,
National Tiger Conservation Authority,
Government of India,
7th floor, B1 Wing,
Pt. Deenadayal Anthodaya Bhavan,
CGO Complex Lodhi Road,
New Delhi-110003

Sir,

Subject: Proceeding of the Meeting held on restrictions of Night Traffic Between 9:00 pm to 6:00 am on NH 212 and NH 67 passing through Bandipura Tiger Reseve.

Ref: Letter No. F.No.1-5/93-PT(Part) dated: 16-02-2018 of AIG (NTCA) New Delhi.

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A copy of the meeting proceeding and field Visit report regarding restrictions of Night Traffic Ban between 9:00 pm to 6:00 am on NH212 and NH67 passing through Bandipura Tiger Reserve held on 06-03-2018 at Aranya Bhavana Committee Room is enclosed herewith for information & needful action.

Your's faithfully,

12/3

Principal Chief Conservator of Forests,
(Wildlife) Bangalore.

Copy with compliments to the following officers for information:
(Sriyuths)

1. The Addl. Chief Secretary to Government, Forest, Ecology & Environment Dept., M.S.Building, Bangalore -500 001
2. Punati Sridar, IFS Principal Chief Conservator of Forests (Head of Forest Force), Karnataka
3. P.K. Kesavan, IFS Principal Chief Conservator of Forests (Head of Forest Force) and Chief Wildlife Warden, Kerala

4. P.S. Somashekar, IFS Inspector General of Forests, NTCA, Regional office, Government of India, Bengaluru
5. K. R. Jyothilal, IAS, Principal Secretary, Transport, Kerala
6. Suhas S, IAS, District Collector, Wayanad District, Kerala
7. Y.V.Prasad, General Manager (Technical), National Highway Authority of India, Regional Office, Bengaluru
8. Ambadi Madav, IFS Conservator of Forests & Field Director, Bandipura Tiger Reserve
9. R. Srinivas Reddy, IFS Chief Conservator of Forests & Field Director, Madumalai Tiger Reserve, Ooty
10. Rajendra Garawad, IFS Assistant Inspector General of Forests, NTCA, Regional Office, Bengaluru
11. Sanjay Gubbi, Member, State Board for Wildlife
12. Rajkumar D, Wildlife Conservation Foundation & Honorary Wildlife Warden
13. Praveen Ramaswamy, Vanya Trust, Bengaluru
14. Ravi Shankar, Chaitanya Projects Pvt ltd, Bengaluru
15. Sharad Verma, Chaitanya Projects Pvt ltd, Ghaziabad

Proceedings of the Meetingheld on restrictions of Night Traffic between 9:00 pm to 6:00 am on NH212 and NH67 passing through BandipuraTiger Reserve.
Place: AranyaBhavana Committee Room. Time & Date:10.30pm on 06-03-2018 and field visit.

Members Present (Sriyuths).

1.	PunatiSridar, IFS Principal Chief Conservator of Forests(Head of Forest Force), Karnataka
2.	C. Jayaram, IFS Principal Chief Conservator of Forests(Wildlife) and Chief Wildlife Warden, Karnataka
3.	P.K. Kesavan, IFS Principal Chief Conservator of Forests(Head of Forest Force) and Chief Wildlife Warden, Kerala
4.	P.S. Somashekar, IFS Inspector General of Forests, NTCA, Regional office, Government of India, Bengaluru
5.	K. R. Jyothilal, IAS,Principal Secretary, Transport, Kerala
6.	Sanjay Kumar, Deputy Inspector General (DIG), NTCA, New Delhi
7.	Suhas S, IAS, District Collector, Wayanad District, Kerala
8.	Y.V.Prasad, General Manager (Technical), National Highway Authority of India,Regional Office,Bengaluru
9.	Ambadi Madav, IFS Conservator of Forests & Field Director, Bandipura Tiger Reserve
10.	R. Srinivas Reddy, IFS Chief Conservator of Forests &Field Director, Madumalai Tiger Reserve, Ooty
11.	Rajendra Garawad, IFS Assistant Inspector General of Forests, NTCA,Regional Office,Bengaluru
12.	Sanjay Gubbi, Member, State Board for Wildlife
13.	Rajkumar D, Wildlife Conservation Foundation & Honorary Wildlife Warden
14.	Praveen Ramaswamy, Vanya Trust,Bengaluru
15.	Ravi Shankar, Chaitanya Projects Pvt ltd, Bengaluru
16.	Sharad Verma, Chaitanya Projects Pvt ltd, Ghaziabad

The Principal Chief Conservator of Forests (HoFF), Karnataka welcomed all the participants and gave a brief introduction to the subject - Imposing restrictions on the traffic passing through Bandipura Tiger Reserve between 9:00 pm to 6:00 am in NH212 for a distance of 20 kmsand NH67 for a distance of 13 kms.

"On 10-01-2018, in the Hon. Supreme Court in 13838/2010 of Special Leave to Appeal (SLP) asked to setup a committee headed by The Secretary,Ministry of Road Transport & Highways in which there would be representatives of Karnataka, Kerala & Tamil Nadu. In addition a representative from National Tiger Conservation Authority(NTCA) under the Ministry of Environment, Forests and Climate Changewill participate."

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The following issues were discussed in detail;

1. Sri. Sanjay Kumar Pathak, DIG, NTCA gave a broad overview mentioning that as per the orders of the Hon'ble Supreme Court a committee has been formed headed by the Secretary, Ministry of Road Transport and Highways, Government of India (GOI). Hence this meeting was called to hold preliminary discussions and field inspections in this regard with the representatives of Kerala, Karnataka, and Tamil Nadu to get an overview from all the stakeholders.

2. Sri. C. Jayram, IFS Principal Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden, Karnataka gave a background to the issues:.

   - In June 2009 the then Deputy Commissioner, Chamarajnagara District,based on the request of the Deputy Conservator of Forests, Bandipur Tiger Reserve passed an order to close the highways (NH-212 and NH-67) passing through Bandipur Tiger Reserve from 9:00 pm to 6.00 am,as per the guidelines of Tiger Conservation Action Plan 2007-08 to 2010-11, to maintain inviolate conditions for the tigers elephants and all other associated wildlife in the reserve during night hours and also to avoid the death of large number of wildlife due to accidents particularly during night hours.
   - Due to objections and memorandum from the Hon'ble MLA, Sultan Bathery, and objections from National Highways authorities that the Deputy Commisioner do not have powers to regulate traffic in National Highways,the Deputy Commissioner, Chamarajanagara District withdrew the order dated 03-06-2009 within one week of passing theorder restricting the movement of vehicles between 9:00 pm to 6:00 am passing through Bandipura Tiger Reserve.
   - Two Public Interest Litigations (WP 17498/2009, 919/2010) were filed before the Hon'ble High Court of Karnataka to restore the orders dated 03-06-2009 of The Deputy Commissioner, Chamarajanagara District orders restricting the movement of vehicles during night hours passing through Bandipura Tigar Reserve. After hearing the PILs the Hon'ble High Court of Karnataka passed an interim order and restored the orders dated 03-06-2009 passed by The Deputy Commissioner, Chamarajanagara District restricting the movement of vehicles during night hours in Bandipura Tiger Reserve. Aggrieved by the interim order of the Hon'ble court nine other petitions (WP 26621-629/2009) were filed before the Hon'ble High Court of Karnataka by private bus operators and a few public representatives of Kerala and Tamil Nadu have also impleaded..
   - During the arguments before the Hon'ble Court, the counsel representing Hon'ble Members of the Parliament of Wayanad and Kozhikode constitutencies, "emphasized that if the authorities want to ban the vehicular movement during night, they should provide an alternate road", and the Learned Counsel representing State of Kerala submits "other alternate and less hazardous options are required to be explored by the authorities concerned". It was brought to the knowledge of Hon'ble court that the alternative road in case of NH-212 is the road passing through Thitimathi-Gonikoppa-

Kutta in Kodagu district and is longer by 30 kms. However, it was alleged that the alternate road condition was in a bad state. The Hon'ble Court in its final order stated "The hardship faced by the public can be compensated by directing the State Government to take appropriate and adequate measures to improve the conditions of the alternative roads and to urgently attend to the areas where the alterative roads are not in good condition." The Hon'ble Court ordered "The respondent State shall take steps to secure the safety of the commuters and transporters by repairing the bridges or culverts that are not in a good condition". The alternative road in respect of NH67 is NH-209 passing through Chamarajanagar and Satyamangalam and the road is longer by 70 kms; however the road is in good very condition..

- In obedience to the orders of the Hon'ble High Court the Government of Karnataka, the Public Works Department has spent Rs.75 crores and repaired the alternative road to NH-212.
- In addition to providing alternative roads between 9:00 pm to 6:00 am sixteen Transport Corporation buses of Karnataka, Kerala, Tamil Nadu and emergency services like ambulance and fire engines are allowed during the restricted hours.
- After deliberating all the issues, the Hon'ble Court has allowed the Public Interest Litigations and directed the National Highways authorities to ensure the restrictions of the movement of vehicles passing through NH212 and NH67 in Bandipura Tiger Reserve between 9:00 pm to 6:00 am are strictly enforced.
- Now, a SLP (13838/2010) is pending before the Hon'ble Supreme Court and a caveat by B.P.Anup, Bangalorehas also been filed before the Hon'ble Supreme Court on 25/03/2010.
- To conclude C. Jayaram IFS, PCCF Wildlife has emphasised that all the alibles brought out before the authorities and the Hon'ble Court are resolved amicably and the authorities of Karnataka have responded positively to the facilities requested by the authorities and public representatives of Kerala state. Further precipitating the issues without new or valid reason is highly unreasonable as the restrictions imposed in the use of NH212 and NH67 passing through Bandipura Tiger reserve is only for a period of 9 hours during night. He further stated that all the members present in the meeting are aware that Bandipura Tiger Reserve is one of the First protected areas brought under Tiger Conservation during 1973. Out of 24 hours if we do not spare at least 9 hours inviolate condition for the wild animals living in their own habitat we as authorities are not reasonable in our decisions.

3. Sri. Jyotilal, Principal Secretary, Transport, Kerala mentioned that the proposal of Thalassery-Mysore railway line was apossible alternative, in addition he mentioned that the elevated corridor over the existing highway (NH-212) is not feasible as it would cost over 1,800 crores. A tunnel under the existing highway is also not feasible due to the exorbitant costs.
4. PCCF (WL), Karnataka responded that there is already unrest in the district of Kodagu due to human-elephant conflict which will be escalated with the new projects like new railway lines through Thalassery-Kodagu-Mysore.
5. The Deputy Commissioner of Wayanad mentioned that the alternative road is 30 km longer, the economy is affected hence night ban may be reconsidered by increasing the number of buses passing during the restricted hours..

6. PCCF (WL), Karnataka responded that alternative road is made available by spending Rs.75 croreby the Public Works Department, Governament of Karnataka in obidence to the orders of Hon'ble High Court of Karnataka. In addition, 16 state transport corporation buses of Karnataka, Kerala, Tamil Nadu and all emergency vehicles (ambulance, fire, police on duty, vehicles carrying dead bodies, etc) are allowed during the restricted hours. The present buses run by the State Road Corporations generally ply with only fifty present capacity which can be verified..
7. Sanjay Gubbi, Member State Board for Wildlife mentioned that the APMC markets close at 5.00 pm and all vegetable, fruit vehicles and other vehciles carrying perishable items have enough time to pass through NH-212 through Bandipur which closes only at 9.00 pm.
8. The CCF & FDPT, Mudumalai Tiger Reserve specified that the current arrangement is suitable and tourists and other commuters have already got adjusted to the existing modalities. He also mentioned that night closure has helped the economy in many indirect ways.
9. CF & Director, Bandipur Tiger Reserve stated that very few vehicles pile up at the Bandipur gates at night times and commuters including transporters have got adjusted to the existing restriction imposed between 9:00 pm to 6:00 am.
10. HoFF & CWW, Kerala expressedthat if possible the night closure should be extended to 6.00 pm instead of the current 9.00 pm and some buses be allowed in a convoy system at later periods during night..
11. Principal Secretary, Transport Kerala and General Manager, NHAI suggested that the alternate road (Hunsur-Gonikoppa-Kutta) should be upgraded to a four-lane highway. To which PCCF (WL), Karnatka mentioned that this would involve diversion of additional forest land passing through very sensitive areas of Kodagu district .
12. The PCCF (WL), Karnataka mentioned that the elephant movement during day time itself is is very high on NH212 passing through Bandipura Tiger Reserve.Causing disturbances during night time will lead to increased man-animal conflict. Strictly speaking a minimum 12 hours is needed for the peaceful movement and existence of the wildlife as decided by an expert committees report dated 17-08-2015. This committee was formed based on the mutual agreement of the Hon'ble Chief Ministers of Karnataka and Kerala in the meeting held on 15-04-2015.
13. PCCF & HoFF Karnataka opined that most of the South Indian rivers flowing through Protected Areas are perennial because of high density of forest cover which maintains the water balance ensuring continuous flow of water. Hence integrity of protected areas should be maintained in the interest of water security of the country. The Karnataka Government has spent lots of money on improving the alternate road", he opined and added, "Taking these alternate routes to reach Wayanad is already in place andshould be continued as per the orders of the Hon'ble High Court".
14. The meeting ended with vote of thanks by the Principal Chief Conservator of Forests (Wild Life). Further, DIG (NTCA), Principle Secretary Transport Kerala, Collector Waynad wanted to inspect the site during the restricted hours. The required arrangements were made for the team and Sri. Ambadi Madhav IFS, Director, Bandipura Tiger Reserve, Rajendra Garawad, IFS AIG (NTCA), Sri Sajay Gubbi, Member State Board for Wildlife, Sri. Rajkumar Honorary Wildlife Warden accompanied the team.

15. During the field visit it was observed that the transport corporation buses which were plying during the restricted hours had occupancy below 50% of the capacity, and the vehicles that were waiting at the gates were very minimal. A lot of elephants, gaur and other wildlife were also observed on the highways during the restricted hours. The team of National Tiger Conservation Authority (NTCA) which visited the alternative road was also happy with the conditon of the alternative road (SH-90, Hunsur-Gonikoppa-Kutta) and expressed that it is better than the highways passing through Bandipur Tiger Reserve. NTCA would submit a detailed report of the field visit.

10/3/18

Principal Chief Conservator of Forests
(Wildlife), Bengaluru

(25C)

ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿಯವರ ಕಾರ್ಯಾಲಯ, ಕರ್ನಾಟಕ ಸರ್ಕಾರ.
CHIEF SECRETARY'S OFFICE, GOVT. OF KARNATAKA

Dated:13.03.2018

No.132 FWL 2013

To
The Secretary,
Ministry of Road Transport and Highways
Transport Bhavan,
1, Parliamentary Street
New Delhi – 110 001.

Sir,

Sub: Traffic Regulation in NH-212 and NH-67 roads passing through Bandipur National Park – reg.

Ref: The orders of the Hon'ble Supreme Court of India in SLP (C) No. 16588/2010 (IV-A) and SLP (C) No. 24865/24866/2012 (IV-A) dated: 10-01-2018.

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The Hon'ble Supreme Court passed an order on 10-01-2018 and constituted a committee under your chairmanship with representatives of the States of Kerala, Karnataka and Tamil Nadu and in addition, a representative from the National Tiger Conservation Authority (NTCA) under Ministry of Environment and Forests. The Hon'ble Court has directed the Committee to submit a report within three months for taking further necessary decision in the matter. This order is arising out of impugned final judgment and order dated: 09-03-2010 in WP. No.17498/2009 passed by the Hon'ble High Court of Karnataka at Bangalore.

The two national highways namely NH-212 (for a distance of 20 kms.) and NH-67 (for a distance of 13 kms.) pass through Bandipur Tiger Reserve and National Park which is a part of Nilgiri Biosphere Reserve and Eco-sensitive Wildlife Habitat. In fact, Bandipur National Park is one of the first Protected Areas brought under Tiger Reserve during 1973, as the biosphere was very good habitat for tigers. In view of incidences of several road kills of wild animals leading to public anguish, the Deputy Conservator of Forests, Bandipur Tiger Reserve requested the Deputy Commissioner, Chamarajnagar District to regulate and restrict the movement of Traffic on both the national highways passing through the Tiger Reserve between 9.00 pm. to 6.00 am. The Deputy Commissioner,

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Chamarajnagar had passed the order dated: 03-06-2009 with effect from 08-06-2009. However, by another order dated: 10-06-2009 the Deputy Commissioner, Chamarajnagar withdrew the order. Aggrieved by the withdrawal of the order; two public interest litigations were filed before the Hon'ble High Court of Karnataka. The Hon'ble High Court of Karnataka passed an interim order on 27-07-2009 and restored the original order of the Deputy Commissioner, Chamarajnagar dated:03-06-2009. Aggrieved by the prohibition of all kinds of motor vehicles on NH-212 and NH-67 between 9.00 pm. to 6.00 am., the travel and transport operators had filed writ petitions before the Hon'ble High Court of Karnataka vide WP. No. 26621-629/2009. During the pendency of the writ petitions various persons have come up with applications to implead themselves claiming that they are also interested in airing their grievance before the Court. These applications include Kerala Transport Corporation, Members of Parliament, Wayanad and Kozhikode Constituencies, state of Kerala.

The counsel for the petitioners representing Wayanad and Kozhikode Constituencies had emphasized before the Hon'ble High Court that if the authorities want to effect the ban on the vehicular movement during night they should provide an alternative road. It was brought to the notice of the Hon'ble High Court, that alternative roads are available to reach both the destinations. The alternate road in case of NH-212 is the road that passes via Thithimathi in Kodagu district though it increases the distance by about 30 kms. In respect of NH-67 leading to Ooty, an alternate route through NH-209 passing through Chamarajnagar and Sathyamangalam is available and is longer in distance by 70 kms. The learned counsel appearing for the transporters and other impleading applicants had submitted before the Hon'ble Court that the alternative road in case of NH-212 was in bad shape. But there was no grievance with regards to the alternative road in respect of NH-67.

In wake of the alternative road available in respect of NH-212 which was allegedly not in good shape, the Hon'ble High Court of Karnataka directed the Karnataka State Government to undertake repairing the bridges or culverts that are not in good condition. The Principal Secretary, Public Works Department, Karnataka was directed to file an affidavit within one week with the action plan for

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carrying out the improvement of the alternative road passing through Thithimathiin Kodagu district. The Public Works Department has spent approximately Rs.75.00 crores and developed the alternative road to National highway 212 to facilitate night traffic which was earlier passing through Bandipur Tiger Reserve.

In addition to the above measures, four buses from each transport corporation of Karnataka, Kerala and Tamilnadu are being permitted between 9.00 pm. to 6.00 am. Further, emergency vehicles such as ambulances, fire engines etc. are being allowed and therefore no hardship is caused during emergency situation. The Hon'ble High Court of Karnataka while deliberating the petitions have noted and accepted the arrangements made.

Further, the Hon'ble High Court of Karnataka directed the National Highways Authority of India to take all necessary action to ensure that the ban during night hours from 9.00 pm. to 6.00 am. for vehicular traffic in the national highways passing through Bandipur Tiger Reserve is effectively enforced.

The Karnataka Government is of the firm opinion that the night ban should continue in the future too in the interest of protection of its Tiger Reserve and wildlife which in turn is a must for the survival of our future generation. Further, many elephants are found near the said roads during night and it may be dangerous for human lives to pass by in the dark.

Our stand was made clear during the meeting convened by NTCA in Aranya Bhavan, Bangalore dated:06.03.2018 attended by representatives of the three southern states Kerala, Karnataka & Tamilnadu. Further in the said meeting, Tamilnadu has clearly expressed that they are in favour of the night traffic ban.

Bandipur Tiger Reserve is a part of Karnataka Forest Department and both the National highways in question pass through the Tiger Reserve, hence the Karnataka Forest Department is a prime stakeholder. The Hon'ble Supreme Court has directed your kind self to chair a Committee with representatives of the State

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of Kerala, Karnataka and Tamilnadu including NTCA functioning under the Minister of Environment and Forests. It is earnestly requested to invite Karnataka Forest Department too as a representative of your committee for placing all the facts for the kind consideration.

Yours faithfully,

Chief Secretary,
Government of Karnataka,

Copy submitted to the Secretary, Minister of Environment and Forests & Climate Change, Government o f India with a request to inform Secretary MoRTH, GOI to provide opportunity to the Karnataka Forest Department to put forth all the facts before the committee.

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Annexure - VIII

Mitigation Infrastructure -Tentative costs

Table-1: Costs per km length

Sl. No.	Mitigation measure/Item	No./length per km	Cost (Rs. In Cr.)/km
1	Animal underpass (1000m per 3 km road length - viaduct, deck slab bridge) including milling of ground under bridge/viaduct. 300m/km as per guidelines	1 no. per 3km length or 300m/km	15.00
2	Culverts (3.0 x 3.0m)	1 no.	0.25
3	Steel wire fencing (1.8 m ht.)	0.5 km	0.10
4	Steel road side railing (1.2 m ht.)	1.2 km	0.37
5	Steel canopy bridge (0.5m (w) x 6m (h) 20m (l)	2 no.	0.15
6	Hume pipe (1.2m) at grade road	2 no.	0.16
7	Noise/light mitigation through plantation of hedges/trees/Stone/CC	2 km	0.10
	Total cost/km		**16.13**

Table-2: Overall Cost for entire 24 km length

Sl. No.	Mitigation measure/Item	No./ Length	Cost (Rs. in Crore)	Remarks
1	Mitigation measures @ Rs. 16.13 cr./km	24 km	387.0	From previous table
2	Road Signage	L.S.	3.0	For entire length
	Total		390.0	For entire length
3	**Road improvement cost**	@ Rs.4.0 Cr/km	68.0	For 17 km length
	Grand Total		458.0	For entire length

Annexure-7

Minutes of the meeting of the committee constituted in terms of the orders of the Hon,ble Supreme Court of India in SLP (Civil) No.13838 of 2010 - State Government of Kerala vs.Shri. L.Srinivasababu&Ors.

