



**Animal Welfare Board of India
Ministry of Environment, Forests and Climate Change**

REPROT ON INSPECTION OF CAPTIVE ELEPHANTS USED IN THRISSUR POORAM 2016



Picture 1: An elephant with a swelling (probably an abscess) and wound being paraded at Thrissur Pooram on 17.04.2016

I. INSPECTION AUTHORISED BY:

Animal Welfare Board of India (AWBI), through letter No 9-1/2016 -17/PCA/IR; Dated 15 April 2016 (**Annexure- A**)

II. DATE OF THE INSPECTION:

16 to 18 April 2016

III. LOCATION OF INSPECTION:

Thrissur, Kerala.

IV. AWBI-AUTHORISED INSPECTORS

1. Dr Rakesh Chittora, Veterinary Trainer, Animal Rahat, Sangli, Maharashtra
2. Shri Sunil Havaladar, Honorary Animal Welfare Officer, AWBI & Sr. Animal Welfare Officer, Animal Rahat
3. Shri M N Jayachandran, Member, Kerala State Animal Welfare Board, Honorary Animal Welfare Officer, AWBI and President, Idukki SPCA
4. Ms. Preethi Sreevalsan, AWBI nominee, District Elephant Committee, Palakkad & Honorary Animal Welfare Officer, AWBI

V. OBJECTIVE OF THE INSPECTION

1. To assess the welfare of captive elephants used in Thrissur Poomam 2016, and report any incidence of cruelty on them, in apparent violations of Central or State animal protection laws
2. To scrutinize all relevant documents related to the use of captive elephants in Thrissur Poomam 2016 and assess compliance of animal protection laws and directives of Honourable Supreme Court and High Court of Kerala.
3. Comparative evaluation of incidence of cruelty on captive elephants reported during Thrissur Poomam in 2015 and 2016
4. Assess whether use of elephants during Thrissur Poomam involves 'training', 'exhibiting' and 'performance' of captive elephants.
5. Submit the specific and general recommendations to AWBI.

VI. EXECUTIVE SUMMARY

On 16 April 2016, when the Animal Welfare Board of India (AWBI)–authorised inspection team reached the venue of the elephant fitness check camp, to their deep shock and surprise, they were denied permission by the district administration. Even after repeated requests, Mr. V. Ratheesan, District Collector, Thrissur failed to ensure that the AWBI inspection team is allowed to examine the elephants along with the officials from forest department and veterinarians from animal husbandry department. AWBI inspection team suspects that the fitness check being facilitated by the district administration is a sham, and that there is a conspiracy to use illegal elephants who do not have a valid ownership certificate (OC) - as mandated by Section 42 of the Wildlife (Protection) Act (WPA), 1972 – as well as unfit elephants, as was done last year, in apparent violation of the animal protection laws and directives of Honourable Supreme Court of India and High Court of Kerala. On 18 April, even after repeated requests, Mr. K.G. Simon, the District Police Commissioner, Thrissur City refused to give any police protection to the AWBI inspection team to assess 67 elephants who were issued with fitness certificates, stating that many people’s emotions are involved in Thrissur Pooram and the AWBI inspectors going near the elephants will create a law and order situation which he wanted to avoid. The inspection team then contacted Dr A.C Mohan Das, Chief Veterinary Officer, District Animal Husbandry Office, Thrissur who shared a copy of the fitness certificate that were issued to 67 elephants. When contacted with a request to share a copy of the Ownership Certificate of the 67 elephants who were permitted by the forest department to be used for Thrissur Pooram, Mr. N. Prem Chander, Assistant Conservator of Forests (Social Forestry) Thrissur, refused to share the same.

