

Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

C.M No. 1935 of 2020
In
W.P. No. 1155 of 2019

Islamabad Wildlife Management Board through its Chairman
Vs
Metropolitan Corporation Islamabad through its Mayor, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	<u>27-11-2020.</u>	M/s Owais Awan and Daniyal Hassan Advocates, for the applicant. Syed Muhammad Tayyab, DAG. M/s Malik Ghulam Sabir, MNA Rehman, Nou Bhar, Yasir Rathore, Malik Abdur Rehman, Malik Naseem Abbas Nasir Advocates, for respondents. Dr Anis-ur-Rehman (Chairman IWMB). Dr Amir Khalil, Dr Frank Goritz, Marion Lombard and Marina Ivonvoa (Director Four Paws International). Muhammad Nadeem Qureshi, D.D. Wildlife. Syed Ali Raza Zaidi, M/O Climate Change.

ATHAR MINALLAH, C.J.- Dr Amir Khalil, amicus curiae, has appeared along with Dr Anis-ur-Rehman, former Chairman of Islamabad Wild Life Board. They have explained in detail the arrangements made regarding the relocation of "Kaavan" to the elephant sanctuary in Cambodia. They have also briefed the Court about the travel arrangements relating to the two Himalayan brown bears.

2. "Kaavan" is not just a living being gifted with "life", he now also represents the

jurisprudence laid down by this Court in the judgments dated 21.05.2020 and 18.07.2020, passed in the case titled "Islamabad Wildlife Management Board through its Chairman v. Metropolitan Corporation Islamabad through its Mayor and others. The jurisprudence has been endorsed and acted upon by the Government of Pakistan. This Court has been informed that the President of Pakistan, *Dr Arif Alvi*, had visited "Kaavan" to bid him farewell because he is scheduled to travel to Cambodia on November 29, 2020. The worthy President is reported to have said that the jurisprudence of this Court was in line with the Islamic traditions of caring for animals and keeping them in an environment best suited to them. He had rightly appreciated the jurisprudence of this Court by acknowledging that separating young animals from their mothers was a major cause of emotional distress.

3. "Kaavan" and the two brown bears were definitely exposed to unimaginable pain and suffering because they were not created to be caged at the Islamabad Marghazar Zoo or, for that matter, subjected to any other form of confinement. They should never have been deprived of their natural habitats. Captivity, even in the most adequately equipped zoo and

regardless of the quality of care, is certainly not a substitute for living beings to live in their respective natural habitats. Keeping them caged is unnatural, against the scheme of nature and violates their natural rights because only a natural habitat can provide for the behavioural, social and physiological needs of a particular animal species. The stress and pain of "zoochosis" alone is a serious violation of the rights bestowed on the animal species by the Creator. The existence of the human species depends on the survival and protection of other living beings, particularly the animal species. Anthropocene has become a reality. The idea of the extinction of the human race on this planet because of the destruction of natural habitats across the globe is no more a taboo. Climate change and environmental degradation threatens the quality of life and existence of the human species. The natural habitats are made for animal species and their protection is inevitably linked to safeguarding the existence of the human species.

4. "Kaavan" could have been taken care of in Pakistan but this is not his natural habitat. "Kaavan" belongs to his natural habitat, the home created for his species by nature. His relocation is symbolic. It is a message for the human race that

it is not humane to deprive animal species of their respective natural habitats. It is a declaration that protecting animal species in their respective natural habitats amounts to preventing the extinction of the human species on this planet. "Kaavan" has become a torch bearer for the jurisprudence of this Court and an example of the will and resolve of the people of Pakistan, represented by their Government, that it is not natural to deprive animal species from enjoying life in their natural habitats. "Kaavan" has become a symbol for the display of empathy and the need for humans to acknowledge that sentient animal species have natural rights and that they cannot be subjected to unnecessary pain and suffering. "Kaavan" has indeed become a beacon for the recognition of animal rights throughout the globe. In a nut shell, "Kaavan" is a symbol of hope for other animal species who are in distress and subjected to pain and suffering because of the misconceived display of power by the human species.

5. The agony of "Kaavan" will finally come to an end when he is relocated to the sanctuary in Cambodia where, after thirty five long years, he will be able to live the life of an elephant for which he was created and in an environment that

would cater to his behavioural, social and physiological needs.

6. "Kaavan" and other animals at the Marghazar Zoo would have continued to suffer unimaginable pain and suffering had it not been for the passion of thousands of caring human beings from across the globe, including celebrities such as Cher. This Court records its profound appreciation for the care and love displayed by Dr Amir Khalil, the amicus curiae, who is reported to have compensated "Kaavan" for part of his pain and suffering. The people of Pakistan and this Court appreciates the assistance of "Four Paws", the organization that Dr Amir Khalil represents, in enabling "Kaavan" to become a symbol of jurisprudence for others to follow. Dr Anis-ur-Rehman, his team, the President of Pakistan and Special Assistant to the Prime Minister on Climate Change and other public holders of his Ministry have established that the Government of Pakistan has the will to discharge its fiduciary duty to protect nature and to respect the rights of animal species, particularly the right to live in their respective natural habitats. This Court wishes "Kaavan" bon voyage and expects that others will safeguard the human race from harm by seeking guidance from his example. It appears that the

retirement of "Kaavan" would be a happy ending to the agony and loneliness suffered for thirty five years. The valuable assistance extended by the young counsels throughout these proceedings cannot go unnoticed.

7. This Court expects that a report regarding the relocation of "Kaavan" and the two Himalayan brown bears will be submitted on the next date fixed.

7. Relist, on 21.12.2020.

(CHIEF JUSTICE)

Tanveer Ahmed/*
27-11-2020.