A meeting of the committee constituted in terms of the orders of the Hon,ble Supreme Court of India in SLP (Civil) No.13838 of 2010 was held on 13th April 2018 at Transport Bhawan, New Delhi under the chairmanship of Secretary (RT&H) to discuss on the mitigation measures to be taken to provide 24 hours road connectivity to Kerala via NH-212. The list of participants is enclosed at Annexure 1.

2. At the onset, the chair welcomed the participants and shared the views of the Ministry in respect to the issues under consideration in the special leave petition in the Honorable Supreme Court of India - State Government of Kerala versus Sri L SrinivasBabu and others filed before the Honorable Supreme Court of India. The chair mentioned that this committee needs to find a permanent solution to the issue by following the mitigation measures as per the MOEFCC guidelines with provision to provide 1 km long elevated corridor in every 3 km road length and other mitigation measures as required on ground as per the guidelines. The

committee was asked to come up mutually agreeable recommendations to be placed before the Hon'ble Supreme Court for taking a final decision in the matter.

3. ACS, Forest Dept., Karnataka submitted that despite night time restrictions, four buses are permitted from all the three state transport department and movement of emergency vehicles is also allowed along NH-212. It was mentioned that the ban was approved in meeting headed by the Hon'ble Chief Minister, Karnataka with the concerned Principal Secretaries to the State Government. It was further mentioned that an alternative route with detour of about 40 km has been constructed from Mysuru to Kuttaby the Karnataka PWD. As the buses plying in time of restriction from 9pm to 6am are reportedly are half-filled and there has been a decline in animal & human killings after the night time traffic restriction, the Karnataka State Government is in favour of the night time ban on NH-212. Experts from the Wildlife Trust of India also shared similar views to that of the Karnataka Government.

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4. DIG, NTCA, MoEFCCstated that he has already submitted his detailed report on the issue after his visit to Bandipur National Park and that his views are recorded in his report.

5. PCCF & CWLW, Forest, Karnatakastated that the area has a rich bio-diversity and around 800-1000 elephant population is present. Reportedly, human-animal conflict results in around 50 persons deaths per annum in the area and opening the road during night time will further aggravate the situation. PCCF seconded the views of ACS,Forest Deptt., Karnataka and added that as elephants cross the entire stretch of the road, it would be difficult to construct the underpasses as on both sides of the road forest is present and there is no defined path.

6. To this, the Chairmentioned that the buses remain half filled with passengers as people are aware of the night ban. After 24 hour opening of the road, there would be marked increase in traffic. It was further mentioned by the Chair that the elephants and other animals usually have a dedicated crossing areas and these areas should be specifically be identified and earmarked. By providing elevated corridorin these specifically marked areas, the animal-human conflict, as apprehended by the ACS,Forest Dept., Karnataka,can be avoided.

7. Chief Secretary, Govt. of Keralamentioned that Kerala suffers due to non-operation of vehicles on these National Highways. It was mentioned that maximum animal movement takes place at dusk and dawn. To prevent animal-human conflict, Karnataka Forest Department could adopt a convoy system for traffic movement during night. He further mentioned that no traffic restriction have been imposed by NTCA in 50 wildlife parks in India.

8. Principal Secretary, Transport, Kerala mentioned that commuters face lot of problems in reaching Mysuru and other states due to the ban. It was further submitted that an earlier proposal of an underground railway line through the wild life sanctuary was also deferred. The representatives of the Kerala State Government agreed to the suggestions of the Chair for providing elevated corridors in the identified animal crossing areas along with mitigation measures for ensuring 24 hour traffic movement between the three Southern states.

9. The matter was deliberated by the Committee and the chair mentioned that restriction for limited night hour'straffic movement is affecting the movement of goods & people across the Southern states.

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This also causes problems to animals during the day-time, as there is generally heavier traffic movement. Provision of five or six elevated corridors (about 1 km in length) in the identified animalcrossing areas along with proper mitigation measures, includingfencing along the road at at-grade sections, would ensure free movement of animals even during day time and would also enhance the safety of the road users.

10. The Chair after deliberations and discussions with the stake-holders noted that while it is our moral duty to protect the animals, a comprehensive solutionneeds to be worked out in which both animals and humans can co-exist.It was recommended thatfive or six elevated corridors (about 1 km in length) in the identified animalcrossing areaswithGreen belt creation below structures would be undertaken. Forest department has to allow for construction in 15m road corridor required for 2-lane elevated road. Elevated road corridor location is to be finalized by Karnataka & Kerala Government in consultation with the wildlife authorities. MORTH will be willing to fund 50% cost of the mitigation measures and road improvement and balance will have to be funded by the Govt. of Kerala.

11. The meeting concluded with a vote of thanks from and to the Chair.

Annexure

List of Participants

Ministry of Road Transport & Highways

1. Sh.Y.S.Malik, Secretary, MoRT&H - in Chair
2. Sh.A.K.Nagpal, ADG, MoRT&H
3. Sh.Shribash Mandal, S.E. MoRTH
4. Sh.Manoj Kumar, CGM, NHAI

Ministry of Environment & Forests

1. Sh.Sanjay Kumar, DIG, NTCA
2. Dr.SandeepKr.Tiwari, Deputy Director, Wildlife Trust of India

Government of Karnataka

1. Smt.Vandita Sharma, Addl.Chief Secy., Forest Dept.
2. Sh.C.Jayaram, PCCF and CWLW, Forest Dept.

Government of Kerala

1. Sh.Paul Antony, Chief Secretary
2. Dr.Vishwas Mehta, Resident Commissioner and ACS
3. Sh.K.R.Jyothilal, Pr.Secretary, Transport
4. Dr.V.Venu, Pr.Secretary, F&W

Government of Tamil Nadu

1. Dr.RajeevRanjan, Addl.Chief Secy., Highways and Major Ports Dept.

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Annexure-8 (14)

सड़क परिवहन और राजमार्ग मंत्रालय
Ministry of Road Transport & Highways
भारत सरकार / Government of India

सत्यमेव जयते

वाई. एस. मलिक, भा.प्र.से.
सचिव
Y. S. Malik, I.A.S.
Secretary

Most Urgent
Supreme Court Matter

D.O. No. RW/NH-12024/2/2018-KNT
July 21, 2018

Dear Shri Vijay Bhaskar,

You may recall that the Hon'ble Supreme Court had constituted a Committee chaired by me to examine the issues relating to the dispute between the States of Karnataka nad Kerala in respect of NH 212 passing through the Bandipur Tiger Reserve arising out of the SLP (Civil) No.13838 of 2010. Since the State of Karnataka had its reservations on removing the night restrictions on plying of traffic on this stretch, I had almost finalised my report for filing before the Hon'ble Supreme Court.

2. However, the issue came up for a mention before the Hon'ble Chief Minister of Karnataka and the State PWD Minister during their meeting with the Hon'ble Union Minister for Road Transport & Highways on 17.7.2018 in connection with a follow-up on various state issues. I had broadly shared the conents of my proposed recommendations for opening of this stetch of the NH on 24*7 basis, with the proposal to develop this road with adequate mitigation measures in this behalf. I am enclosing the extract of the Scheme as proposed to be commended to the Hon'ble supreme Court for its consideration. The Hon'ble Chief Minister and the State PWD Minister agreed with the recommendations of MoRTH and assured to send the formal consent of the State Government regarding the above within one week.

3. As the matter is listed for hearing in the Hon'ble Supreme Court on Monday, the 23rd of July 2018, I have requested for a short adjournment of 15 days. Accordingly, I request you to kindly send the consent of the Government of Karnataka with the proposed Scheme immediately so that the report of the Committee is finalized and submitted to Hon'ble Supreme Court for its consideration and orders as deemed appropriate.

Yours Sincerely,

(Y.S. Malik)

Sh. T.M. Vijay Bhaskar,
Chief Secretary,
Government of Karnataka,
Bengaluru.

Annexure - I

Recommendations of MoRTH

1.1 National Highway No. 67

As far as NH 67 passing through the States of Karnataka and Tamil Nadu is concerned, it needs no further action as the state of Tamil Nadu has no problems with the restrictions on night-plying of traffic through the area. Therefore, the issue pertaining to NH 67 may be treated as closed warranting no further action as the present arrangements are operating to the satisfaction of both the states of Karnataka and Tamil Nadu.

1.2 NH - 212

As regards the issue of NH 212, it emerged during the deliberations that the States of Kerala and Karnataka are stuck-up with their respective parochial positions and appeared reluctant to think in terms of an objective and long lasting solution. View-points of both the states have already been detailed in the foregoing paragraphs. The issue has been examined in-depth in the Ministry of Road Transport & Highways at the level of Secretary.

2. NH-212 - Analysis

2.1 As stated earlier, NH-212 (New NH No. 766) is an important National Highway connecting Kollegal in Karnataka with Kozhikhode in Kerala via Mysore. Out of the total 272 km length, 34.60 km length of this highway passes through the Bandipore and Wayanad National Park. The salient features of this NH are re-iterated below for ready reference:

NH 212			
State	Karnataka	Kerala	Total length
Sanctuary name	Bandipur	Wayanad	
Core Zone of the Sanctuary	19.70 km	4.80 km	24.50 km
Buffer Zone of the Sanctuary	4.50 km	5.60 km	10.10 km
Total (km)	24.20 km	10.40 km	34.60 km

2.2 It is an admitted position that this NH remains open to traffic for about 15 out of 24 hours as the restrictions operate from 9.00 pm to 6.00 am. Thus the wildlife and the human beings remain equally susceptible to conflicts/ accidents during these 15 hours. Admittedly, it is not the case that no accidents or casualties have been reported during these day-time operational hours.

2.3 The Additional Chief Secretary, Karnataka laid a lot of emphasis on the availability of an alternate route for travelling from Mysuru to Kalpetta. This alternative route

passes through Hunsur, Kutta, Gonikoppal and Manathavady, of which a substantial part is hilly terrain, and is about 45 km longer. Adoption of the alternate existing route would certainly result in avoidable consumption of fuel (which is a huge import burden for the country) besides causing the incremental vehicular emissions, which also acts against the environmental eco-system. It goes without saying that forcing people to take to a longer route with sub-optimal fuel consumption on account of terrain conditions is certainly not the optimal solution as long as there are alternatives which ensure safety of human and the wild life.

2.4 Coming to the safety of wild-life in the sanctuary, it is also an admitted position that the core area of Bandipur Wildlife Sanctuary has a variety of Wildlife, including Elephants and Tigers and a number of other species. These animals move to and fro within the core area of the sanctuary and their free movement and safety has to be ensured. The safety and free movement of the wildlife and the safety of human lives still remains at risk for 15 hours during 6.00 am to 9.00 pm when the traffic flows on this road without any restrictions.

2.5 The Wildlife Institute of India (under the MoEF&CC), together with the World Bank and the NHAI, has come out with an illustrative publication titled *"Eco-friendly Measures to Mitigate Impacts of Linear Infrastructure on Wildlife"* only recently (January 2017). These guidelines have been studied in the context of NH 212. Further, the Secretary, Ministry of Road Transport and Highways also had an opportunity to discuss the issue with an eminent subject expert, Sh. Vivek Mohan, who is the Executive Director and CEO of the Wildlife Trust of India. It emerged during discussions that Nature and Infrastructure need not be always at logger-heads. It was also recognized that while the Elephants always stick to the passages they adopt, the other species of Wildlife also invariably take to the passages often used by them. There are enough measures that can be put in place to ensure safe passage to our wildlife while not compromising the development goals.

2.6 Keeping in view the limiting factors as mentioned in the sub-paras above, MoRTH is of the considered view that NH-212 would be a good case for 24*7*365 operations with significant improvements and improvisations in a length of about 25 kms of the Core Zone of the Sanctuary/ Park of this Highway.

Measures proposed:

(i) : The Highway needs to be developed with a total of five elevated Sections of 1 km length each (04 in Bandipur Sanctuary and 01 elevated Section in the Wayanad sanctuary). The locations of these elevated sections should be decided in consultation with the concerned state governments. Locations of the Elevated road sections and other measures like hume pipes culverts, road signages, etc. would be finalized in consultation with the Wildlife authorities of both the states. The metaled road portion underneath these elevated sections would be milled and converted into a contiguous forest landscape so as to maintain the continuity of the forest under these elevated sections for ease of movement of the wildlife without any barriers.

(ii) The At-grade portion of the Highway would be provided with steel-wired 8 feet high fencing on both sides along the entire length to prevent wildlife from crossing the road at any time so as to ensure against any wildlife and vehicle/ human conflict. Steel wired fencing would also ensure that the animals adapt to use only the elevated underpasses for to and fro movements. This would prevent vehicle-animal accidents and ensure safe passage for both animals and vehicles during day as well as night-time. This scheme of development would provide a comprehensive and permanent solution in which both animals and humans can co-exist.

(iii) The existing Highway stretch is a two-lane road (7mtrs blacktop carriageway) with a Right of Way (RoW) varying between 10 mtrs to 15 mtrs along the stretch. It needs to be developed as a Highway with a configuration of two-lane with paved shoulders (i.e. 10 mtrs wide carriageway), which necessitates a uniform RoW of 15mtrs width. Since the 5 kms long road under the elevated sections would be converted into a forest after milling of the metaled road, the Forest Departments of Karnataka and Kerala should make forest land available for achieving a uniform RoW of 15 mtrs in the remaining at-Grade stretches. The land in exchange for this 5 kms stretch should more or less meet this requirement.

Cost-Estimates

(i) Tentative cost of above mitigation measures and road improvement have been worked out to about Rs. 460.00 crore (Rupees Four hundred and sixty crore). Final costs would be known only after detailed surveys, finalization of elevated structures and Detailed Project Report.

(ii) MoRTH would be agreeable to share 50% of the cost burden of developing this road with necessary mitigation measures and road improvement, while the balance 50% of the cost would have to be borne by the Kerala State Government of Kerala.

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Annexure-9

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ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿ
T.M. VIJAY BHASKAR, I.A.S.
Chief Secretary.

ಕರ್ನಾಟಕ ಸರ್ಕಾರ
Government of Karnataka

D.O.No:FEE/194/FWL/2014

7th August,2018.

Dear Yudhvir,

Sub: Special Leave Petition (Civil) No. 13838 of 2010 in the Hon'ble Supreme Court of India – State Govt. of Kerala V/s. L.Srinivasa Babu & ors.

****

Please refer to your D.O. letter No. RW/NH-12024/2/2018-KNT regarding the proposal of the Ministry of Road Transport and Highways to construct an elevated road on National Highway - 212 on 21.07.2018 linking Karnataka and Kerala through the Bandipur National Park (Tiger Reserve).

In this context I would like to state that MoRTH's proposal has been examined in detail. The Government of Karnataka had opposed any construction or opening up of the road during night hours, reasons for which have been submitted by enclosing a note to the D.O letter No.FEE 132 FWL 2013 (P 1) dated: 19.04.2018 of the Additional Chief Secretary, Forest, Environment & Ecology, Government of Karnataka.

The reasons for which Govt. of Karnataka had opposed any construction continue and there are no substantial reasons to alter its stand. Therefore, I am to reiterate that Govt of Karnataka does not support MoRTH's proposal for building an elevated highway nor to open the road to night traffic.

In the alternative, MoRTH may consider strengthening the alternative road "the state highway passing through Thithimathi – Gonikoppa-Kutta" by up grading it as National Highway which will not disrupt the wildlife in the park. I am once again enclosing the detailed note of the ACS, FEE on the issue for ready reference.

With warm regards.

Yours sincerely,

TM Vijay Bhaskar

Shri Yudhvir Singh Malik, I.A.S.,
Secretary,
Ministry of Road Transport and Highways,
Transport Bhavan,
1, Parliament Street,
New Delhi – 110001

320, ಒನೇ ಮಹಡಿ, ವಿಧಾನ ಸೌಧ, ಬೆಂಗಳೂರು - ೫೬೦ ೦೦೧, ದೂರವಾಣಿ ಕಛೇರಿ: +91-80-22252442 / 22253716 ಫ್ಯಾಕ್ಸ್: +91-80-22258913
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e-mail : cs@karnataka.gov.in

ವಂದಿತಾ ಶರ್ಮಾ, ಭಾ.ಆ.ಸೇ.
ಸರ್ಕಾರದ ಅಪರ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿ
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ಕರ್ನಾಟಕ ಸರ್ಕಾರ
Government of Karnataka

VANDITA SHARMA, I.A.S.
Additional Chief Secretary to Govt
Forest, Ecology and Environment
Department

D.O. No. FEE 132 FWL 2013 (P 1)

Date:19.04.2018

Dear Sir,

This is in pursuance to the meeting held on 13.04.2018 at 2.30 pm under your Chairmanship with regard to the Special Leave Petition (civil) No. 13838 of 2010 in the Hon'ble Supreme Court of India – State Govt. of Kerala v/s Shri L. Srinivasa L. Srinivasa Babu and others. During the meeting your kind self had ask me to send a note on the stand of the Karnataka State Government. Accordingly, a note had been prepared and was emailed to your kindself on 17.01.2018. Further, that note was send by error and was not a final version. I am enclosing herewith a note on this subject as requested by you. This note has 3 Annexures which are enclosed herewith. You are requested to kindly include this note in your report to be placed before the Hon'ble Supreme Court of India.

With kind regards,

Yours sincerely,
Vandita Sharma
(VANDITA SHARMA)

Sri. Yudhvir Singh Malik, I.A.S.,
Secretary,
Ministry of Road Transport and Highways,
Transport Bhawan,
1, Parliament Street,
New Delhi -110 001.

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NOTE

Sub: Special Leave Petition (Civil) No.13838 of 2010 in the Hon'ble Supreme Court of India – State Govt. of Kerala V/s. Shri L. Srinivasa L. Srinivasa Babu & Ors. Meeting of the Committee constituted as per order of Hon'ble Supreme Court under the Chairmanship of Secretary, MoRTH.

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Preamble:

1. Two National Highways namely NH-212 for a distance of 20 km (between Maddur and Moolehole) and NH-67 for a distance of 13 km (between Melakamanahalli and Kekkanahalla) pass through the core of Bandipur Tiger Reserve which is a important habitat for our national animal - the tiger. Bandipur Tiger Reserve also forms part of the Nilgiri Biosphere Reserve notified by the United Nations Educational, Scientific, and Cultural Organisation (UNESCO).

2. The forest staff of the Bandipur Tiger Reserve noticed the deaths of a large number of mammals including leopards, tigers, elephants, sambar deer, spotted deer, barking deer, many species of birds and snakes due to road accidents on both the National Highways. Between 2004 and 2007 there are records of death of 89 mammals, 73 birds and 53 snakes due to the vehicular accidents on both the National Highways passing through the Bandipur Tiger Reserve. Many deaths even go unnoticed.

3. There was an outcry from the public and environmentalists to restrict the nighttime traffic passing through the Bandipur Tiger Reserve. The Deputy Conservator of Forests, Wildlife Division, Project Tiger, Bandipur in his letter dated: 23-01-2009 requested the Deputy Commissioner (DC), Chamarajnagar to

pass an appropriate order restricting the night-time traffic passing through both the National Highways. By exercising the powers under Section-115 of Motor Vehicles Act, the DC, Chamarajnagar passed an order on 03-06-2009 and restricted the movement of vehicular traffic between 9.00 pm and 6.00 am on both the National Highways passing through the Bandipur Tiger Reserve.

4. Aggrieved by the orders of DC, Chamarajnagar, public representatives of Sultan Batheri and Waynad in Kerala and the road transport authorities from Kerala requested the DC, Chamarajnagar to withdraw the order dated: 03-06-2009. The DC, Chamarajnagar withdrew the order dated: 03-06-2009 on 10-06-2009. Aggrieved by the withdrawal of the orders of DC, Chamarajnagar, two Public Interest Litigations were filed before the Hon'ble High Court of Karnataka (WP 17498/2009 and WP 919/2010). On 27-07-2009 The Hon'ble High Court of Karnataka passed an interim order and restored the first order of DC, Chamarajnagar dated: 03-06-2009 imposing the restrictions on the movement of night-time traffic on the both National Highways between 9.00 pm and 6.00 am. Aggrieved by the interim orders of the Hon'ble High Court, transport operators filed Writ Petitions before the Hon'ble High Court of Karnataka vide WP No. 26621-629/2009. During the pendency of the Writ Petitions various other persons have come up with impleading applications to air their grievances before the Hon'ble Court.

5. On hearing the legal contentions raised by all the parties, the Hon'ble High Court of Karnataka considered two important legal points out of their contentions namely;

   i. Whether, in the interest of preservation and protection of wildlife in the Bandipur National Park, it is necessary to regulate and restrict night-time traffic in the park?

ii. If so, how best the hardship caused to the transporters, traders and public can be mitigated?

The Hon'ble Court considered both the points together as they are interconnected. The Hon'ble Court appreciated the importance of conserving wildlife including tigers. Bandipur Tiger Reserve is in the forefront of tiger conservation in the country as it is one of the first Protected Areas to be brought under the Project Tiger Programme in 1973. Presently the Tiger Reserve attains global attention due to its conservation success story. Other than the tiger, the Reserve hosts a number of other endangered and threatened wildlife species such as elephant, gaur, sambar, spotted deer and a number of bird, reptile, amphibian and floral species. The extent of tiger reserve is spread over an area of 990 sq km. Bandipur Tiger Reserve is abutted by Nagarahole and Mudumalai Tiger Reserves and Waaynad Wildlife Sanctuary forming a large landscape required for conservation of species like tigers and elephants.

The protection of endangered species such as the tiger has become a challenge for mankind. At the same time, it has to be balanced with the needs of the people.

In this background, the restriction of nighttime traffic within Bandipur Tiger Reserve had to be seen in the interest of both wildlife and commuters who use these National Highways. The Members of the Parliament from Wayanad and Kozhikode constituencies in Kerala, who were also parties in the said case, indicated that an alternative road should be provided for nighttime traffic. The alternative road available with respect to NH-212 is a State Highway passing through Thithimathi-Gonikoppa-Kutta and the road is longer by 30 km and was supposed to be not in good condition. Hence, the Hon'ble Court came to a conclusion that the authorities should repair the existing alternative road to help any hardships faced by commuters due to the restriction imposed on vehicular

movement during night hours within Bandipur Tiger Reserve. The Hon'ble Court directed the Public Works Department, Government of Karnataka to undertake immediate measures to improve the conditions of the alternative road. Based on the order of the Hon'ble Court the Government of Karnataka undertook the task and improved the condition of the alternative road by spending Rs.75.00 crores. The Hon'ble High Court of Karnataka also directed National Highways Authority of India to take all the necessary action to ensure the ban during the night hours from 9.00 pm to 6.00 am for vehicular traffic on both the National Highways passing through Bandipur Tiger Reserve is effectively enforced.