The inspection revealed that, like last year, prohibited weapons like ankus were rampantly used against the elephants by their mahouts and many of the elephants suffered from painful abscesses, marks of injuries on legs from constant chaining, impaired vision, cracked nails and wounds that were deliberately hidden with black material. The elephants were chained by all four legs preventing any movement under the threat of physical punishment and forced to stand for many hours, with no protection from the hot sun, and were denied adequate access to drinking water. The elephants were also forced to stand for long hours amidst the loud noise of drums, trumpets, pipes and cymbals and blaring noise of the crowd. Elephant Thechikottukavu Ramachandran, with impaired vision in both the eyes, for whom a fitness certificate was not issued was caparisoned and used for the formal announcement of the beginning of Thrissur Pooram. Elephant Lakshmi of Thiruvambadi Devaswom who is blind by left eye, was issued with a fitness certificate. And elephant Thechikottukavu Devidasan, of Thiruvambadi Devaswom who has a history of killing three people, was also paraded, risking public safety.

Use of injured elephants and prevalence of abusive practices such as use of ankus observed during the Pooram is an apparent violation of Section 11 of the Prevention of Cruelty to Animals (PCA) Act, 1960 and the directives of the Honourable Supreme Court of India and Kerala High Court which stated that no elephants used during Pooram should be treated with cruelty. Out of the 67 elephants who were issued with a fitness certificate by the veterinarians of animal husbandry department and forest department, 31 are apparently under illegal possession as they do not have a valid OC, in apparent violation of Section 42 of WPA, 1972. Moreover, the findings of the inspection team that, many of the elephants who were being paraded and being provided with a fitness certificate were actually physically unfit as they suffered from major wounds and swellings, cracked nails and poor body condition, in apparent violation of Rule 4(17) of

Kerala Captive Elephant (Management & Maintenance) Rules (KCEMMR), 2012 and Regulation 42 (3) of the Veterinary Council of India (Standard of Professional Conduct, Etiquette and Code of Ethics, for Veterinary Practitioners) Regulations, 1992.

A comparative evaluation of the AWBI inspection report of 2015 and current year's observations indicates that, unfit elephants are continued to be abused and paraded during Thrissur Pooram, proving the ineffectiveness of the District Committee constituted under KCEMMR, 2012, on whom the Honourable Supreme Court of India had assigned with the responsibility of registering the elephants, through its 18.08.2015 directive on Writ Petition (Civil) No. 743/2014, and also in apparent violation of the directive of the Honourable Kerala High Court order dated 14 April 2016 on WP (C) 14993/ 2016 (S) which states that, no elephant which is found unfit to participate in the ceremonial parade shall be utilised and the District Magistrate will ensure that use of any such animal is clearly excluded.

The observations made by AWBI inspectors also establishes that, extensive training is required so as to make the elephants perform acts such as, sitting down bending their knee, keeping the tusk & trunk touching the ground, bending the head & body down, and lifting the hind leg so as to carry out procedures such as, allowing people to climb up, transfer the replica of idol to the people sitting on top of the elephant and allow the riders to get down to the ground. None of these activities are natural to the behaviour of the elephants, and requires extensive training, often done through punishment through verbal and physical cues. During the Pooram, the elephants are forced to hold their head high so that they stands out, for which the mahouts keep on touching or poking the lower jaw of the animals, and it requires training of the elephants. During the two days Thrissur Pooram, more than 40 caparisoned elephants were exhibited with 3-4 people standing, sitting or riding on their back, with total restriction on their movement. These activities also require training though punishment and are often reinforced through verbal and physical cues. During the 'Upacharam Chollal' (bidding farewell) ceremony of the Thrissur Pooram on 18 April, to mark the end of 36 hour long celebration, enacted at the Thekkinkad Maidan, where the deities of the Thiruvambadi and Paramakkavu temples are believed to bid farewell to each other and the deity of Sree Vadakkunatha Temple, two elephants carrying the deities are forced to raise their trunk as a gesture of farewell. Forcing these elephants to make such acts requires training, and is done through punishment and often reinforced through verbal and physical cues. It was also observed that more than a ritual, use of elephants during Thrissur Pooram carries lot of public entertainment importance, because at one point of time, in the wake of the recent fireworks tragedy at Puttingal Temple in Paravur, Kollam, a combined meeting of Paramakkavu and Thiruvambady devaswoms on 13 April had decided to do away with 'kudamattom' (exchange of umbrellas) and parading of elephants, events that claimed to have historically defined the festival. This explains and establishes that, the use of elephants during Thrissur Pooram is solely for public entertainment purpose and that they are not essential part of the religious rituals. Though there is no ticketing for the public to attend Thrissur Pooram, it is a well-known fact that the temple management pay for the hiring charges of these elephants on behalf of the devotees and visitors, which explains the commercial nature of the event. Public exhibition of the caparisoned elephants for entertainment, and forcing them to perform certain acts clearly establishes that use of elephants during Thrissur Pooram qualifies to be brought under the purview of The Performing Animals (Registration) Rules (PARR), 2001, thus requiring registration of the elephants with the AWBI.