6. After compliance of the Hon'ble High Courts orders by providing alternative road during the restricted hours and allowing four buses each from Karnataka, Tamil Nadu and Kerala State Road Transport Corporations in addition to allowing emergency services like ambulances, fire tenders, vehicles carrying deadbodies, police officials on duty, a few people filed Writ Petitions before the Hon'ble Supreme Court of India.

7. The Hon'ble Supreme Court on 06-05-2010 passed an interim order to explore the possibility to work out the modalities of transporting goods vehicles by means of some convoy system during the nighttime. Based on this order a meeting comprising of senior officials of Government of Kerala and Karnataka was held on 30-06-2010. During the meeting it was found that the convoy system was not feasible.

8. Further, on 15-04-2015 the Hon'ble Chief Ministers of Kerala and Karnataka met in Bengaluru to discuss the issue of restrictions imposed on nighttime traffic in Bandipur Tiger Reserve. It was decided to take the opinion of the

experts on this matter. In this background an expert committee that included Prof.Sukumar, Indian Institute of Science, Dr.A.J.T.Johnsingh, Retd. Dean of Wildlife Institute of India, Green Oscar Winner and eminent biologist Sanjay Gubbi, elephant experts Dr.M.D.Madhusudan and Ajay Desai, Ajai Misra, Additional Principal Chief Conservator of Forests (Wildlife) and Dr.Ravi Ralph, Principal Chief Conservator of Forests (Wildlife) was formed. The committee after detailed deliberations, assessment of ecological factors felt that the disturbance to wildlife including elephants would increase if any change in night closure is made. The committee concluded that "based on various ecological factors and alternatives available, it was opined by the experts that the current system should be maintained status-quo and no changes should be implemented. If possible the night closure should be extended to 6.00 pm". A copy of the report is enclosed as Annexure - 1.

9. The Hon'ble Supreme Court in their interim order dated: 10-01-2018 passed the following orders.

"The learned Attorney General suggests that one way out of the present impasse is to set up a Committee headed by the Secretary, Ministry of Road Transport and Highways (MoRTH) in which there would be representatives of the State of Kerala, Karnataka and Tamil Nadu. In addition, a representative from the National Tiger Conservation Authority functioning under the Ministry of Environment and Forest will also participate. The aforesaid Committee should have its first meeting within a month from the date a copy of this order is served. The report from this Committee is expected within a period of three months thereafter which is to be placed before this Court".

10. Based on the orders of the Hon'ble Supreme Court and instructions from the Ministry of Road Transport, The National Tiger Conservation Authority (NTCA) had convened a meeting of the representatives of all the three States at Aranya Bhavan, Bangalore on 06-03-2018 to know the factual position of the issue under consideration. The Principal Secretary, Transport Department of Kerala, the Principal Chief Conservator of Forests (HoFF) of Kerala and the District Collector, Waynad District attended the meeting on behalf of Kerala State, The Field Director, Mudumalai Tiger Reserve participated on behalf of Tamil Nadu, and the Principal Conservator of Forests (HoFF), Principal Conservator of Forests (Wildlife) attended on behalf of Karnataka. The Deputy Inspector General, NTCA, New Delhi and officers of the National Highway Authority of India took part in the meeting.

All issues were deliberated at length and the PCCF (Wildlife), Karnataka emphasized that the night restrictions imposed as per the orders of Hon'ble High Court of Karnataka is not a watertight compartment as sixteen buses (four buses from Kerala to Karnataka, four from Karnataka to Kerala, four from Karnataka to Tamil Nadu and four from Tamil Nadu to Karnataka) were allowed. In addition, all essential and emergency services are allowed during the night closure hours. Importantly, the alternative road as identified by public representatives of Kerala (who have represented themselves before the Hon'ble Court) was repaired at the cost of Government of Karnataka and is being used by all commuters during the restricted hours.

With respect to NH-67, the state of Tamil Nadu has no grievances and has expressed that they are comfortable with the existing arrangements. The Field Director of Mudumalai Tiger Reserve who was representing Tamil Nadu expressed that the commuters have got adjusted to the present circumstances and have no grievances. In fact Tamil Nadu has also restricted nighttime traffic that passes through the adjoining Mudumalai Tiger Reserve.

With these alternatives it may not be prudent to encroach into the inviolate hours of wild animals living peacefully in Bandipur Tiger Reserve in their own abode. More and more disturbance to wildlife, especially elephants leads to increased human-elephant conflict and several humans lives are lost annually due to such disturbances.

Wild animals and entire forest biodiversity has a right to and must survive in the interest of survival and welfare of mankind. Under the circumstances, it is very much essential that about 3% of land areas under protected areas network in the country such as wildlife sanctuaries/National Parks should be kept inviolate and all sorts of disturbance should be minimized/made nil so that the areas remain natural and interference free to develop on their own naturally. In the instant case 24 hr movement of vehicles was not only disturbing the animals but compartmentalizing the Bandipur Tiger reserve and Nagarahole Tiger Reserve in to smaller areas by containing the movement of animals like elephants, Gaur, sambar etc across the roads which is detrimental for their populations remaining healthy in addition to happening of more incidences of death of wild animals due to vehicle accidents. Since there is an alternative road which is just 30 km additional detour requiring about 30-60 minutes extra travel time, this extra little travel would be a trivial sacrifice from humans in the interest of wildlife. The proceedings of the meeting are enclosed as Annexure-2.

During the meeting the representative of NTCA suggested that the representatives of Kerala, Tamil Nadu and Karnataka should visit Bandipur Tiger Reserve to know the factual position of both the National Highways during the restricted hours. Hence, the Principal Secretary, Department of Transport, Government of Kerala, District Collector of Waynad, Field Director, Project Tiger Mudumalai, Deputy Inspector General, NTCA, a Member of the Karnataka State Wildlife Board and Field Director Project Tiger, Bandipur

visited the Tiger Reserve. The team visited both the National Highways during the night time when the restrictions were in place. As reported by them a large number of wildlife including elephants, gaur, sambar deer, spotted deer were seen on and along the highways. Many young ones of wildlife were also observed crossing the highways.

In addition the team inspected three transport corporation buses that were plying through during the restricted hours. It was found that the buses were carrying passengers less than 50% of its capacity. The same was confirmed by the trip sheets, the drivers and conductors of the buses. This highlighted the fact that the current system was prudent. The team also noticed that very few vehicles were waiting at the check posts to pass through the highways, and there was no pile up of traffic at night times at the check gates.

11. Meanwhile, the Chief Secretary, Government of Karnataka in her letter dated: 13-03-2018 has narrated the entire background to the issue and written a letter to your kind self to invite Karnataka Forest Department as a representative of your committee for placing all the facts for your kind consideration. The copy of the letter is enclosed as Annexure – 3.

12. On 13-04-2018 the undersigned along with the PCCF (Wildlife), Karnataka Forest Department attended the meeting convened by your kind self at New Delhi. With the permission of the Chair I explained the factual position to demonstrate that the present arrangements with an alternative road is not causing any hardship to the commuters and they have got used the alternative arrangements as it is in place since the past nine years. All vehicles including passenger vehicles, trucks carrying perishable and other materials, use the alternative road at night times during the restricted hours. The commuters have got used to it and the system is working well.

13. Bandipur Tiger Reserve is a very sensitive ecosystem and hosts over 100 tigers as per the recent All India Tiger Estimation. It is also home to over 1,800 elephants apart from other endangered and threatened wildlife species. Out of the 24 hours it is prudent to allow at least nine hours of inviolate time period during the night hours for the free movement of wildlife.

Your kind self had suggested the construction of underpasses, flyovers and tunnels along NH-212 within the Tiger Reserve to ensure unrestricted movement of vehicles. Bandipur Tiger Reserve is notified as a core critical tiger habitat under Sub-section. 4(1) of Section 38-V of the Wildlife Protection Act 1972 vide no:FEE 299 FLW 2007 dated 20-12-2007. Hence in this highly sensitive area any disturbance including construction of mega structures through the tiger reserve is neither permitted nor appropriate. Construction of these mega structures will cause immense disturbance to wildlife and the forests, involves felling of hundreds of trees, and also create enormous debris during the construction phase. It also requires construction of new structures such as evacuation structures, emergency exits and others through the tiger reserve which is not permitted inside a tiger reserve.

Hence, considering

a. that the alternative road has been developed based on the request of Government of Kerala by spending a total of Rs.75 crores and is only 30 km longer;

b. that the commuters have already got used to travelling on the alternative road since the past nine years (during the restricted hours that's imposed for a mere nine hours);

c. that sixteen state transport corporation buses are allowed during the restricted hours;

d. all emergency service vehicles are permitted during the restricted hours;

e. Bandipur Tiger Reserve is notified as a core-critical tiger habitat;

f. that there is an increase in tiger numbers after the restrictions have been imposed during night time; and

g. that the number of animal deaths have reduced after the restrictions have been imposed

the current restriction of vehicular movement between 9.00 pm and 6.00 am should be continued. The stand of the Government of Karnataka is to continue with the existing restrictions.

Your kind self has directed me to submit a note and accordingly this note is put up for your kind consideration and further submission to the Hon'ble Supreme Court. I would like to submit that the representative of Government of Tamil Nadu present has accepted the present arrangements.

(VANDITA SHARMA)
Additional Chief Secretary,
Dept. of Forest, Ecology and
Environment.

Date: 19-04-2018

(11)

Annexure-10

युद्धवीर सिंह मलिक, आई.ए.एस.
सचिव
Y. S. Malik, I.A.S.
Secretary

सत्यमेव जयते

सड़क परिवहन और राजमार्ग मंत्रालय
Ministry of Road Transport & Highways
भारत सरकार / Government of India

D.O. No RW/NH/12024/2/2018-KNT
August 13, 2018.

Dear C.K.

While hearing the SLP (Civil) No. 13838 of 2010, the Hon'ble Supreme Court constituted a Committee chaired by me to examine the issues relating to the dispute between the States of Karntaka and Kerala in respect of night time (9.00 pm to 6.00 am) restrictions on plying of traffic on NH 212, passing through the Bandipur National Park in Karnataka. The State of Karnataka has its reservations on revocation of the said restrictions, while the State of Kerala has been pressing for the same.

2. First meeting of the Committee was held on 07.02.2018 at New Delhi, wherein it was decided to undertake a joint site inspection by the stakeholders. After joint inspection, DIG, NTCA, MoEF&CC, has suggested to maintain status quo as the wildlife have behaviourly adjusted to the restricted traffic at night. Second meeting of the Committee was held on 13.04.2018 at New Delhi with a view to finding a permanent solution through adoption of adequate mitigation measures as per the MoEF&CC guidelines. The matter was deliberated and MoRT&H was of the view to provide 24 hour connectivity on NH 212 by contructing five elevated corridors (about 1 km length each with green belt below the structures after milling of the entire existing road) in the core zone of the Bandipore/ Wayanad National Park, as a comprehensive solution in which both animals and humans can co-exist without any conflict. Locations of the elevated road portions would be finalized in consultation with the experts from NTCA and the authorities dealing with the subject from the states of Karnataka and Kerala Government in consultation with the wildlife authorities.

3. It is, however, important to mention here that Government of Karnataka is still not supportive of the proposal and has been arguing for the use of an existing alternative State Highway route which is longer by about 44 kms. Needless to say, development of State Highways as an alternative route is not under the mandate of this Ministry as we are concerned only with the development of National Highways in the country. I had, therefore, proposed a solution which would save wild-life as well as continue the NH system for safe movement of traffic. I am enclosing a copy of the scheme that I propose to submit to the Supreme Court. You will appreciate that it may be difficult for the Attorney General to argue the matter before the Hon'ble Supreme

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Court when two Ministries of the Government of India cannot come to an agreed strategy.

4. The main reason for the approach that I am suggesting is that it is nobody's case that the human and wildlife conflict is not taking place during the day time when the traffic is plying without any restrictions for 15 hours during 6.00 am to 9.00 pm. We need to address this as well as a permanent solution. I hope you would find merit in the proposal.

5. The matter is likley to listed shortly in the Hon'ble Supreme Court. I have alreday been reminded about the urgency to file my report. As such, I request you to look into the matter personally, discuss it with the officers from NTCA and consider accepting the suggested approach. Please take it up on an urgent basis.

With regards,

Yours Sincerely,

(Y. S. Malik)

Shri C.K. MISHRA,
Secretary, MoEF&CC
Government of India,
Indira Paryavaran Bhavan, Jorbagh Road,
New Delhi - 110 003.

Annexure

Recommendations of MoRTH

5.1 National Highway No. 67

As far as NH 67 passing through the States of Karnataka and Tamil Nadu is concerned, it needs no further action as the state of Tamil Nadu has no problems with the restrictions on night-plying of traffic through the area. Therefore, the issue pertaining to the NH 67 may be closed warranting no further action as the present arrangements are operating to the satisfaction of both the states of Karnataka and Tamil Nadu.

5.2 NH - 212

As regards the issue of NH 212, it emerged during the deliberations that the States of Kerala and Karnataka are stuck-up with their respective parochial positions and appeared reluctant to think in terms of an objective and long lasting solution. View-points of both the states have already been detailed in the foregoing paragraphs. The issue has been examined in-depth in the Ministry of Road Transport & Highways at the level of Secretary.

6. NH-212 - Analysis

6.1 As stated earlier, NH-212 (New NH No. 766) is an important National Highway connecting Kollegal in Karnataka with Kozhikhode in Kerala via Mysore. Out of the total 272 km length, 34.60 km length of this highway passes through the Bandipore & Wayanad National Park. The salient features of this NH are re-iterated below for ready reference:

NH 212			
State	Karnataka	Kerala	Total length
Sanctuary name	Bandipur	Wayanad	
Core Zone of the Sanctuary	19.70 km	4.80 km	24.50 km
Buffer Zone of the Sanctuary	4.50 km	5.60 km	10.10 km
Total (km)	24.20 km	10.40 km	34.60 km

6.2 It is an admitted position that this NH remains open to traffic for about 15 out of 24 hours as the restrictions operate from 9.00 pm to 6.00 am. Thus the wildlife and the human beings remain equally susceptible to accidents during

these 15 hours. Admittedly, it is not the case that no accidents or casualties have been reported during these day-time operational hours.

6.3 The Additional Chief Secretary, Karnataka laid a lot of emphasis on the availability of an alternate route for travelling from Musuru (Karnataka) to Kainatty (Kerala). This alternative route passes from Gonikoppal (Karnataka), Kutta (Karnataka), Kattikulam (Kerala), Karakkamala Road (Kerala), Kainatty (Kerala) of which a substantial part is hilly terrain, and is about 44 kms longer. Adoption of the alternate existing route would certainly result in otherwise avoidable consumption of fuel (which is a huge import burden for the country) besides causing the incremental vehicular emissions, which also acts against the environmental eco-system. It goes without saying that forcing people to take to a longer route with sub-optimal fuel consumption on account of terrain conditions is certainly not a pro-environment optimal solution as long as there are alternatives which ensure safety of human and the wild life.

6.4 Coming to the safety of wild-life in the sanctuary, it is also an admitted position that the core area of Bandipur Wildlife Sanctuary has a variety of Wildlife, including Elephants and Tigers and a number of other species. These animals move to and fro within the core area of the sanctuary and their free movement and safety has to be ensured. The safety and free movement of these animals and the safety of human lives remains at risk for 15 hours during 6.00 am to 9.00 pm when the traffic flows on this road without any restrictions.

6.5 The Wildlife Institute of India (under the MoEF&CC), together with the World Bank and the NHAI, has come out with an illustrative publication titled *"Eco-friendly Measures to Mitigate Impacts of Linear Infrastructure on Wildlife"* only recently (January 2017). These guidelines have been studied in the context of NH 212. Further, the Secretary, Ministry of Road Transport and Highways also had an opportunity to discuss the issue with an eminent subject expert, Sh. Vivek Mohan, who is the Executive Director and CEO of the Wildlife Trust of India. It emerged during discussions that Nature and Infrastructure need not be always at logger-heads. It was also recognized that while the Elephants always stick to the passages they adopt, the other species of Wildlife also invariably take to the passages often used by them. There are enough measures that can be put in place to ensure safe passage to our wildlife while not compromising the development goals.

6.6 Keeping in view the limiting factors as mentioned in the sub-paras above, MoRTH is of the considered view that NH-212 would be a good case for 24*7*365 operations with significant improvements and improvisations in a length of about 25 kms of the Core Zone of the Sanctuary/ Park of this Highway.

7. Measures proposed:

(i) The existing Highway needs to be developed with a total of five elevated Sections of 1 km length each (04 in Bandipur Sanctuary and 01 elevated Section in the Wayanad sanctuary). The exact locations of these elevated sections would be decided in consultation with the wildlife experts from the concerned state governments and the NTCA as they have better knowledge of the passages normally used by the wildlife. The metalled road portion underneath these elevated sections would be milled and converted into a forest landscape so as to maintain the continuity of the forest under these elevated sections for ease of movement of the wildlife without any barriers.

(ii) The 'At-grade' portion of the Highway would be provided with a steel-wired 8 feet high fencing on both sides along the entire at-grade length to prevent wildlife from crossing the road at any time so as to ensure against any wildlife and vehicle/ human conflict. Steel wired fencing would also ensure that the animals only use the elevated underpasses for movement. This would prevent vehicle-animal accidents and ensure safe passage for both animals and vehicles during day as well as night-time. This scheme of development would provide a comprehensive and permanent solution in which both animals and humans can co-exist.

(iii) The existing Highway stretch is a two-lane road (7mtrs blacktop carriageway) with a Right of Way (RoW) varying between 10 mtrs to 15 mtrs along the stretch. It needs to be developed as a Highway with a configuration of two-lane with paved shoulders (i.e. 10 mtrs wide carriageway), which necessitates a uniform RoW of 15mtrs width. Since the 5 kms long road sections under the elevated sections would be converted into forest landscape after milling of the metalled road sections, the Forest Departments of Karnataka and Kerala should be agreeable to make land available for achieving a uniform RoW of 15 mtrs in the remaining "At-Grade" stretches. The land in exchange for this 5 kms stretch should more or less meet this requirement.

(iv) However, execution of the project with the proposed measures would have its own challenges and the same will not be feasible unless the concerned State Government officers take it as a joint exercise and extend their unqualified support in this endeavour.

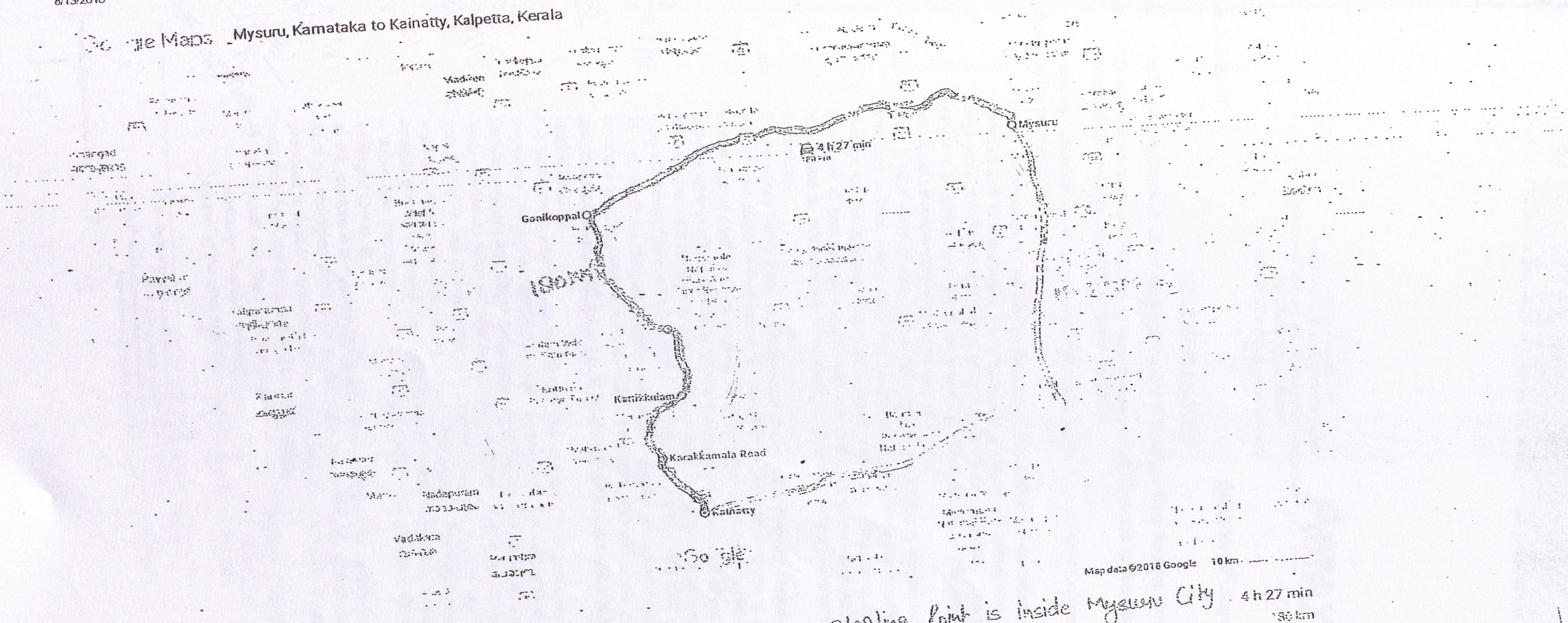
8. Cost-Estimates

(i) Tentative cost of above mitigation measures and road improvement has been worked out to about Rs. 500.00 crore (Rupees Five Hundered crore). Final costs would be worked out after detailed surveys, finalization of elevated structures and Detailed Project Report. Tentative Cost estimates are enclosed at Annexure-8.

(ii) MoRTH would be agreeable to share 50% of the cost burden of developing this road with necessary mitigation measures and road improvement, while the balance 50% of the cost would have to be borne by the main beneficiary state i.e. the State Government of Kerala.

Drive 180 km, 4 h 27 min

Google Maps Mysuru, Karnataka to Kainatty, Kalpetta, Kerala



via Mangalore - Mysore Hwy and Thalaserry - Mysore Rd/Virajpet-Mysore Rd
4 h 27 min without traffic

Starting point is inside Mysuru City. 4 h 27 min
136 km

(25)

Annexure-II

भारत सरकार
Government of India
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest and Climate Change
राष्ट्रीय व्याघ्र संरक्षण प्राधिकरण
National Tiger Conservation Authority
*****

F. No. 1-5/93-PT

Dated the 20th August, 2018

OFFICE MEMORANDUM

Sub: **NH 212 passing through core/critical tiger habitat of Bandipur Tiger Reserve, Karnataka – reg.**

Ref: **D.O. letter from Secretary, Ministry of Road Transport and Highways to Secretary, MoEF&CC, forwarded vide e-office No. 1709201 dated 14.8.2018.**

In inviting reference to the subject and letter cited above, I am to communicate views of this Authority on the referred matter, as follows:

(i) Based on directions of the Hon'ble Apex Court, this Authority, vide letter of even number dated 23.3.2018 (**Annexure-I**), this Authority had conveyed maintaining status quo based on large scale stakeholder consultation which included a field appraisal. This consultation, as earlier highlighted, was based on prevailing circumstances which emanated from an ecological perspective as well as extant local situation.

(ii) From a legal point of view, section 38 V (4) (i) of the Wildlife (Protection) Act, 1972, as amended in 2006, clearly states that core/critical tiger habitats are required to be kept as inviolate for the purposes of tiger conservation, and maintaining status quo facilitates this ecological as well as legal requirement, with minimal inconvenience to the populace as highlighted by this Authority in its report, to Chairman of the Supreme Court appointed Committee.

(iii) The reference being made to the publication titled "***Eco-friendly measures to Mitigate Impacts of Linear infrastructure on Wildlife***" is being misinterpreted at not only this instant, but at other fora too, wherein, its prescriptions are being viewed as a panacea to mitigate adverse ecological effects of linear infrastructure irrespective of ecological and legal requirements. It is highlighted and re-iterated that the said publication was brought out in letter and spirit of section 38 O (1) (g) of the Wildlife (Protection) Act, 1972 read with section 38 V (3) (b) of the said Act, wherein, mitigation strategies are brought into the picture for corridor / adjoining areas which have been identified as dispersal areas. Hence, use of the said document is restricted and under no circumstance apply to areas, which are required to be kept inviolate.

(iv) It is pertinent to mention that the Western Ghats landscape holds the world's largest tiger population as it has contiguous tiger reserves of Nagarahole-Bandipur-Mudumalai-Sathyamangalam and Biligiri Ranganathaswamy Temple spread across Karnataka & Tamil Nadu besides the Wayanad Wildlife Sanctuary in Kerala. This is one of the few viable tiger populations in the country which is a deemed insurance against any untoward events impacting tiger conservation in the country. It is informed that Population Habitat Viability Analysis (PHVA) has shown that an inviolate area of 800-1200 sq.km. is required to maintain a viable tiger population of 80 to 100 tigers which shall be jeopardized if the proposal envisaged comes up.

(v) At this juncture; it is important to highlight adverse effects of linear infrastructure on wildlife from an ecological stand point as the same have not been adequately factored in the proposed mitigation measures, which though adequate for a connecting landscape, have incorrectly been applied to a core/critical tiger habitat:

(a) Habitat loss: The construction of the proposed mitigation shall result in clearing of vegetation besides indirect losses due to degradation, the latter sometimes exceeding the amount of habitat directly cleared for the road.

बी-१ विंग, सातवाँ तल, प. दीनदयाल अंत्योदय भवन, सी. जी. ओ. कॉम्प्लेक्स, लोधी रोड, नई दिल्ली-११०००३
दूरभाष सं० 011-2436 7037-42, फैक्स सं० 011-24367836
B-1 Wing, 7th Floor, Pt. Deendayal Antyodaya Bhawan, CGO Complex, Lodhi Road, New Delhi-110003
Telephone No. 011-2436 7037-42, Fax No. 011-24367836

(b) Habitat degradation: Habitat quality declines adjacent to linear infrastructure, modifying micro climatic conditions which in turn encourages weed invasion and results in "specialist" "habitat interior" species losing out "generalist" "edge adapted" species thereby causing altered animal distribution as well as disappearance of certain species. This is referred to as the "EDGE EFFECT".

(c) Barrier to movement: Restriction to movement of wildlife which is exacerbated by noise, light and chemical pollution will result in gradual insularization of "interior specialist" species like tigers and elephants, which are abundant in the Bandipur Tiger Reserve.

(d) Wildlife mortality: Due to direct animal-vehicle collisions.

(e) Altered wildlife behaviour: Tiger and elephants ('K' selected species in ecology) shall avoid use of disturbed areas, especially during construction, which shall take significant time, and gradually get isolated as sub-populations, in what is one of the few viable tiger and elephant populations, and an insurance for their long term survival in India.

(vi) The alternate route will cause insignificant vehicular emissions, and to the contrary, with the proposed RoW of 15 metres on NH-212, it is prudent to expect an increased volume of traffic with concomitant rise in chemical as well as noise pollution whose cumulative adverse effects shall outweigh the incremental emissions and avoidable fuel consumption highlighted, on the alternate highway. In fact, it is in the fitness of things to upgrade this alternative route, as suggested by the Government of Karnataka too, vide the Chief Secretary's letter appended herewith.

(vii) Moreover, the State of Karnataka (the leading tiger State in the country), a major stakeholder and owner of the land in the entire exercise is not on board, which has been earlier highlighted in report submitted to the Secretary, Ministry of Road Transport & Highways, as well as re-iterated vide letter dated 16.8.2018, appended at **Annexure-II.**

Hence, in view of legal provisions stemming out of strong ecological concerns, the approach suggested in letter referred above is not in consonance with fundamental tenets of tiger conservation and has the potential to disrupt one of the last remaining viable tiger populations in the country and offset gains made in tiger conservation over the last few years.

This issues with approval of the competent authority.

Encl: As above

(Dr. Vaibhav C. Mathur)
Assistant Inspector General of Forests (NTCA)
e-mail: aig3-ntca@nic.in

PPS to DGF & SS, MoEF&CC.

Copy to:

1. PS to Hon'ble MEF&CC.
2. PS to Hon'ble.MoS, MoEF&CC.
3. PPS to Secretary (EF&CC).
4. PPS to Secretary, Ministry of Road Transport and Highways, Room No. 509, Transport Bhawan, 1, Parliament Street, New Delhi.
5. PS to ADG (PT) & MS (NTCA).

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F.No. 1-5/95-PT (Part)
Government of India
Ministry of Environment, Forest & Climate Change
National Tiger Conservation Authority
*****

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Tel: 011-2436 2716
EPABX: 011-2436 7837-42

Dated: 23.03.2018

To

The Secretary,
Ministry of Road, Transport & Highways,
Government of India,
Transport Bhawan, 1, Parliament Street,
New Delhi-110001

Sub: Report on the restriction of night traffic on highways passing through Bandipur Tiger Reserve, Karnataka – reg.

Sir,

In pursuance of decision taken during the meeting held on 07.02.2018 at Transport Bhawan, New Delhi, to coordinate a joint site inspection and hold a meeting with all the stakeholders at site with a view to finding an acceptable resolution, the said meeting was organized on 6th March, 2018 followed by field visit during 6th – 8th March, 2018.

In this context, report pertaining to the said matter as mentioned under subject is enclosed herewith for your kind perusal and necessary action.

Encl: As above.

Yours faithfully,

(Sanjay Kumar)
Deputy Inspector General (NTCA)

Copy to:
1. PPS to Secretary, EF&CC.
2. PPS to DGF&SS, MoEF&CC.
3. PS to ADG (PT) & MS (NTCA).

Report on the restriction of night traffic on highways (NH-212 as 766 and NH-67) passing through Bandipur Tiger Reserve, Karnataka during 9.00 P.M. to 6.00 A.M.

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Background

In the matter of Special Leave Petition (Civil) No. 13838 of 2010 in the Hon'ble Supreme Court of India – State Government of Kerala V/s. Shri L. Srinivasa Babu and Ors., Hon'ble Supreme Court passed an order on dated 10.01.2018, as per which a committee headed by the Secretary, Ministry of Roads, Transport and Highways (MoRTH), Government of India with representatives of Karnataka, Kerala, Tamil Nadu and the National Tiger Conservation Authority (NTCA), Ministry of Environment, Forest & Climate Change (MoEF&CC) was constituted with regard to examining restriction of movement of vehicles on the highways (NH-212 and NH-67) passing through Bandipur Tiger Reserve, Karnataka during night time between 9.00 P.M. to 6.00 A.M.

2. Subsequently, meeting of the aforesaid committee was held on 07.02.2018 under the Chairmanship of the Secretary, MoRTH, wherein it was decided that the Deputy Inspector General (DIG, NTCA), MoEF&CC would coordinate a joint site inspection and hold a meeting with all the stakeholders at site with a view to finding an acceptable resolution of the issue.

3. In compliance of the decision taken in the aforesaid meeting, a meeting of all the stakeholders was organized on 6th March, 2018 in the office of Principal Chief Conservator of Forest (Wildlife), Karnataka. This meeting was attended by all the stakeholders besides officials of the NTCA, MoEF&CC and representatives of MoRTH. All issues were discussed threadbare in which representatives of both Kerala as well as Karnataka besides Tamil Nadu put forth their views. All arguments regarding the restrictions were discussed in detail. A copy of the proceedings of the meeting along with response thereto on it from State of Kerala, is annexed herewith (Annexure-I).

Points put forth by Karnataka

4. Officers from Karnataka vehemently opposed any move to reconsider existing restriction imposed as per order of Hon'ble High Court of Karnataka for which they gave a number of justifications. Giving the brief history of entire episode, the Principal Chief Conservator of Forest, Wildlife (PCCF, WL) & Chief Wildlife Warden (CWLW), Karnataka underscored that the order to close the Highways (NH-212 and NH-67) passing through Bandipur Tiger Reserve from 9.00 P.M. to 6.00 A.M. was as per the guidelines of tiger conservation action plan 2007-08 to 2010-11, to maintain inviolate conditions for the tigers, elephants and all other associated wildlife in the reserve and also to avoid death of large number of wildlife due to accidents, particularly during night hours. He also mentioned that the demand for an alternate road was also met. He further elaborated that when it was alleged that the alternate road condition was in bad state, as per the order of Hon'ble Karnataka High Court to take steps to secure the safety of the commuters and transporters by repairing the bridges or culverts that are not in a good condition and to take appropriate and adequate measures to improve the condition of alternative roads, the Public Work Department, Karnataka had spent Rs. 75 Crore and repaired that alternative road to NH-212.

He also mentioned that in addition to providing alternative roads during restriction period, 16 Transport Corporation Buses of Karnataka, Kerala, Tamil Nadu and emergency service like ambulance, vehicles carrying dead bodies, police on duty and fire engines are allowed. The CWLW concluded by emphasizing that all the alibies brought out before the authorities and the

Hon'ble Court are resolved amicably and the authorities of Karnataka have responded positively to the facilities requested by the authorities and public representatives of Kerala State. Further precipitating the issues without new or valid reason is highly unreasonable as the restrictions imposed on the use of NH-212 and NH-67 passing through Bandipur Tiger Reserve is only for a period of 9 hours during night. He further stated that all the members present in the meeting were aware that Bandipur Tiger Reserve was one of the first Protected Areas brought under tiger conservation during 1973. Out of 24 hours, if we do not spare at least 9 hours inviolate condition for the wild animals living in their own habitat, we as authorities are not reasonable in our decisions.

Points put forth by Kerala

5. On behalf of the Government of Kerala, Principal Secretary, Transport and Revenue suggested that Govt. of Kerala had earlier proposed permanent solution for travelling public from Sulthan Bathery area to Mysore and vice-versa based on Prof. Easa's report which may be accepted by the Karnataka Government. Citing refusal from the Karnataka Forest Department on any alternative proposal, he stated that there is a genuine demand to increase frequency of buses as it would be convenient for techies from Malabar area working in Bangalore as the alternative road is longer by 40-50 kms. and are not of National Highways standards. He requested that at least State transport undertaking should be permitted to operate public transport facility in the night. He also mentioned about the traffic congestion in the early morning, especially in Ghat areas, leading to road accidents as well as accident deaths, which gets aggravated during the pilgrim season of Sabrimala. He requested for public transport on convoy basis as short term solution till long term solution materializes.

The PCCF and Head of Forest Force (HoFF) & Chief Wildlife Warden, Kerala pleaded that the road under consideration existed even before the area was notified as a tiger reserve in 1973. As per him, major part of negative impact of closure has fallen on Kerala and that too on the Forest Department. Very high level of friction between people and Kerala Forest Department in Wayanad is directly or indirectly linked to this ban. The present ban has been imposed neither on the advice of NTCA nor under the provisions of the Wildlife (Protection) Act. Giving reasons, he suggested allowing vehicles to pass in convoy during the period which is found to be least sensitive to the wildlife, without reducing the closure period of 9 hours by starting the ban earlier than the present 9.00 P.M. and by bunching of the 16 buses which are even now allowed. The Deputy Commissioner of Wayanad cited adverse effect on economy because of longer length of alternative road.

Response of Karnataka on the observations made by Kerala

6. Responding to the observations made by officers of the Government of Kerala, the officers of Karnataka questioned the authenticity of Prof. Easa's report for no permission for doing such study was ever taken from the competent authority of Karnataka Forest Department.

On the issue of deploying convoy system, the officers of Karnataka Forest Department brought it to the notice of all that as per decision taken in meeting of Chief Minister of Karnataka and Kerala on 15.04.2015, wherein it was requested from Kerala side to examine increase in number of vehicles to 20, introduction of convoy system with speed limit of 30 km. per hour and reducing the time of night traffic ban, a meeting to take legal opinion and consult subject experts working on large mammals (elephants, tigers, leopards), wildlife in general and road ecology having extensive scientific and wildlife policy experience, was convened on 17.08.2015 to decide the above issues. This committee included experts like Dr. A.J.T. Johnsingh, Member (NTCA) and Dean (Retd.), Wildlife Institute of India, Dehradun; Shri Sanjay Gubbi, Member, State Board for Wildlife, Karnataka and large carnivore Ecologist; Shri Ajay Desai, WWF-India, Elephant Ecologist and Member, State Board for Wildlife, Karnataka and Dr. M.D. Madhusudan, Scientist,

officers of Karnataka Forest Department. It was apprised that based on various Ecological factors and alternatives available, it was opined by the experts that the current system should be maintained status quo and no change should be implemented, if possible, the night closure should be 9.00 P.M. to 6.00 A.M. This was conveyed to the Government of Kerala from Government of Karnataka on 07.11.2015.

7. On the suggestion of upgrading the alternate road (Hunsur-Gonikoppa-Kutta) to a four lane highway by Principal Secretary, Transport, Kerala and General Manager, NHAI, PCCF (WL), Karnataka mentioned that this would involve diversion of additional forest land passing through very sensitive areas of Kodagu district. He mentioned that the elephant movement during day time itself is very high on NH-212 passing through Bandipur Tiger Reserve. Causing disturbance during night time to will lead to increased man-animal conflict.

PCCF & HoFF, Karnataka opined that most of the South Indian Rivers flowing through Protected Areas are perennial because of high density of forest cover which maintains the water balance ensuring continuous flow of water. Hence, integrity of Protected Areas should be maintained in the interest of water security of the country.

It was stated by the Director, Bandipur Tiger Reserve that very few vehicles piled up at the gates at night times and commuters including transporters had got adjusted to the existing restriction imposed.

Points put forth by Tamil Nadu

8. Representative of Government of Tamil Nadu (Chief Conservator of Forest and Field Director, Project Tiger, Mudumalai Tiger Reserve) specified that the current arrangement is suitable and tourist and other commuters have already got adjusted to the existing modalities. He also mentioned that night closure has helped the economy in many indirect ways like upcoming market in relatively smaller towns thereby fostering economic upliftment of people in nearby areas.

Site Inspection

9. It was decided that the team would inspect the site during restricted hours to have a firsthand experience of the situation. Accordingly, a field visit from the evening of 06-03-2018 to afternoon of 08-03-2018 was undertaken. Besides undersigned, those accompanied, include - Sri. K.R. Jyothilal, IAS, Principal Secretary, Transport, Government of Kerala; Sri. Suhas S, IAS, District Collector, Wayanad District, Kerala; Sri. R. Srinivas Reddy, IFS, Chief Conservator of Forests & Field Director, Madumalai Tiger Reserve, Tamil Nadu; Sri. Ambadi Madav, IFS, Conservator of Forests & Field Director, Bandipur Tiger Reserve; Sri. Rajendra Garwad, IFS, AIG, NTCA and Sri. Sanjay Gubbi, Member, State Board for Wildlife, Karnataka.

Key points of the field visit:

10. Visits were undertaken to NH-212 and NH-67 to assess the on-ground situation with regards to issues faced by commuters and wildlife. During the visit undertaken with senior officials of Kerala, Karnataka and Tamil Nadu, the following points were noted.

Visit to NH-212 and NH-67
(Dated: 06.03.2018 and 07.03.2018 till 3.00 A.M.)

11. The number of vehicles that were waiting at the gate of NH-212 was nominal. We noticed that a total of 11 vehicles were waiting at the Maddur gate, which is the entrance to Bandipur

Tiger Reserve, on NH-212 while traveling from Karnataka to Kerala. When we discussed with the drivers, some expressed that they have got accustomed to the night closure and they plan their trip according to the restrictions currently imposed.

During the visit/drive on NH-212 (which is 18.5 km within the Bandipur Tiger Reserve) when the highway was closed to vehicular traffic (except emergency vehicles, and transport corporation buses) a total of four different elephant groups, several herds of gaur, sambar, chital, snakes and other wildlife were observed on and along the edges of the highway indicating high usage of wildlife of the area at night times. We observed many wildlife including young ones, were crossing the highway without hindrance. Wildlife has also attuned to the night closure and seems to largely benefit from this restriction.

Besides photographic and video-graphic evidences of various wild animals including tigers, leopards, elephants, wild dogs etc. crossing the road during the night time and using it fearlessly were also shown. A study done by Wildlife Conservation Foundation regarding use of road on the stretch passing through the said tiger reserve on NH-212 & NH-67 during night time also indicates a good number of wild animals using it throughout the restricted hour.

The field team visited the Moolehole checkpost on the border of Karnataka and Kerala within Bandipur Tiger Reserve where only one truck was waiting to cross. We also noticed that signages were clearly put up with regards to the night time restrictions.

A total of eight State Transport Corporation buses are permitted to travel through NH-212 during the restricted hours. The team inspected two buses that were traveling on NH-212 and also interacted with the drivers and conductors. One bus belonging to Kerala State Transport Corporation was traveling from Mysore to Calicut and the second bus belonged to Karnataka State Transport Corporation and was traveling from Calicut to Bangalore. Both buses had occupancy lesser than 50% and the interactions with the transport corporation staff revealed that the buses run on full capacity only during weekends.

When the team visited Melkaamanahalli gate, which is the entrance to Bandipur Tiger Reserve on NH-67 to travel towards Tamil Nadu, four vehicles were observed waiting at the gate. The field visit ended at 3.00 am.

Discussions with stakeholders and visit to NH-67
(07.03.2018 to 08.03.2018 till 2.00 A.M.)

12. Initially, a meeting was held at Bandipur Tiger Reserve where Sri. C.K. Saseendran, Hon'ble Member of the Legislative Assembly, Wayanad, Sri. K.R. Jyothilal, IAS, Principal Secretary, Transport, Government of Kerala, Sri. S. Suhas, District Collector, Wayanad, Sri. C.K. Sahadevan, Chairman, Sulthan Bathery Municipality, Sri. Badushah, President, Wayanad Prakritik Samrakshan Trust, Sri. R. Srinivas Reddy, CCF & Director Mudumalai Tiger Reserve, Sri. Ambadi Madhav, CF & Director Bandipur Tiger Reserve, Sri. H.N. Balakrishna, Police Circle Inspector, Gundlupete, and other stakeholders from Kerala and Karnataka participated, besides the undersigned.

While submitting representation giving long term and short term solutions, Sri. Saseendran, MLA, Kalpetta, Kerala requested for building of an elevated highway or an underground tunnel to reduce the hardships. Copy of the said representation is annexed (**Annexure-II**). Sri. Suhas, Deputy Commissioner, Wayanad (Kerala) expressed the hardships faced by people because of traveling the additional 30 km. and requested for allowing more buses during restricted period to support the economy of Wayanad. There were mixed responses from the stakeholders from Kerala with one side opposing the restrictions, and one side fully supporting the restrictions. Sri. N. Badhusha, Wayanad Prakruti Samrakshana Samiti, Sulthan

Bathery, Kerala, one of the petitioners in W.P. No. [illegible] other people from his organization while submitting representation, expressed that the night ure should continue, giving a number of justifications in support of his opinion. The said representation (unsigned) is annexed (Annexure-III). Stakeholders from Karnataka wh participated in the meeting supported the night closure and insisted that it should continue.

The Circle Police Inspector of Gundlupete who was deputed by the Superintendent of Police, Chamarajanagara District expressed that the vehicular accidents (both fatal and non-fatal), crime rate had decreased during night time after the night restrictions on vehicular movement was implemented since 2009. They also expressed that they are able to better handle the inter-state crimes more efficiently due to the restrictions on vehicle movement through Bandipur at night times. The police department has presented the data and facts in a letter addressed to the NTCA (copy enclosed at Annexure-IV).