VII. INTRODUCTION

In the wake of the recent fireworks tragedy at Puttingal Temple in Paravur, Kollam on 10 April and upon the restrictions imposed by the Honourable Kerala High Court on fireworks, the organisers of the Thrissur Pooram voluntarily decided to restrict festivities. A combined meeting of Paramekavvu and Thiruvambady Devaswoms on 13 April decided to do away with 'kudamattom', fireworks and parading of elephants; events that claimed to have historically defined the festival. However, when the Kerala Forest department issued a circular on 13 April directing that elephants should not be paraded between 10 am and 5 pm, that the belly of the elephants taken for the parade should be kept at a distance of three metres and their heads at four meters, and that the maximum duration for which an elephant could be paraded in a day was 3 hours at a stretch, the two devaswoms at later part of 13 April, again declared that one elephant will be symbolically used on the occasion. Though the circular issued by the forest department, if implemented, would have hugely benefitted the elephants and prevented certain cruelty against them, on 14 April, upon the direction of the Kerala Forest Minister Mr. Thiruvanchoor Radhakrishnan the forest department was forced to withdraw the circular. The minister who acted on the pleas of Thiruvambadi Devaswom and Paramekkavu Devaswom, reported to have explained that, the circular was issued without government's consent has no legal validity. Moreover, after hearing the submission of AWBI to intervene the Suo Motu matter, WP (C) No 14978/ 2016 (S), the Honourable Kerala High Court on 14 April 2016 ordered that "[n]o elephant which is found unfit to participate in the ceremonial parade shall be utilised and the District Magistrate will ensure that use of any such animal is clearly excluded." With all the restrictions removed, Thiruvambadi and Paramekkavu Devaswom thereafter decided to use elephants for Thrissur Pooram as done in the past.