13. The team again drove through NH-67 at night time to assess the situation on NH-67 that connects to Ooty in Tamil Nadu, a popular tourist destination. The team drove through Bandipur and Mudumalai Tiger Reserves passing through Kekkanahalla (in Karnataka), Theppakadu and Gudalur check posts in Tamil Nadu. At the Gudalur checkpost, which is at the border of Mudumalai Tiger Reserve, through which the vehicles exit to reach Tamil Nadu, we noticed that the vehicles had reached the border and exited Mudumalai Tiger Reserve by taking less than one hour to cover the distance of 27.5 km starting from the border of Bandipur Tiger Reserve. When the team interacted with the lorry drivers, they did not express any problem with the current restrictions. The team also noticed that there were posters put up at the check posts to educate the commuters about the restrictions and about the alternative roads.

While returning, the team observed that there were only seven vehicles waiting at the Melkamanahalli gate waiting to cross Bandipur Tiger Reserve to go towards Tamil Nadu side. The field visit ended at 2.00 A.M.

We were apprised both during the meeting on the 6th March 2018 and during the field visit to Tamil Nadu that there was no opposition from Tamil Nadu about the closure of NH-67 during 9.00 P.M. and 6.00 A.M. In fact, Tamil Nadu has also closed the stretch of NH-67 that passes through Mudumalai Tiger Reserve through a government order. This road continues through Bandipur Tiger Reserve.

We were also explained that a total of 16 state transport corporation buses (four from Karnataka to Kerala, four from Kerala to Karnataka, four from Tamil Nadu to Karnataka and vice-versa) are allowed to ply during restricted hours. Similarly, all emergency vehicles including ambulances, vehicles carrying dead bodies, fire personnel, police and others with emergency situations are allowed during the restricted hours with a support/escort vehicle from the forest department.

Visit to the alternative road
(08.03.2018)

14. As per submissions made in the Hon'ble Karnataka High Court regarding alternative road (SH-90), the team visited the said road to assess its condition and the current usage. The alternative road was developed and improved as per the orders of the Hon'ble High Court of Karnataka (in WP 17498/2009 and WP 919/2010) based on the request of State of Kerala. It was submitted to the team that the Government of Karnataka through the Public Works Department had spent Rs. 75 Crores to repair and develop the alternative road to ensure the commuters would not face hardships.

The team while visiting the alternative road partially (SH-90, Hunsur-Gonikoppa-Kutta-Sultan Bathery), noticed that it was similar to the standard of a National Highway. The road condition is very good and the team noticed that several passenger and goods vehicles from Karnataka and Kerala were using this alternative road.

Conclusion

15. In light of the deliberations made in the meetings, field visits, discussions with various stakeholders, and inspection of certain records, it is concluded that the current prevailing situation does not warrant for any changes. Similarly, there seems to be no need for any changes in the current bus volume that are permitted during the restricted hours. Importantly, wildlife such as tigers, elephants, gaur and others have behaviorally adjusted to the restricted traffic at night times which is beneficial to the long-term conservation of these species.

All arguments including convoy system, elevated highway, alternative roads, etc. have been discussed and argued at length in the Hon'ble High Court of Karnataka as well as at various joint forums of both the State Government. The steps taken by Government of Karnataka with relation to the order of the High Court to repair and improve the alternative road is satisfactory and does not lead to any hardships either to passenger or goods transporters.

The issue of distance while taking the alternative road (which is currently 35 km. longer approx.) should be taken into account from different places rather than from the boundary of Bandipur Tiger Reserve. Since, most vehicles originate from Mysore, Bangalore and other areas, the distance to calculate the alternative road should originate from Mysore. Calculation sheet depicting distance to important places through NH-212, is attached at Annexure-V.

As far as emergency travel is considered there are no restrictions on emergency vehicles, hence, does not affect such situations. It was also brought to my notice that there are very good quality medical, educational and other facilities within Kerala in Kalpetta, Manathavady, Vythri and other areas.

16. In light of the deliberations made in the preceding paras as above, maintaining status quo is suggested.

17. It was apprised by the consultant of Chaitanya Projects Consultancy Pvt. Ltd. (Uttar Pradesh) that under the Bharatmala Project, there is proposal to connect Bangalore with places in Kerala in which the alignment is proposed in such a manner that it would avoid Protected Areas. The proposal may be discussed with the concerned State Governments.

Dated: 23.03.2018

(Sanjay Kumar)
Deputy Inspector General,
National Tiger Conservation Authority
Tel: 011-24362716,
EPABX: 24367837-42

LIST OF ANNEXURES

1. Proceedings of the meeting along with response thereto on it from State of Kerala (Annexure-I).
2. Representation of Sri C.K. Saseendaran, MLA, Kalpetta (Annexure-II)
3. Representation of Sri. N. Badhusha, Wayanad Prakruti Samrakshana Samiti, Sulthan Bathery, Kerala (Annexure-III)
4. Data provided by the police department (Annexure-IV).
5. Calculation of distances to various places passing through NH-212 and the alternative road (Annexure-V).
6. Map of the landscape with existing highways and the alternative road (Annexure-VI).
7. Pictures of the field visit (Annexure-VII).
8. Pictures of the highways passing through Bandipur Tiger Reserve (Annexure-VIII).

*****

Principal Chief Conservator of Forests
(Wildlife) Bengaluru

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Aranya Bhavan, 2nd Floor
18th Cross, Malleswaram,
Bangalore-560 003

Date: 12-03-2018

No. PCCF(WL)/D/CR-31/2008-09

To,

Sri. Sanjay Kumar Patak, IFS
Deputy Inspector General of Forests,
National Tiger Conservation Authority,
Government of India,
7th floor, B1 Wing,
Pt. Deenadayal Anthodaya Bhavan,
CGO Complex Lodhi Road,
New Delhi-110003

Sir,

Subject: Proceeding of the Meeting held on restrictions of Night Traffic Between 9:00 pm to 6:00 am on NH 212 and NH 67 passing through Bandipura Tiger Reseve.

DIG(NTCA)
Action by

Ref: Letter No. F.No.1-5/93-PT(Part) dated: 16-02-2018 of AIG (NTCA) New Delhi.

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A copy of the meeting proceeding and field Visit report regarding restrictions of Night Traffic Ban between 9:00 pm to 6:00 am on NH212 and NH67 passing through Bandipura Tiger Reserve held on 06-03-2018 at Aranya Bhavana Committee Room is enclosed herewith for information & needful action.

Your's faithfully,

12/3

Principal Chief Conservator of Forests,
(Wildlife) Bangalore.

Copy with compliments to the following officers for information:
(Sriyuths)

1. The Addl. Chief Secretary to Government, Forest, Ecology & Environment Dept., M.S.Building, Bangalore -500 001
2. Punati Sridar, IFS Principal Chief Conservator of Forests (Head of Forest Force), Karnataka
3. P.K. Kesavan, IFS Principal Chief Conservator of Forests (Head of Forest Force) and Chief Wildlife Warden, Kerala

4. P.S. Somashekar, IFS Inspector General of Forests, NTCA, Regional office, Government of India, Bengaluru
5. K. R. Jyothilal, IAS, Principal Secretary, Transport, Kerala
6. Suhas S, IAS, District Collector, Wayanad District, Kerala
7. Y.V.Prasad, General Manager (Technical), National Highway Authority of India, Regional Office, Bengaluru
8. Ambadi Madav, IFS Conservator of Forests & Field Director, Bandipura Tiger Reserve
9. R. Srinivas Reddy, IFS Chief Conservator of Forests & Field Director, Madumalai Tiger Reserve, Ooty
10. Rajendra Garawad, IFS Assistant Inspector General of Forests, NTCA, Regional Office, Bengaluru
11. Sanjay Gubbi, Member, State Board for Wildlife
12. Rajkumar D, Wildlife Conservation Foundation & Honorary Wildlife Warden
13. Praveen Ramaswamy, [illegible], Bengaluru
14. Ravi Shankar, Chaitanya Projects Pvt ltd, Bengaluru
15. Sharad Verma, Chaitanya Projects Pvt ltd, Ghaziabad

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Proceedings of the Meetingheld on restrictions of Night Traffic between 9:00 pm to 6:00 am on NH212 and NH67 passing through BandipuraTiger Reserve.
Place: AranyaBhavana Committee Room. Time & Date:10.30pm on 06-03-2018 and field visit.

Members Present (Sriyuths)

1.	PunatiSridar, IFS Principal Chief Conservator of Forests(Head of Forest Force), Karnataka
2.	C. Jayaram, IFS Principal Chief Conservator of Forests(Wildlife) and Chief Wildlife Warden, Karnataka
3.	P.K. Kesavan, IFS Principal Chief Conservator of Forests(Head of Forest Force) and Chief Wildlife Warden, Kerala
4.	P.S. Somashekar, IFS Inspector General of Forests, NTCA, Regional office, Government of India, Bengaluru
5.	K. R. Jyothilal, IAS,Principal Secretary, Transport, Kerala
6.	Sanjay Kumar, Deputy Inspector General (DIG), NTCA, New Delhi
7.	Suhas S, IAS, District Collector, Wayanad District, Kerala
8.	Y.V.Prasad, General Manager (Technical), National Highway Authority of India,Regional Office,Bengaluru
9.	Ambadi Madav, IFS Conservator of Forests & Field Director, Bandipura Tiger Reserve
10.	R. Srinivas Reddy, IFS Chief Conservator of Forests & Field Director, Madumalai Tiger Reserve, Ooty
11.	Rajendra Garawad, IFS Assistant Inspector General of Forests, NTCA,Regional Office,Bengaluru
12.	Sanjay Gubbi, Member, State Board for Wildlife
13.	Rajkumar D, Wildlife Conservation Foundation & Honorary Wildlife Warden
14.	Praveen Ramaswamy, Vanya Trust,Bengaluru
15.	Ravi Shankar, Chaitanya Projects Pvt ltd, Bengaluru
16.	Sharad Verma, Chaitanya Projects Pvt ltd, Ghaziabad

The Principal Chief Conservator of Forests (HoFF), Karnataka welcomed all the participants and gave a brief introduction to the subject - imposing restrictions on the traffic passing through Bandipura Tiger Reserve between 9:00 pm to 6:00 am in NH212 for a distance of 20 kmsand NH67 for a distance of 13 kms.

"On 10-01-2018, in the Hon. Supreme Court in 13838/2010 of Special Leave to Appeal (SLP) asked to setup a committee headed by The Secretary,Ministry of Road Transport & Highways in which there would be representatives of Karnataka, Kerala & Tamil Nadu. In addition a representative from National Tiger Conservation Authority(NTCA) under the Ministry of Environment, Forests and Climate Changewill participate."

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The following issues were discussed in detail;

1. Sri. Sanjay Kumar Pathak, DIG, NTCA gave a broad overview mentioning that as per the orders of the Hon'ble Supreme Court a committee has been formed headed by the Secretary, Ministry of Road Transport and Highways, Government of India (GOI). Hence this meeting was called to hold preliminary discussions and field inspections in this regardwith the representatives of Kerala, Karnataka, and Tamil Nadu. to get an overview from all the stakeholders.

2. Sri. C. Jayram, IFS Principal Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden, Karnataka gave a background to the issues:.

   - In June 2009 the then Deputy Commissioner, Chamarajnagara District,based on the request of the Deputy Conservator of Forests, Bandipur Tiger Reserve passed an order to close the highways (NH-212 and NH-67) passing through Bandipur Tiger Reserve from 9:00 pm to 6.00 am as per the guidelines of Tiger Conservation Action Plan 2007-08 to 2010-11, to maintain inviolate conditions for the tigers elephants and all other associated wildlife in the reserve during night hours and also to avoid the death of large number of wildlife due to accidents particularly during night hours.
   - Due to objections and memorandum from the Hon'ble MLA, Sultan Bathery, and objections from National Highways authorities that the Deputy Commisioner do not have powers to regulate traffic in National Highways,the Deputy Commissioner, Chamarajanagara District withdrew the order dated 03-06-2009 within one week of passing theorder restricting the movement of vehicles between 9:00 pm to 6:00 am passing through Bandipura Tiger Reserve.
   - Two Public Interest Litigations (WP 17498/2009, 919/2010) were filed before the Hon'ble High Court of Karnataka to restore the orders dated 03-06-2009 of The Deputy Commissioner, Chamarajanagara District orders restricting the movement of vehicles during night hours passing through Bandipura Tigar Reserve. After hearing the PILs the Hon'ble High Court of Karnataka passed an interim order and restored the orders dated 03-06-2009 passed by The Deputy Commissioner, Chamarajanagara District restricting the movement of vehicles during night hours in Bandipura Tiger Reserve. Aggrieved by the interim order of the Hon'ble court nine other petitions (WP 26621-629/2009) were filed before the Hon'ble High Court of Karnataka by private bus operators and a few public representatives of Kerala and Tamil Nadu have also impleaded.
   - During the arguments before the Hon'ble Court, the counsel representing Hon'ble Members of the Parliament of Wayanad and Kozhikode constitutencies, "emphasized that if the authorities want to ban the vehicular movement during night, they should provide an alternate road", and the Learned Counsel representing State of Kerala submits "other alternate and less hazardous options are required to be explored by the authorities concerned". It was brought to the knowledge of Hon'ble court that the alternative road in case of NH-212 is the road passing through Thitimathi-Gonikoppa-

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Kutta in Kodagu district and is longer by 30 kms. However, it was alleged that the alternate road condition was in a bad state. The Hon'ble Court in its final order stated "The hardship faced by the public can be compensated by directing the State Government to take appropriate and adequate measures to improve the conditions of the alternative roads and to urgently attend to the areas where the alterative roads are not in good condition."The Hon'ble Court ordered "The respondent State shall take steps to secure the safety of the commuters and transporters by repairing the bridges or culverts that are not in a good condition". The alternative road in respect of NH67 is NH-209 passing through Chamarajanagar and Satyamangalam and the road is longer by 70 kms, however the road is in good very condition.

- In obedience to the orders of the Hon'ble High Court the Government of Karnataka, the Public Works Department has spent Rs.75 crores and repaired the alternative road to NH-212.
- In addition to providing alternative roads between 9:00 pm to 6:00 am sixteen Transport Corporation buses of Karnataka, Kerala, Tamil Nadu and emergency services like ambulance and fire engines are allowed during the restricted hours.
- After deliberating all the issues, the Hon'ble Court has allowed the Public Interest Litigations and directed the National Highways authorities to ensure the restrictions of the movement of vehicles passing through NH212 and NH67 in Bandipura Tiger Reserve between 9:00 pm to 6:00 am are strictly enforced.
- Now, a SLP (13838/2010) is pending before the Hon'ble Supreme Court and a caveat by B.P.Anup, Bangalorehas also been filed before the Hon'ble Supreme Court on 25/03/2010.
- To conclude C. Jayaram IFS, PCCF Wildlife has emphasised that all the alibies brought out before the authorities and the Hon'ble Court are resolved amicably and the authorities of Karnataka have responded positively to the facilities requested by the authorities and public representatives of Kerala state. Further precipitating the issues without new or valid reason is highly unreasonable as the restrictions imposed in the use of NH212 and NH67 passing through Bandipura Tiger reserve is only for a period of 9 hours during night. He further stated that all the members present in the meeting are aware that Bandipura Tiger Reserve is one of the First protected areas brought under Tiger Conservation during 1973. Out of 24 hours if we do not spare at least 9 hours inviolate condition for the wild animals living in their own habitat we as authorities are not reasonable in our decisions.

3. Sri. Jyotilal, Principal Secretary, Transport, Kerala mentioned that the proposal of Thalassery-Mysore railway line was apossible alternative. In addition he mentioned that the elevated corridor over the existing highway (NH-212) is not feasible as it would cost over 1,800 crores. A tunnel under the existing highway is also not feasible due to the exorbitant costs.
4. PCCF (WL), Karnataka responded that there is already unrest in the district of Kodagu due to human-elephant conflict which will be escalated with the new projects like new railway lines through Thalassery-Kodagu-Mysore.
5. The Deputy Commissioner of Wayanad mentioned that the alternative road is 30 km longer, the economy is affected hence night ban may be reconsidered by increasing the number of buses passing during the restricted hours..

6. PCCF (WL), Karnataka responded that alternative road is made available by spending Rs.75 croreby the Public Works Department, Governament of Karnataka in obidence to the orders of Hon'ble High Court of Karnataka. In addition, 16 state transport corporation buses of Karnataka, Kerala, Tamil Nadu and all emergency vehicles (ambulance, fire, police on duty, vehicles carrying dead bodies, etc) are allowed during the restricted hours. The present buses run by the State Road Corporations generally ply with only fifty present capacity which can be verified..

7. Sanjay Gubbi, Member State Board for Wildlife mentioned that the APMC markets close at 5.00 pm and all vegetable, fruit vehicles and other vehciles carrying perishable items have enough time to pass through NH-212 through Bandipur which closes only at 9.00 pm.

8. The CCF & FDPT, Mudumalai Tiger Reserve specified that the current arrangement is suitable and tourists and other commuters have already got adjusted to the existing modalities. He also mentioned that night closure has helped the economy in many indirect ways.

9. CF & Director, Bandipur Tiger Reserve stated that very few vehicles pile up at the Bandipur gates at night times and commuters including transporters have got adjusted to the existing restriction imposed between 9:00 pm to 6:00 am.

10. HoFF & CWW, Kerala expressedthat if possible the night closure should be extended to 6.00 pm instead of the current 9.00 pm and some buses be allowed in a convoy system at later periods during night..

11. Principal Secretary, Transport Kerala and General Manager, NHAI suggested that the alternate road (Hunsur-Gonikoppa-Kutta) should be upgraded to a four-lane highway. To which PCCF (WL), Karnatka mentioned that this would involve diversion of additional forest land passing through very sensitive areas of Kodagu district.

12. The PCCF (WL), Karnataka mentioned that the elephant movement during day time itself is is very high on NH212 passing through Bandipura Tiger Reserve.Causing disturbances during night time will lead to increased man-animal conflict. Strictly speaking a minimum 12 hours is needed for the peaceful movement and existence of the wildlife as decided by an expert committees report dated 17-08-2015. This committee was formed based on the mutual agreement of the Hon'ble Chief Ministers of Karnataka and Kerala in the meeting held on 15-04-2015.

13. PCCF & HoFF Karnataka opined that most of the South Indian rivers flowing through Protected Areas are perennial because of high density of forest cover which maintains the water balance ensuring continuous flow of water. Hence integrity of protected areas should be maintained in the interest of water security of the country. The Karnataka Government has spent lots of money on improving the alternate road", he opined and added, "Taking these alternate routes to reach Wayanad is already in place andshould be continued as per the orders of the Hon'ble High Court".

14. The meeting ended with vote of thanks by the Principal Chief Conservator of Forests (Wild Life). Further, DIG (NTCA), Principle Secretary Transport Kerala, Collector Waynad wanted to inspect the site during the restricted hours. The required arrangements were made for the team and Sri. Ambadi Madhav IFS, Director, Bandipura Tiger Reserve, Rajendra Garawad, IFS AIG (NTCA), Sri Snajay Gubbi, Member State Board for Wildlife, Sri. Rajkumar Honorary Wildlife Warden accompanied the team.

15. During the field visit it was observed that the transport corporation buses which were plying during the restricted hours had occupancy below 50% of the capacity, and the vehicles that were waiting at the gates were very minimal. A lot of elephants, gaur and other wildlife were also observed on the highways during the restricted hours. The team of National Tiger Conservation Authority (NTCA) which visited the alternative road was also happy with the conditon of the alternative road (SH-90, Hunsur-Gonikoppa-Kutta) and expressed that it is better than the highways passing through Bandipur Tiger Reserve. NTCA would submit a detailed report of the field visit.

15/3/18

Principal Chief Conservator of Forests
(Wildlife), Bengaluru

Date.....

12..03..2018

No.75/2018/Prl. Secy/Trans

To

Principal Chief Conservator of Forests
(Wildlife) Bangaluru.

Dear Sir,

Sub:- Restriction of Night Traffic between 9.00 pm to 6.00 am on NH 212 and NH 67 passing through Bandipur Tiger Reserve- proceeding of the minutes- mistakes- reg.

Action by

Ref:- Letter No. PCCF(WL)/D/CR-31/2008-09 dated 12.03.2018 of PCCF (Wildlife) Bangaluru

With reference to your letter no. PCCF(WL)/D/CR-31/2008-09 dated 12.03.2018, I am to stated that there are lot of omission and mistakes in the minutes circulated. I have suggested in the meeting that Government of Kerala had earlier proposed permanent solution for travelling public from Sulthan Bathery area to Mysore and vice versa based on Prof. Easa's report. This may be accepted by Karnataka Government. However Karnataka Forest Department has strong objections to it.

One of the earlier suggestions to have a flyover or tunnel through Bandipur Forest area was objected by the Forest Department of Karnataka. Later on another proposal was presented before Chief Secretary, Karnataka by Chief Secretary Kerala and team from DMRC for a tunnel adjoining the Nagarhole Sanctuary. This was also objected to by Forest Department of Karnataka. At last an alternate proposal avoiding the Sanctuary area, but passing through 7 kilometres of the Reserve Forest alone in Thithimathi was also presented in another meeting between Chief Secretaries of both the States. However, permission for of this was also not granted by Government of Karnataka till date, probably due to objection by public in Kodagu District. It was also stated that there is a genuine demand from State transport

Phone-Office : 0471-2329[illegible], 2518[illegible] Fax : 2520011 Res : 2460301, 2460301 Mobile : 9447[illegible]
E-mail : secy.tspt@kerala.gov.in, lyothilakr@hotmail.com

undertaking both Karnataka and Kerala to increase frequency of buses during night time by 40 Nos by Kerala State Road Transport undertaking and 32 by Karnataka STU. As most of the Techies working in Banglore are from Malabar area, they will find it convenient to travel by night after the office hours or on week ends and any alternative route through Gonikoppa- Kutta suggested by PCCF Karnataka will increase their travelling distance by minimum 40 to 50 Kilometres and the roads are not of national highway standards. Hence it was requested that at least the state transport undertaking should be permitted to operate public transport facility in the night.

Another point which was raised was that since all consumer goods including vegetables, sand, steel etc for Wayanad come from Karnataka, and these trucks have to wait for hours at the check post. All of a sudden, in the early morning, when they enter the Wayanad district, it leads to lot of traffic congestion especially in the Ghat areas leading to road accidents as well as accident deaths. This situation gets aggregated during the pilgrim season of Sabarimala. Various alternative have been proposed including Bio- Bridges as done in Netherland, Germany, USA and other developed countries. Such alternatives has to be explored as suggested in the meeting of Secretary, MoRTH so that without compromising on the environmental protection measures, a viable long term solution can be arrived at. Until the long term solution to be suggested by the committee is materialised, public transport on convoy basis may be permitted as a short term solution.

Kindly make the correction in the minutes.

K.R. JYOTHILAL

Copy to:

(1) Secretary, Ministry of Road Transport and Highways

(2) Sri, Sanjay Kumar Patak IFS, Deputy Inspector General of Forests, National Tiger Conservation Authority, Government of India

P.K KESAVAN IFS
PRINCIPAL CHIEF CONSERVATOR OF FORESTS
(HEAD OF FOREST FORCE) &
CHIEF WILDLIFE WARDEN, KERALA

Principal Chief Conservator of Forests
CWW
Forest Headquarters, 'Vanalaks' I
Thiruvananthapuram-695 014
Kerala, India.
Phone: 0471 – 2529301, Fax: 0471 2320554
Mob: 9447979002

Dated: 20/03/2018

No.WL4-6875/2009

To

Sri. Sanjay Kumar Patak IFS,
Deputy Inspector General of Forests,
National Tiger Conservation Authority,
Government of India,
7th Floor, B1 Wing, Pt. Deenadayal Anthodaya Bhavan,
CGO Complex Lodhi Road,
New Delhi-110003.

Sub: Proceedings of the Meeting held on restrictions of Night Traffic Between 9.00 PM to 6.00 AM on NH 212 and NH 67 passing through Bandipura Tiger Reserve-reg.

Ref: 1.Letter No. PCCF(WL)/D/CR-31/2008-09 dt. 12.03.2018 of PCCF (Wildlife), Bengaluru.
2.Letter No. WL4-6875/2009 dt. 14/03/2018 of HoFF & CWW, Kerala.

Action by

Please refer to the Minutes of the above meeting circulated by PCCF (WL) vide reference 1st cited above. In the minutes, it was seen that the points raised by HoFF and Chief Wildlife Warden, Kerala recorded in Para 10 was not reflecting what was presented by him in the meeting. This was pointed out and the view expressed by HoFF & Chief Wildlife Warden, Kerala in the meeting was communicated to Chief Wildlife Warden, Karnataka vide reference 2nd cited above. Copy of the same is enclosed for reference and further necessary action.

Yours faithfully,

20/3/18

Principal Chief Conservator of Forests (Head of Forest Force) &
Chief Wildlife Warden, Kerala

Copy to: Sri. P.S. Somashekar IFS, Inspector General of Forests, NTCA, Regional Office, Government of India, Bengaluru for favour of information and further necessary action.

P.K KESAVAN IFS
PRINCIPAL CHIEF CONSERVATOR OF FORESTS
(HEAD OF FOREST FORCE) &
CHIEF WILDLIFE WARDEN, KERALA

Office of the
Principal Chief Conservator of Forests & cww
Forest Headquarters, 'Vanalakshmi'
Thiruvananthapuram-695 014
Kerala, India.
Phone: 0471 – 2529301
Fax: 0471 2320554
Mob: 9447979002

No.WL4-6875/2009 Dated: 14/03/2018

To

The Principal Chief Conservator of Forests (Wildlife),
Bengaluru.

Sir,

Sub: Proceedings of the Meeting held on restrictions of Night Traffic Between 9.00 PM to 6.00 AM on NH 212 and NH 67 passing through Bandipura Tiger Reserve.

Ref: That Office Letter No. PCCF (WL)/D/CR-31/2008-09 dtd. 12.03.2018.

Please refer to the minutes of the meeting on the subject held at Bangalore on 6th March, 2018 which was communicated vide reference cited above. It is noted that the views stated by Principal Chief Conservator of Forests & HoFF, Kerala has not been fully recorded in the minutes. In fact the present recording conveys a stand contrary to what was presented in the meeting. The exact text of the matter presented by the PCCF & HoFF is as follows;

"The litigation pending in the Hon'ble Supreme Court started as a PIL praying for imposing the night traffic ban which was introduced by the Deputy Commissioner, Chamaraja Nagar, Karnataka on 03.06.2009 and was withdrawn on 10.06.2009. The meeting is convened on the directions of the Hon'ble Supreme Court to arrive at an amicable solution. Therefore the discussion has to be appreciating all aspects of the issue, including that of but not limited to, conservation.

The road under consideration is one which was existing even before the area was notified as a Tiger Reserve in 1973. While 20 KM stretch of the road passes through the Bandipur Tiger Reserve, another 8 KM passes through the

Wayanad Wildlife Sanctuary. The Wayanad WLS has borders with Bandipur Tiger Reserve and Nagerhola Tiger Reserve. The animals freely move in this contiguous landscape. Government of Karnataka has its own point of view on the issue while the Government of Kerala also has its own view. Major part of the negative impact of the closure has fallen on Kerala and that too on the Forest Department. Very high level of friction between people and Kerala Forest Department in Wayanad is directly or indirectly linked to this ban. The present ban has been imposed neither on the advice of NTCA nor under the provisions of Wildlife Protection Act. Therefore the NTCA should take a holistic view and that is expected to be in line with what is ideal for this entire landscape.

The socio political situation on Kerala side of the landscape does not allow imposing any ban on night traffic on the stretch of the National Highway passing through Kerala. Instead of closing part of the animal territory and leaving the other part open, a better option of closing for a more acceptable duration should be considered.

It is also seen that 16 buses are allowed to pass during the closed period at different times.

Keeping all these in view, it is suggested to allow vehicles to pass in convoy during the period which is found to be least sensitive to the wildlife. This can be considered without reducing the closure period of 9 hours by starting the ban earlier than the present 9 PM and by bunching of the 16 buses which are even now allowed. NTCA should favorably consider this proposal as it is likely to be better for the animals which freely move between the two States".

The para 10 of the minutes may please be replaced with the above.

Yours faithfully,

15/03/18

Principal Chief Conservator of Forests (Head of Forest Force) &
Chief Wildlife Warden, Kerala

KALPETTA

07-03-2018

No: MLA KPTA-TVM / 62 /2018

To,

The Chairman / Secretary, Central Surface Transport Dept,

High Level Committee on Night Traffic Ban on NH – 766

Respected Sir,

The Hon. Supreme Court has constituted a High Level Committee to submit the report regarding the night traffic ban on Kozhikode – Kollagal highway (NH 766) on 10-1-2018. I, on behalf of the people of Wayanad district submit the following suggestions for the kind consideration and discussion of the high level committee. I request the committee to help the people *by recommending lifting of the ban on night traffic* by submitting these suggestions before the Hon. Supreme Court.

SUGGESTIONS BEFORE THE HIGH LEVEL COMMITTEE IN CONNECTION WITH THE NIGHT TRAFFIC BAN ON NH-766

PERMANENT SOLUTIONS (LONG-TERM)

1. To construct a tunnel through the forest, and permit the vehicles in "roll-on, roll-out" method from 9 pm to 6 am, as in Konkan railway.
2. To construct fly-overs, bio-bridges etc. and let the vehicles and animals pass through them.

TEMPORARY SOLUTIONS (SHORT-TERM).

1. To permit the vehicles in convoy system from 9 pm to 6 am.
2. To limit the speed of the passing vehicles.
3. To install speed-sensing CCTV surveillance / cameras in the forest and impose fine on violating vehicles.

Thanking you,

Yours faithfully,

C.K.SASEENDRAN MLA

(KALPETTA L.A.C, WAYANAD DISRICT).

150

WAYANAD PRAKRUTI SAMRAKSHANA SAMITI
P.O. Sulthana Bathery
Wayanad-Keralam 673 59
Ph :

President/Secretary

07.03.2018
Bandipur

To,
The Honourable Chairman
Committee on Night Traffic Ban on NH 212 and NH 67
(Appointed by Supreme Court of India)
Supreme Court of India
New Delhi

Respected Honourable Chairman Sir,

Sub:- Regarding Night traffic Ban on NH 212

I, (N.Badhushah) would like to present our humble representation on behalf of our Organisation, 'Wayanad Prakruti Samrakshana Samiti', based in Sulthan Bathery, Wayanad District in Kerala. We are also one of the petitioners in the Writ Petition W.P.No.919/2010 in favor of the night traffic ban. The night traffic ban is a true blessing for the large mammals as well as millions of small mammals, reptiles, amphibians and many more who inhabit these tracts of forests, all of them protected under Wildlife Protection Act 1972.

While the night traffic ban is in force, there is a significant reduction in conflict in the Wayanad district, which has one of the highest number of Human wildlife conflict incidents in the country.

I would like to emphasize on the fact that none of the agriculture based people from neither Karnataka nor Kerala were affected by the night traffic ban. There were no large scale protests or agitations in this regard from ordinary people. The only agitation or more of a demonstration was done only by vested interest and for political mileage in this region.

Contrary to the claim, people in Waynad reach out towards Kozhikode and Eranamkulam districts for emergency medical needs, the people residing in Wayanad have for a very long time depended mostly on Calicut Medical College, Kozhikode and hospitals in Eranamkulam district for medical emergencies or for specialty care.

For education requirements also the adjoining districts as well as Wayanad is also dependent on the facilities available within the district which are at par with any other educational institute in our country.

I also bring to your notice that there are 8 buses that ply between 21:00 hrs and 06:00 hrs on a daily basis between Kozhikode and Bangalore, where four buses ply from Bangalore (Karnataka) towards Kozhikode(Kerala) and four buses from Kozhikode towards Bangalore, consisting of a total of four buses operated by Kerala State Road Transport Corporation and four buses operated by Karnataka State Road Transport Corporation. The irony of the matter is that these buses are filled to capacity only on weekends and during weekdays some of these buses actually run with few seats filled or no seats filled to destination. These records exist with the respective state transport corporations and can be verified to justify the claims.

However in case people need to go towards Mysore anytime, there is also an alternate route via Kuttah, Gonnikkopal, Mysore which is only 35 kms more that the road that passes through the Tiger reserve which the Government of Karnataka had renovated in the recent past. Karnataka had undertaken renovation work at a cost of nearly 80 crore in the year 2012-2013 and this road is in good condition to commute as well as reducing the risk with any wild animals encounter that might otherwise be on the road within the Tiger Reserve especial at night hours.

Currently, for the past 8 years now, the residents of Wayanad are accustomed to the night traffic ban and it is understood since there is no adverse impact on agriculture or trade in the district. This night traffic ban is only a mild inconvenience to people where as the wildlife are benefitted in more ways that can be explained. Biotic as in Living beings and Abiotic such as the environmental factors which get adversely affected by noise pollution, air pollution, water pollution .

This Nilgiri Biosphere Reserve is one of the last remaining large contiguous forest patch in our country which has stood the test of time and still managed to support the single largest population of Asian Elephants and Tigers. If such sources of wild populations are adversely affected, then these losses are irreparable and it would mean create damage in disastrous proportions. Here in these forests the wildlife, some of the mammals have a life span of only 15-20 years, have more than three fourths of their lifetime have habituated their life with this schedule of night traffic ban and the wildlife movements have increased during this period, any alterations in this juncture, would be extremely disastrous as the animals which are 'animals of habit' and have seen 21:00 to 06:00 hrs as no disturbance time and their threat perception during night time cannot be predicted and so there could be an increase in road kills now more than ever. Any alterations during this time would create more road kills than pre-night ban times. Since most of the species prefer undisturbed time for their movement and now that they are accustomed to these timings, night traffic ban provides a solace for these poor creatures that share our planet. Rates of mortality are closely linked with movement patterns, as more movement generally incurs a greater chance of coming into contact with a road. Animals with large home ranges, such as Asian Elephants, Tigers, Leopards, Dhole with larger home ranges, have a high chance of encountering roads as they traverse such large distances. Movement during particular life stages can also result in peaks in mortality, like adult Males in search of receptive females in heat. These patterns are often associated with reproduction, and hence humans might not be in a position to restrict their movement with any structure as we have seen in very many examples in real life. Many reptiles begin dispersing immediately after hatching, which also results in mortality peaks. In Dhole (Wild dogs), the female repeatedly visits cubs at breeding sites, sometimes up to 10

times in a single night, which increases the chance for mortality. Some studies have reported movement rates as the single greatest factor influencing the risk of road mortality. Such movements are instinctive and we might lose many species experimenting our ideas.

The locomotion, ecology and behavior of animals collectively determine their vulnerability to road kill by vehicles. Especially susceptible are: slow-moving, ground-dwelling species such as mouse deer, striped neck mongoose, ruddy mongoose, porcupines, small Indian Civet, Brown palm civet which are primarily nocturnal species including many amphibians, reptiles where the locomotion per se are slow due to body weight, such as Indian rock python, Russell's Viper, Common Krait, terrapins and tortoise (which migrate to water holes during dry periods to water holes with considerably more water).

Apart from direct impacts such as road kills and movement restrictions, Roads can also be a conduit for pollutants into the environment. The oils and other pollutants that run off from roads into adjacent ponds/streams can decrease survivorship of many amphibians and bird life that depend on the water source. The frequency of vehicles per day is estimated approximately at 4500 vehicles per day and 4000 vehicle per day at NH 212 and NH 67 respectively, we can only imagine the pollution and disturbance to the precious wildlife. A reprieve of 9 hours a day is all we ask to help other creatures survive and co-exist in this planet.

I request all the members to be accommodative in their gestures and let's not forget that we live in a country that has a rich heritage where we follow, 'LOKAH SAMASTHA SUGINO BHAVANTHU' meaning let every living creature live and exist in peace and harmony.

Also humbly requesting all of us to take pride in such a blessing that these wild species can get in an island surrounded by human habitation, these last and few protected areas, rather large refugia like our Bandipur Tiger Reserve, Wayanad Wildlife Sanctuary and Mudumalai Tiger Reserve are the only places that provide some refuge for these endemic species and endangered species to survive.

Kindly do the needful and provide justice to the country's wildlife and wild spaces.

Looking forward for a positive step towards conservation,

Yours most sincerely,

(N.Badhushah)

Wayand Prakriti Samrakshana Samiti
Sulthan Bathery
Wayanad, Kerala 673592
Contact no: +91 85475 90222

NO/C. /GPET/CC/ 38 /2018

Office of the Circle Inspector of Police
Gundlupet Circle
Chamarajanagar District. Dtd 07-03-2018

To

Sri Sanjay Pathak IFS
DIG, National Tiger Conservation Authority
New Delhi.

Copy To.

1.Principal CCF
wild life
Bengaluru

2. Superitendent Of Police
Chamarajanagara District.
Chamarajanagara.

3. Assistant Conservation of Forest
Bandipura Wild life.
Bandipura.

Respected Sir,

Sub :- Details of cases registered since 2004 in Gundlupet to Sulthan bathery Road and Gundlupet to ooty Road (in Forest Area) regarding.

Ref :- ACF/Bandipura Tiger Project/Road Accident/2017-18. Dated 03-03-2018.

* * * * *

With Reference to the subject cited above, as per your above reference letter cases which are registered since 2004 in Forest area like Madduru to Moolahoole Traffic area and Melukamanahalli to Kekkanahalla Forest area is as follows.

(BEFORE CLOSING CHECK POST DATA)

Year	Murder	Dacoity	Robbery	Accident Cases			
				Madduru to Moolehole		Melukamanahalli to Kekkanahalla	
				Fatal	Non Fatal	Fatal	Non Fatal
2004	0	0	0	0 1	09	02	0
2005	0	0	01	07	13	0	02
2006	0	0	0	02	04	0	3
2007	0	0	0	03	0	04	03
2008	0	0	0	01	07	01	12
2009	0	0	0	01	07	01	05
Total	0	0	1	15	40	8	25

(AFTER CLOSING CHECK POST DATA)

Year	Murder	Dacoity	Robbery	Accident Cases			
				Madduru to Moolehole		Melukamanahalli to Kekkanahalla	
				Fatal	Non Fatal	Fatal	Non Fatal
2010	0	0	0	01	05	0	04
2011	0	0	0	0	04	0	03
2012	0	0	0	01	02	0	03
2013	0	0	0	01	02	0	02
2014	0	0	0	01	01	0	01
2015	0	0	0	0	05	0	02
2016	0	0	0	02	02	0	06
2017	0	0	0	01	01	0	03
Total	0	0	0	07	22	0	24

I here by submitted the above statistics for your kind perusal

Thanking You,

You's faithfully

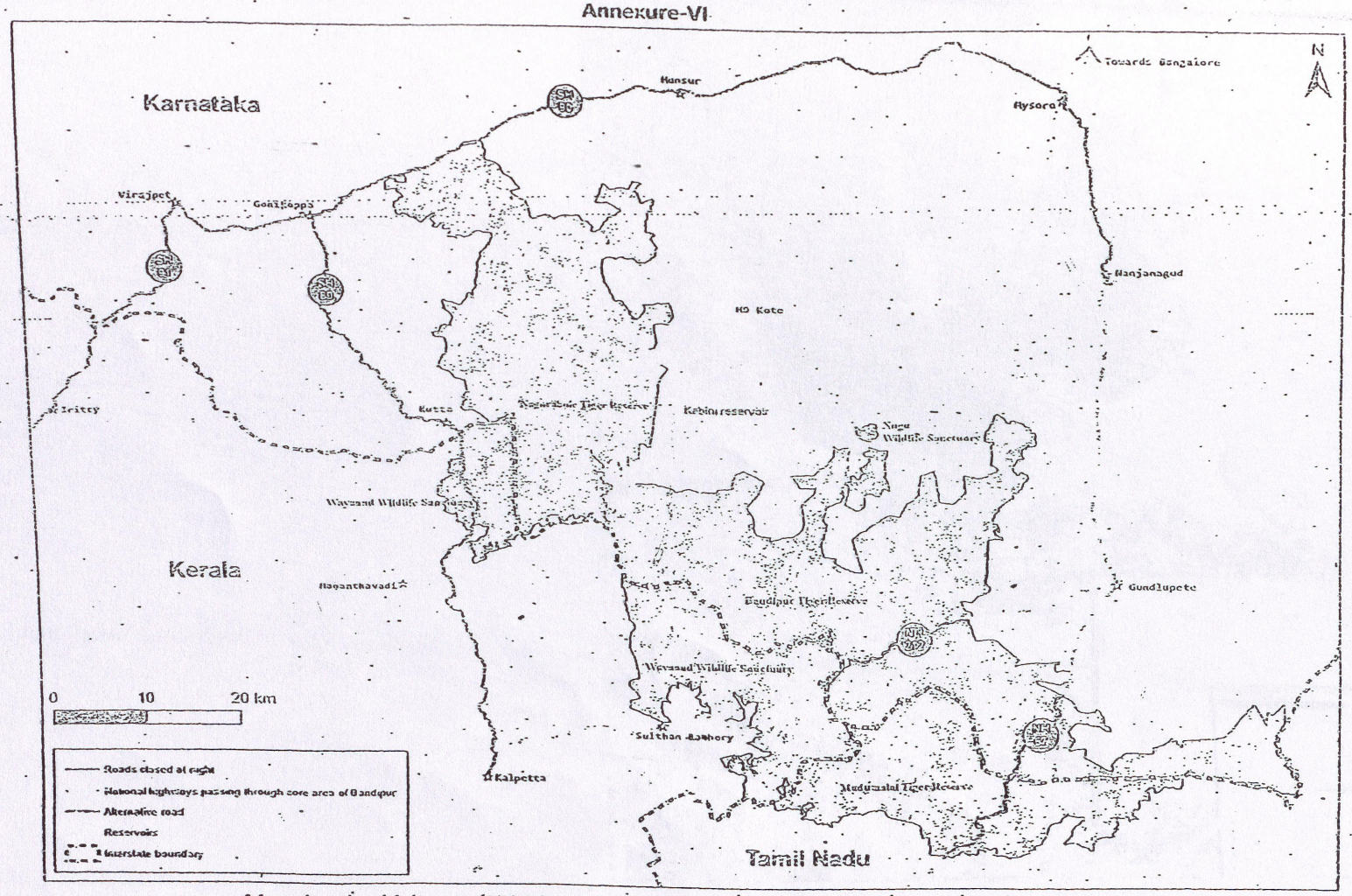
CIRCLE INSPECTOR OF POLICE
Circle Inspector of Police
Gundlupet Circle
Gundlupet Chamarajanagar District

Annexure-V

Distance to important places through NH-212

From	To	Distance through NH-212 (km)	Distance through alternative road (km)	Difference
Bangalore	Kalpetta (district headquarter of Wayanad)	285	323	38
Mysore	Kalpetta	135	173	38
Mysore	Mananthavadi	154	153	-1
Nanjangud	Kalpetta	114	199	86
Gundlupete	Kalpetta	77	224	147
Hunsur	Kalpetta	172	129	-43
Gonikoppa	Kalpetta	229	85	-144

Annexure-VI

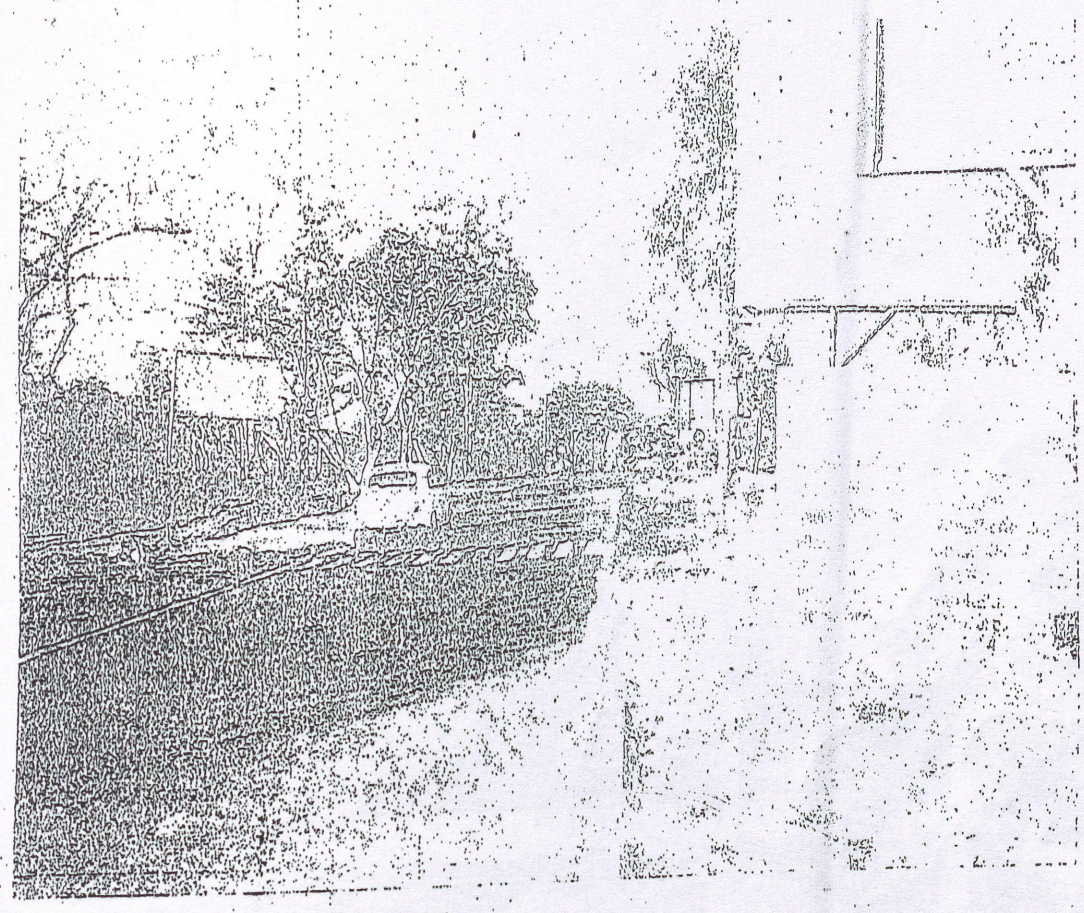


Map showing highways (NH-212 and NH-67) and alternative roads (SH-90 and SH-89).

156

(157)

PHOTOS OF ALTERNATE ROAD



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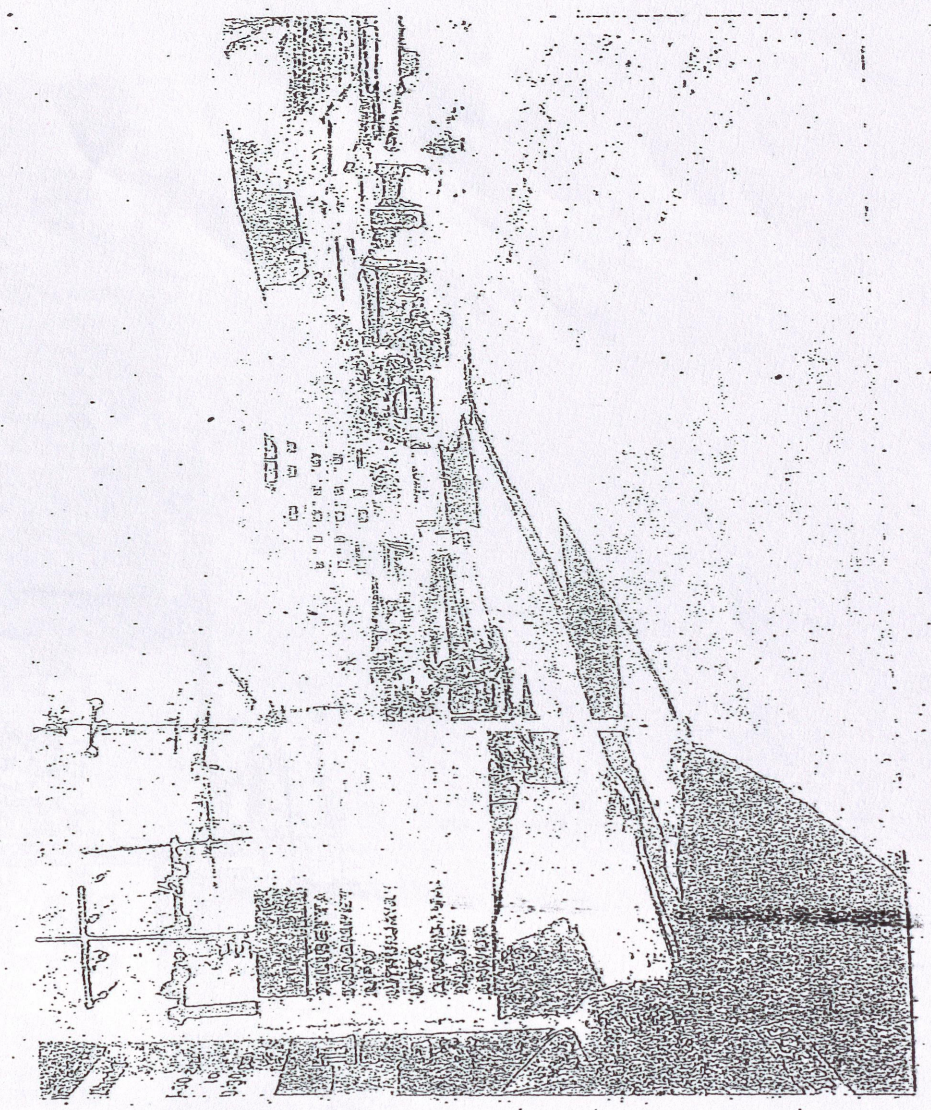
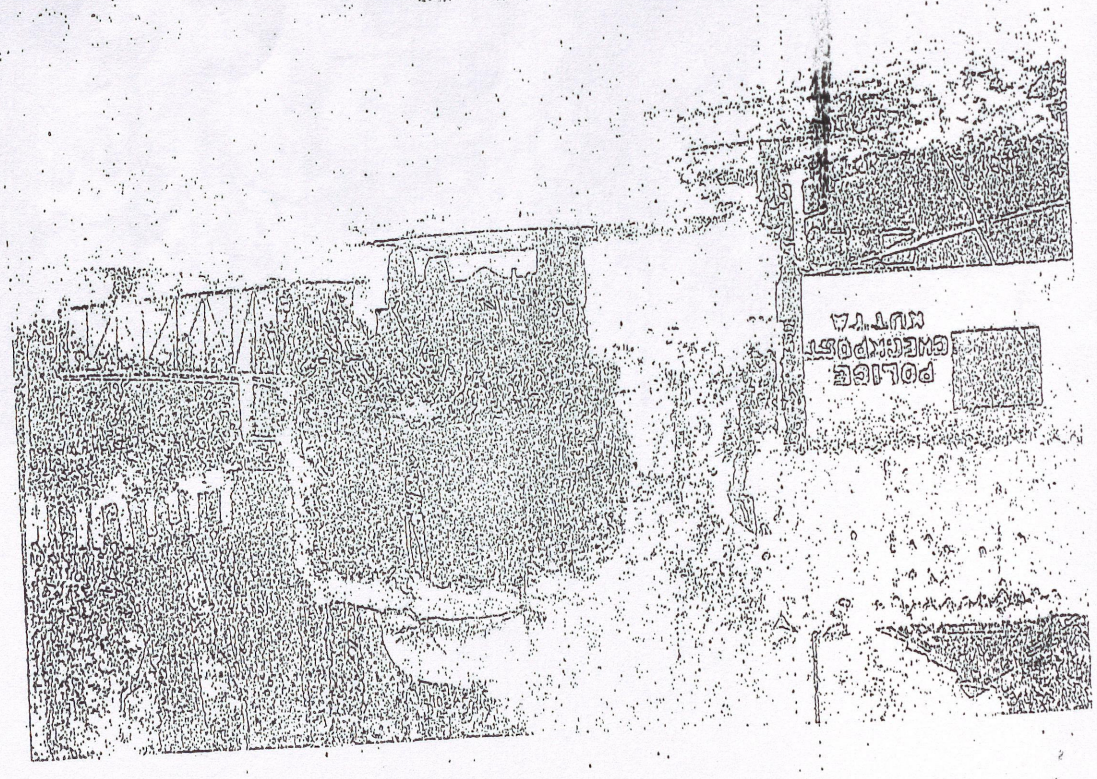




(19)

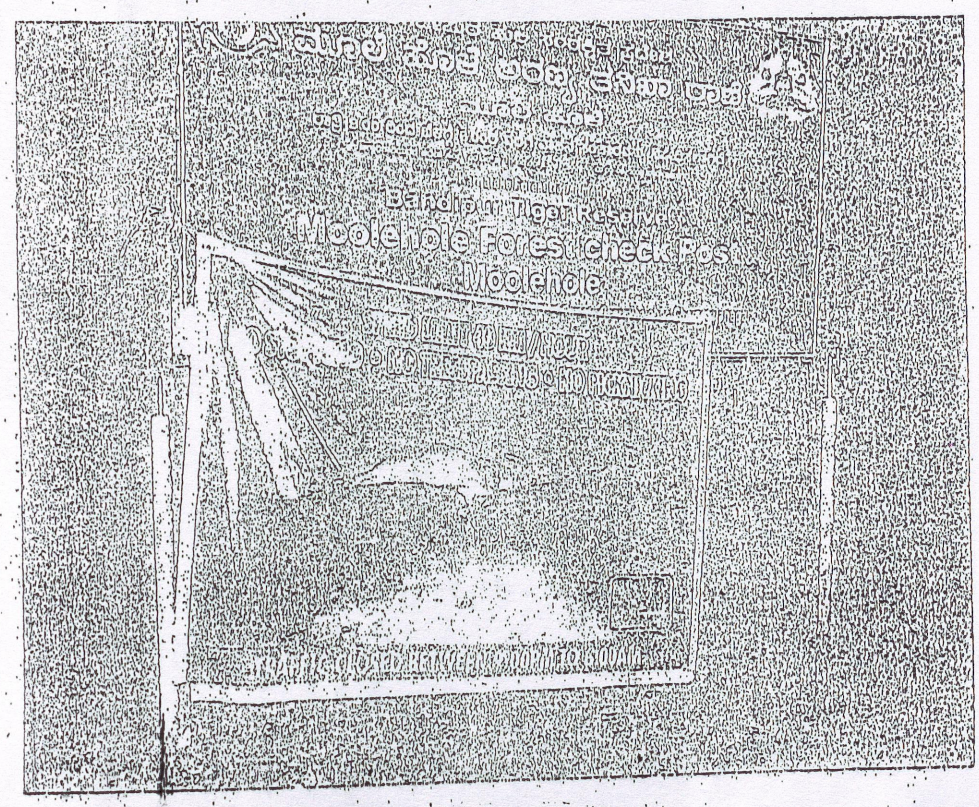


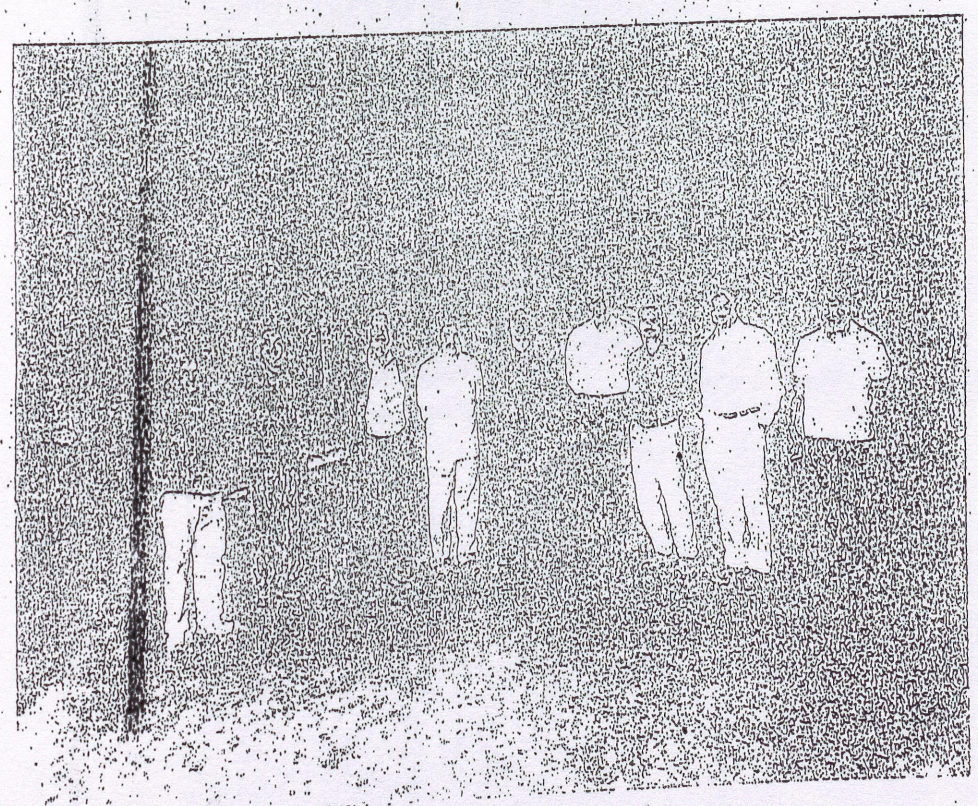




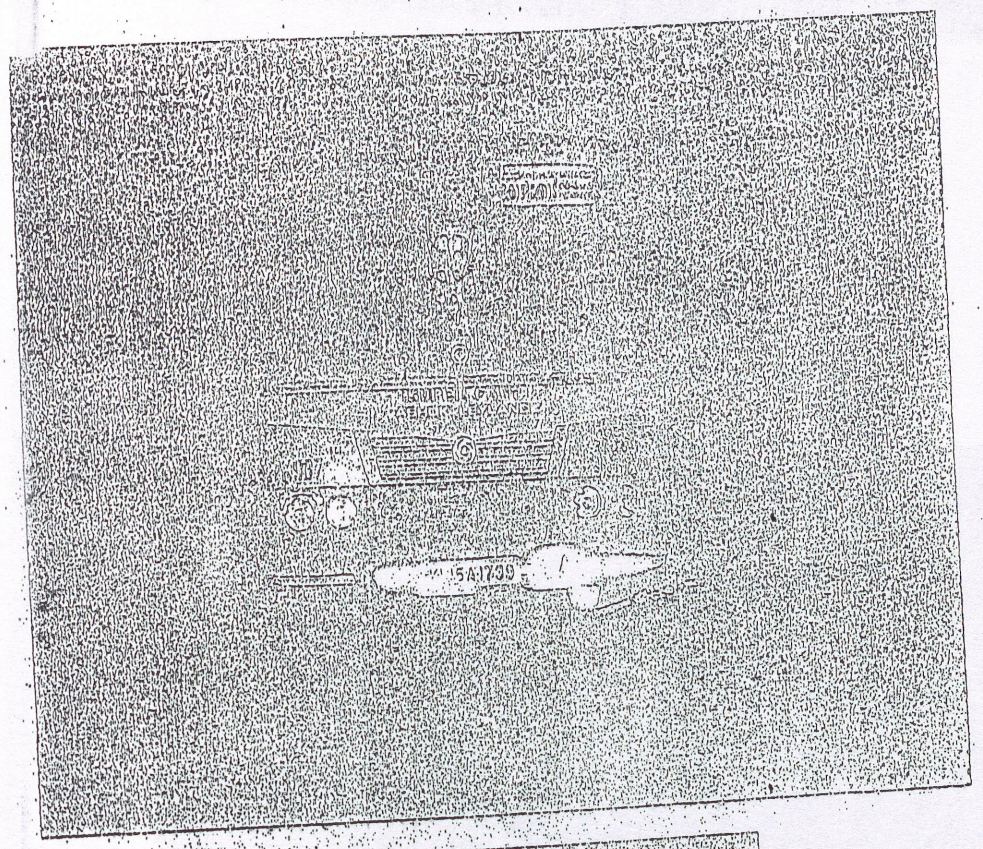
Visit to the alternative road (SH-90) to assess its condition.

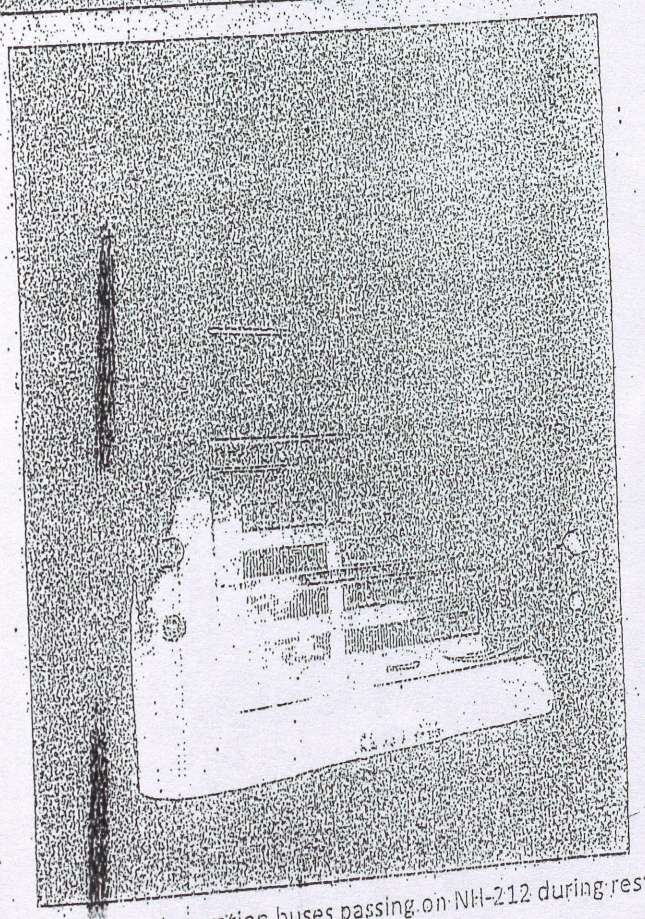
Annexure-VII



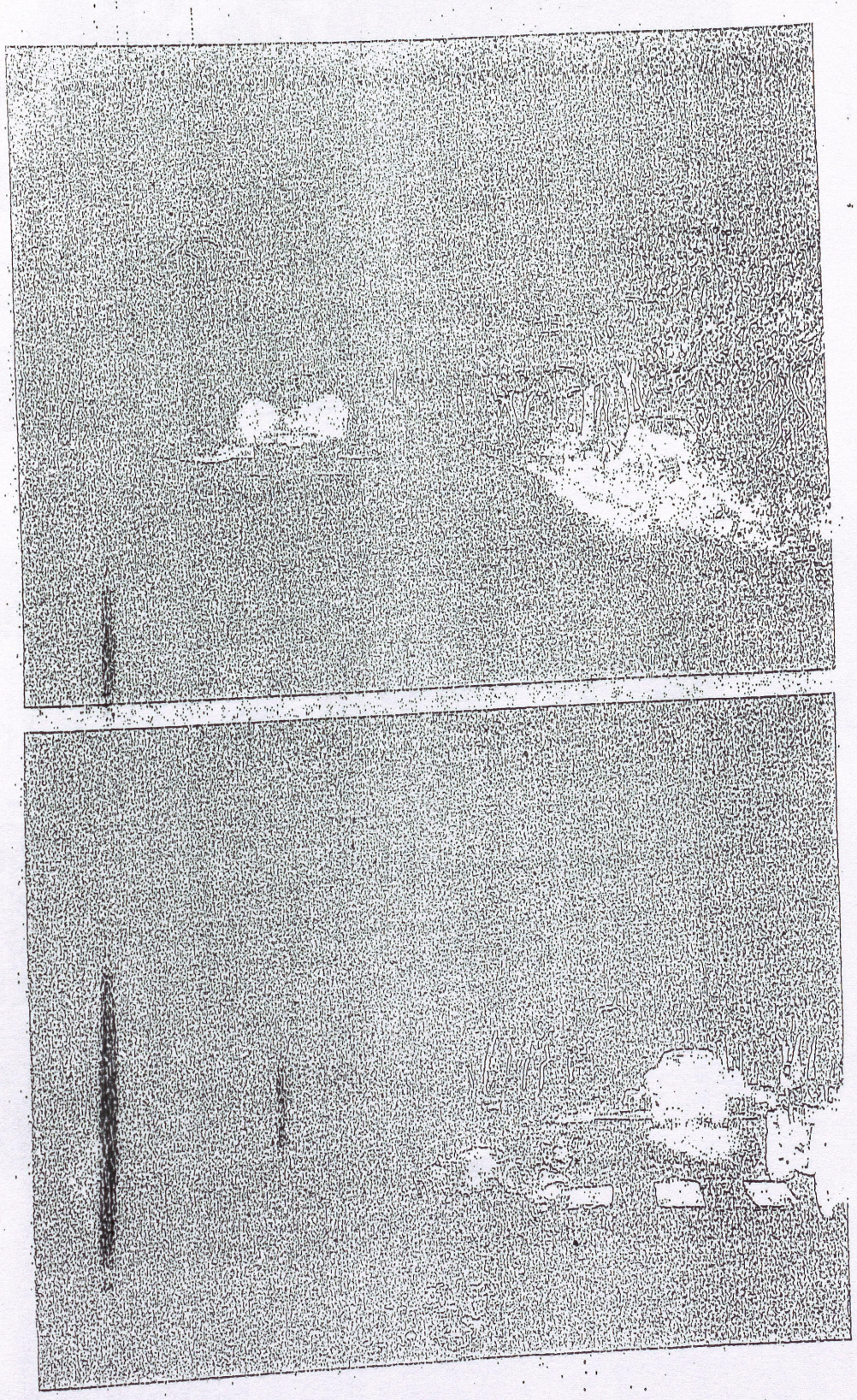


Field visit to NH-212 at night time inside Bandipur Tiger Reserve

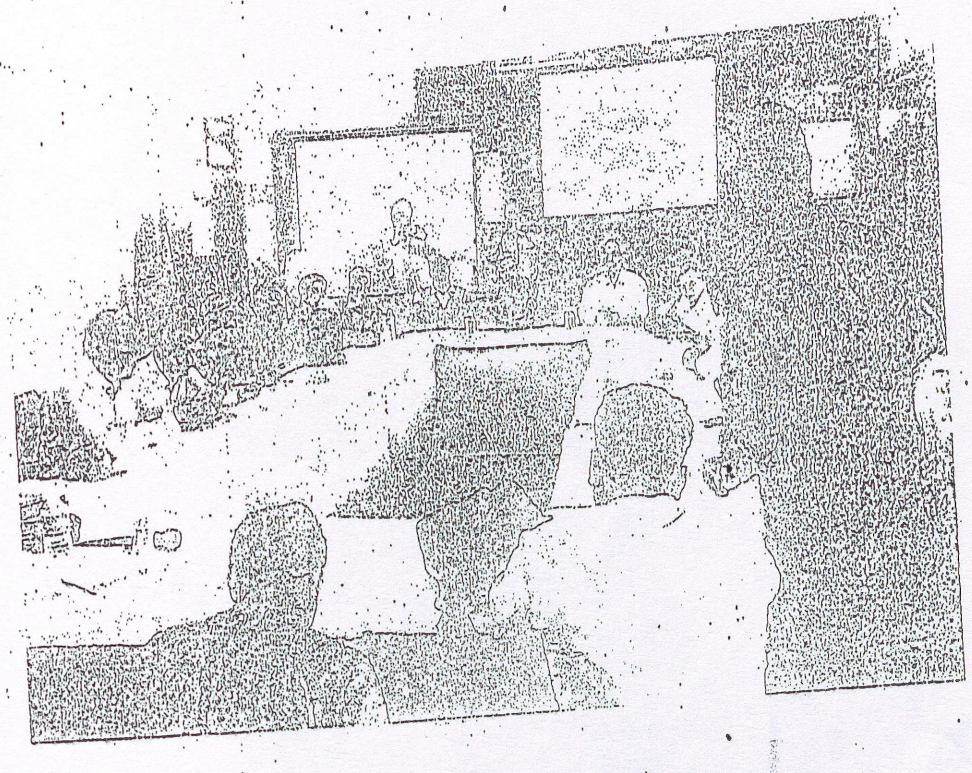


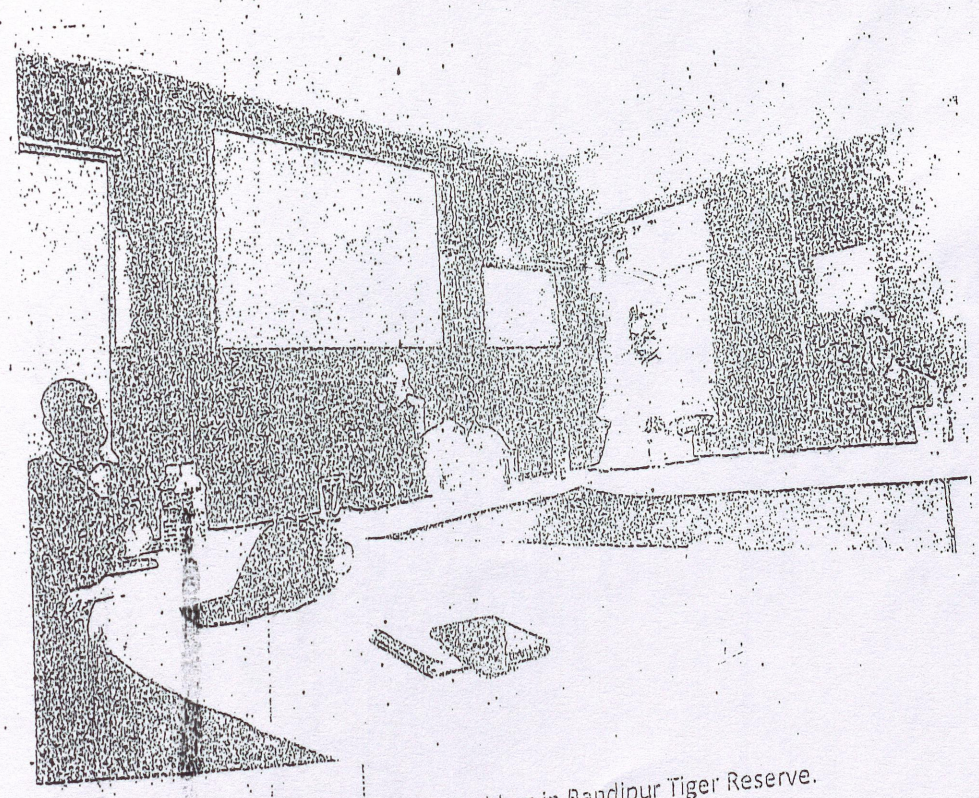


State Transport Corporation buses passing on NH-212 during restricted hours.



Wildlife at the highway edge and crossing the road during visit to NH-212.

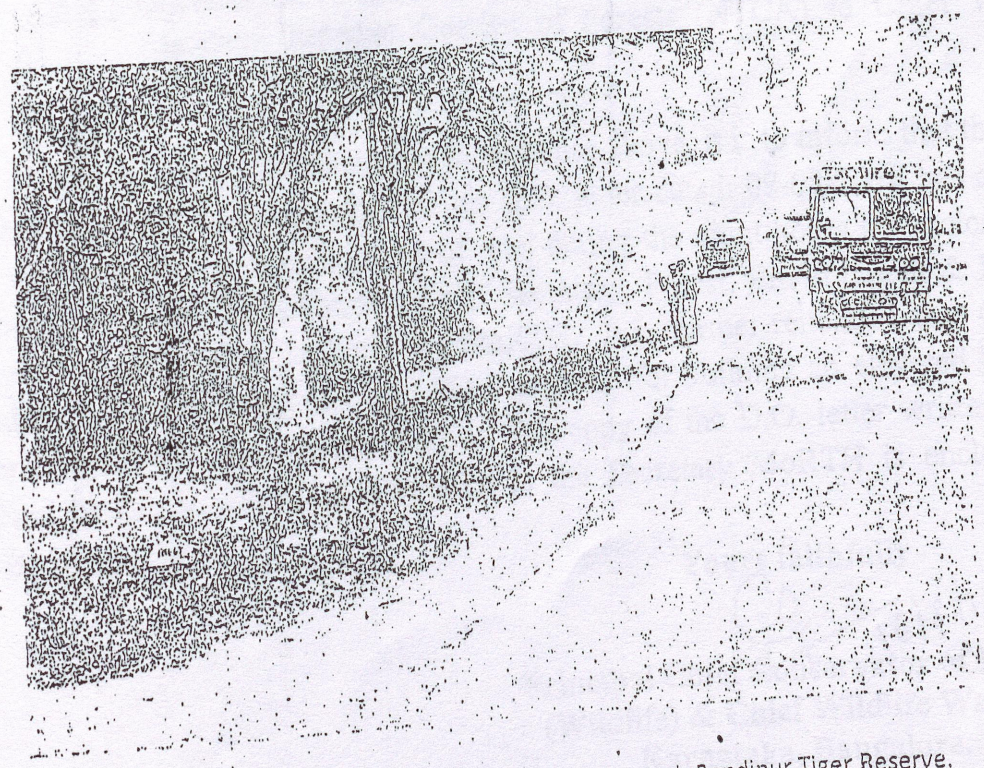




Meeting of different stakeholders in Bandipur Tiger Reserve.

Annexure-VIII





Travelers are at great risk on the highways passing through Bandipur Tiger Reserve.

Principal Chief Conservator of Forests
(Wildlife) & Chief Wildlife Warden,
Karnataka

Office : 080-233458
Fax : 080-233463
E-mail: pccfwl@gmail.cor
AranyaBhavan, 2nd Floo
18th Cross, Malleswaram
Bangalore-560 00
Date: 16-08-201

No. PCCF(WL)/D/CR-31/2008-09

To,
The Member Secretary,
National Tiger Conservation Authority
Ministry of Enviorment, Forest and Climate Change
Government of India,
B-1 Wing, 7th Floor, Pt. Deendayal 'Anthodaya Bhawan'
CGO Complex, Lodhi Road,
New Delhi-- 110 003.

Sir,

Sub: Special Leave Petition (Civil) No. 13838 of 2010 in the Hon'ble Supreme Court of India - State Govt. of India V/s. L. Srinivasa Babu & ors.

Ref : Government of India letter F.No.1-5/93-PT dated: 16-08-2018 from Assistant Inspector General of Forests (NTCA) to Chief Wildlife Warden, Karnataka.

* * * * *

In response to the letter cited at reference above, it is to inform that the Chief Secretary, Govt. of Karnataka vide his D.O. letter dated: 07-08-2018 has opposed to any construction or opening up of road during the night hours by enclosing the note already sent by Additional Chief Secretary, Forest, Environment & Ecology dated: 19-04-2018 to the Secretary MoRTH. It is further reiterated that Govt. of Karnataka does not support MoRTH's proposal for building an elevated highway nor to open the road to night traffic. The copy of the D.O. letter written by the Chief Secretary, Govt. of Karnataka to the Secretary MoRTH is enclosed for reference.

Yours faithfully

16/8/18

Principal Chief Conservator of Forests
(Wildlife) & Chief Wildlife Warden,
Karnataka, Bangalore.

Copy to the Assistant Inspector General of Forests (NTCA), New Delhi for information.

ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿ
T.M. VIJAY BHASKAR, I.A.S.
Chief Secretary

D.O.No:FEE/194/FWL/2014

7th August,2018.

Dear Yudhvir,

Sub: Special Leave Petition (Civil) No. 13838 of 2010 in the Hon'ble Supreme Court of India -- State Govt. of Kerala V/s. L.Srinivasa Babu & ors.

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Please refer to your D.O. letter No. RW/NH-12024/2/2018-KNT regarding the proposal of the Ministry of Road Transport and Highways to construct an elevated road on National Highway - 212 on 21.07.2018 linking Karnataka and Kerala through the Bandipur National Park (Tiger Reserve).

In this context I would like to state that MoRTH's proposal has been examined in detail. The Government of Karnataka had opposed any construction or opening up of the road during night hours, reasons for which have been submitted by enclosing a note to the D.O letter No:FEE 132 FWL 2013 (P 1) dated: 19.04.2018 of the Additional Chief Secretary, Forest, Environment & Ecology, Government of Karnataka.

The reasons for which Govt. of Karnataka had opposed any construction continue and there are no substantial reasons to alter its stand. Therefore, I am to reiterate that Govt of Karnataka does not support MoRTH's proposal for building an elevated highway nor to open the road to night traffic.

In the alternative, MoRTH may consider strengthening the alternative road "the state highway passing through Thithimathi – Gonikoppa-Kutta" by up grading it as National Highway which will not disrupt the wildlife in the park. I am once again enclosing the detailed note of the ACS, FEE on the issue for ready reference.

With warm regards.

Yours sincerely,

TMVijaybhaskar

Shri Yudhvir Singh Malik, I.A.S.,
Secretary,
Ministry of Road Transport and Highways,
Transport Bhavan,
1, Parliament Street,
New Delhi – 110001

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320, 3rd Floor, Vidhana Soudha, Bengaluru- 560 001. Phone. Off.+91-80-22252442 / 22253716 Fax: +91-80-22258913.
e-mail : cs@karnataka.gov.in

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ವಂದಿತಾ ಶರ್ಮಾ, ಭಾ.ಆ.ಸೇ.
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ಕರ್ನಾಟಕ ಸರ್ಕಾರ
Government of Karnataka

VANDITA SHARMA, I.A.S.
Additional Chief Secretary to Govt
Forest, Ecology and Environment
Department

D.O. No. FEE 132 FWL 2013 (P 1) Date:19.04.2018

Dear Sir,

This is in pursuance to the meeting held on 13.04.2018 at 2.30 pm under your Chairmanship with regard to the Special Leave Petition (civil) No. 13838 of 2010 in the Hon'ble Supreme Court of India – State Govt. of Kerala v/s Shri L. Srinivasa L. Srinivasa Babu and others. During the meeting your kind self had ask me to send a note on the stand of the Karnataka State Government. Accordingly, a note had been prepared and was emailed to your kindself on 17.04.2018. Further, that note was send by error and was not a final version. I am enclosing herewith a note on this subject as requested by you. This note has 3 Annexures which are enclosed herewith. You are requested to kindly include this note in your report to be placed before the Hon'ble Supreme Court of India.

With kind regards,

Yours sincerely,
Vandita Sharma
(VANDITA SHARMA)

Sri. Yudhvir Singh Malik, I.A.S.,
Secretary,
Ministry of Road Transport and Highways,
Transport Bhawan,
1, Parliament Street,
New Delhi -110 001.

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:NOTE:

Sub: Special Leave Petition (civil) No. 13838 of 2010 in the Hon'ble Supreme Court of India – State Govt. of Kerala V/s. Shri L. Srinivasa L. Srinivasa Bubu & Ors. Meeting of the Committee constituted as per order of Hon'ble Supreme Court under Chairmanship of Secretary, MoRTH.

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Preamble:

1. Two National highways namely NH-212 for a distance of 20 km (between Maddur and Moolehole) and NH-67 for a distance of 13 km (between Melakamanahalli and Chikkanahalla) pass through Bandipur Tiger Reserve which is a prime area of Nilgiri Biosphere Reserve. The forest staff of the Bandipur Tiger Reserve have noticed the death of large number of mammals including Leopards, Tigers and Elephants, Birds and Snakes due to the road accidents in both the National highways. Between 2004 to 2007 there were a death of 89 mammals, 73 birds and 53 snakes due to the road accidents in both the national highways passing throtgh the Tiger Reserve. There has been an outcry from the public and environmentalists to ban night traffic passing through the National Park. The Deputy Conservator of Forests, Wildlife Division, Project Tiger, Bandipur in his letter dated: 23-01-2009 requested the Deputy Commissioner (DC), Chamarajnagar to pass an appropriate order restricting the night traffic passing through both the national highways. By exercising the powers under Section-115 of Motor Vehicles Act, the DC, Chamarajnagar passed an order on 03-06-2009 and restricted the movement of traffic between 9 pm to 6 am in both the national highways passing through Bandipur Tiger Reserve. However, in order to help the public and villagers, two busses and emergency vehicles including ambulance were allowed to ply during

the restricted hours. Aggrieved by the orders of DC, Chamarajnagar, public representatives of Sultan Batheri, Waynad and road transport authorities have requested the DC, Chamarajnagar to withdraw the order dated: 03-06-2009. The DC, Chamarajnagar withdrew the order dated: 03-06-2009 on 10-06-2009. Aggrieved by the withdrawal orders of DC, Chamarajnagar two Public Interest Litigations were filed before the Hon'ble High Court of Karnataka. The Hon'ble High Court of Karnataka passed an interim order and restored the first order of DC, Chamarajnagar dated: 03-06-2009 imposing the restrictions on the movement of night traffic in the both national highways between 9 pm. to 6 am. Aggrieved by the interim orders of the Hon'ble High Court, the travel and transport operators have filed Writ Petitions before the Hon'ble High Court of Karnataka vide WP No. 26621-629/2009. During the pendency of the Writ Petitions various persons have come up with impleading applications to air their grievances before the Hon'ble Court.

2. On hearing the legal contentions raised by both the parties, the Hon'ble High Court of Karnataka considered the two important legal points out of their contentions namely;

   i. Whether, in the interest of preservation and protection of wildlife in the Bandipur National Park, it is necessary to regulate and restrict night traffic in the park?

   ii. If so, how best the hardship caused to the transporters, traders and public can be mitigated?

The Hon'ble Court considered both the points together as they are interconnected. The Hon'ble Court appreciated the importance of conserving

tigers in the Country, as Bandipur Tiger Reserve is one of the first Protected Area to be brought under the Tiger Conservation during 1973. Presently the park attracts the global attention. Other than Tigers the park hosts number of other species like Elephants, Gaurs, Sambars, Spotted Deers and number of other birds and reptiles. The National Park is spread over an area of 990 sq.kms. The park is in the foothills of Nilgiri hills surrounded by Mudumalai Tiger Reserve and Waynad Sanctuary. The protection of endemic species like Tiger has become a challenge for the mankind. At the same time the existing transport facility needs to be protected in the interest of the public who commute through the roads. The public representatives appearing for the respondents have themselves indicated that NH-209 is available as an alternative road to NH-67 and is longer by 70 kms. However, the alternative road available in respect of NH-212 is a State Highway passing thorough Thithimathi, Gonikoppa and Kutta, the road is longer by 30 kms. The respondents have also pointed out that the condition of the State Highway is not in good condition. The Court has come to a conclusion that if the ban on vehicular movement during night hours has to be restricted the authorities should provide an alternative road. The Hon'ble Court has directed the Public Works Department to undertake immediate measures to improve the conditions of the alternative road. The authorities concerned with the road improvement in Karnataka undertook the task and improved the condition of the road by spending Rs. 75.00 Crore. Along with these directions the Hon'ble High Court of Karnataka also directed National Highway Authorities to take all the necessary action to ensure the ban during the night hours from 9 pm to 6 am for vehicular traffic in the both the National Highways passing through Bandipur Tiger Reserve be effectively enforced.

3. Even after compliance to the Hon'ble High Courts orders by providing alternative road during the restricted hours and allowing four buses each from

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Karnataka, Tamil Nadu and Kerala State Road Transport Corporations in addition to allowing emergency services like ambulances and fire tenders a few people are litigating before the Hon'ble Supreme Court of India by filing SLPs. The Hon'ble Supreme Court in their interim order dated: 10-01-2018 passed the following orders.

"The learned Attorney General suggests that one way out of the present impasse is to set up a Committee headed by the Secretary, Ministry of Road Transport and Highways (MoRTH) in which there would be representatives of the State of Kerala, Karnataka and Tamil Nadu. In addition, a representative from the National Tiger Conservation Authority functioning under the Ministry of Environment and Forest will also participate. The aforesaid Committee should have its first meeting within a month from the date a copy of this order is served. The report from this Committee is expected within a period of three months thereafter which is to be placed before this Court".

4. The Chief Secretary, Govt. of Karnataka in her letter dated: 13-03-2018 has narrated the entire background to the issue and written a letter to your kind self to invite Karnataka Forest Department as a representative of your committee for placing all the facts for your kind consideration. The copy of the letter is enclosed as Annexure-1. In the meantwhile NTCA has convened a meeting of the representatives of all the three States at Aranya Bhavan, Bangalore on 06-03-2018 to know the factual position of the issue under consideration. The Principal Secretary, Transport Kerala and collector Waynad on behalf of Kerala State, the Field Director, Mudumalai Tiger Reserve on behalf of Tamil Nadu, the Principal Conservator of Forests (HoFF), Principal Conservator of

Forests (Wildlife) on behalf of Karnataka and Deputy Inspector General, NTCA, New Delhi attended the meeting. The issue was deliberated in length and the PCCF (Wildlife), Karnataka has emphasized that the night ban imposed as per the orders of Hon'ble High Court of Karnataka is not a water tight compartment as we are allowing four busses each of Karnataka, Tamil Nadu and Kerala Road Transport Corporation in addition to all essential and emergency services. In addition the alternative road as identified by public representatives of Kerala (who have represented themselves before the Hon'ble Court) was repaired at the cost of Karnataka Govt. is also available during the restricted hours. In respect of NH-67, NH-209 passing through Chamarajnagar-Sathyamangalm is available as an alternative road. With these alternatives it may not be prudent to encroach in to the inviolate hours of the wild animals living peacefully in Bandipur Tiger Reserve in their own abode. On deliberation of the facts the Field Director Mudumalai Tiger Reserve representing Tamil Nadu has agreed the present arrangements has the commuters have adjusted to the present circumstances and have no grievance. The Kerala officials have requested for increasing the number of busses during the restricted hours and also to introduce convoy system for allowing the other vehicles to pass through during the restricted hours. These issue were already deliberated by various committee in the past and not considered as they are detrimental to the inviolate condition of the eco system. The suggestion of the Kerala was not agreed. The reprehensive of NTCA has suggested that the reprehensive of Kerala, Tamil and Karnataka may halt at Bandipur on 07-03-2018 to know the factual position of both national highway during the restricted hours. The Principal Secretary, Transport Kerala, Collector Waynad, Field Director, Project Tiger Mudumalai, Deputy Inspector General, NTCA, Southern Region Bangalore, member of Karnataka State Wildlife Board and FDPT, Bandipur have visited the Tiger

Reserve and perambulated both the national highways during the restricted hours. As reported by them they saw large number of wildlife including Elephants, Gaurs, Sambar Deer, Spotted Deer were seen on the road. In addition they have inspected two busses commuting during the restricted hours carrying less than 50% of its capacity. The proceeding of the meeting is enclosed as Annexure-2.

5. On 13-04-2018 the undersigned along with the PCCF (Wildlife), Bangalore attended the meeting convened by your kind self at New Delhi. With the permission of the chair I explained the factual position to demonstrate that the present arrangements with an alternative road is not causing any hardship to the commuters passing through NH-201 during day time and the commuter passing the alternative road passing through Thitimathi, Gonikoppa and Kutta during restricted hours. The Bandipur Tiger Reserve being very sensitive and hosts more than 140 Tiger (2017 Census), more that 1800 elephants apart from other mammals like Gaurs, Sambars and Spotted Deers. Out of 24 hours it is prudent to allow at least 9 hours of inviolate condition during the night hours for their free movement. Your kind self suggested an idea of constructing underpasses and flyovers along NH-212 in the Tiger Reserve for making the road 24/7. The Tiger Reserve being highly sensitive any disturbance, construction of mega structure through the Reserve is not appropriate and may be disastrous to the conservation of the forest and the Tigers. As submitted to your kind self the restricted hours imposed between 9 pm. to 6 am. is not a water tight compartment as we are allowing four busses from each Road Transport Corporations and all the essential and emergency services during the restricted hours. Moreover, the state Government has spent Rs.75 crores and provided a fully developed

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alternative road passing through Thithimathi, Gonikoppa and Kutta which is longer only by about 30 kms. Therefore, there appears to be no need to spend huge amount and construct underpasses and flyovers on NH 212. Your kind self has directed me to submit a Note and accordingly this note submitted for your kind consideration. I am happy to inform that the representative on behalf of Tamil Nadu Govt. who was present in the meeting has accepted the present arrangements.

In the presence of the alternative road, the stand of the Government of Karnataka is to maintain *status quo*.

Sd/-

Date: 16-04-2018

(Vandita Sharma)
Additional Chief Secretary,
Forest, Environment & Forests
Bangalore.

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