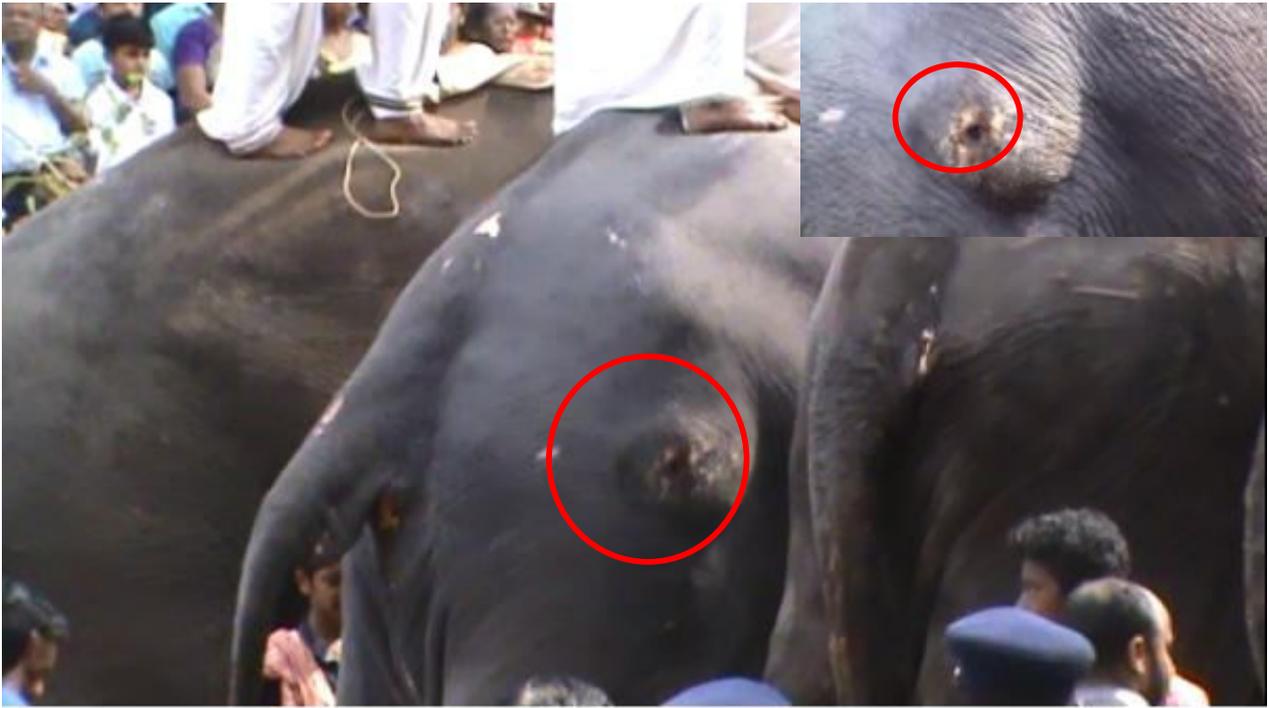
VIII. INSPECTION PROCEDURE

AWBI- authorized inspectors reached the Swaraj ground of Vadakkunnathan Temple at 02.00pm on 16 April 2016, where fitness examination and scrutiny of documents of elephants to be paraded in Thrissur Pooram were to be done jointly by district forest department and veterinarians from animal husbandry department. At 04.00pm the officials from forest department and animal husbandry department started the fitness examination of elephants. However, the AWBI authorised inspection team, to their deep shock and surprise, was denied permission by the district administration to inspect the elephants stating that, they have already taken decision in one of their meeting which was chaired by district collector that, they will not allow any outside agency to join the fitness camp. AWBI inspection suspected that the fitness check being facilitated by the district administration, with the help of forest department and veterinarians from animal husbandry department, is a sham, and that there is a conspiracy to use illegal elephants who do not have a valid ownership certificate – as mandated by Section 42 of the Wildlife (Protection) Act, 1972 – as well as unfit elephants, as was done last year, apparently in direct contempt of the Honourable Supreme Court and High Court. Even after repeated requests and reminder from the inspectors that, AWBI is a statutory authority established under Section 4 of the Prevention of Cruelty to Animal Act, 1960 for the promotion of animal welfare generally and for the purpose of protecting animals from being subjected to unnecessary pain or suffering, Mr. V. Ratheesan, District Collector, Thrissur failed to ensure that the AWBI inspection team is allowed to examine the elephants. While waiting for the permission of Mr Ratheesan, AWBI inspectors noticed that, mahouts of different elephants coming to the fitness camp were openly carrying ankus- a torture device that is banned in Kerala by the Chief Wildlife Warden of Kerala through an order in May 2015.

On 18 April, even after repeated requests, Mr. K.G. Simon, the District Police Commissioner, Thrissur City refused to give any police protection to the AWBI inspection team to assess 67 elephants who were issued with fitness certificates, stating that many people's emotions are involved in Thrissur Pooram and the inspectors going near the elephants will create a law and order situation which he wanted to avoid. Same day, the inspection team then contacted Dr A.C Mohan Das, Chief Veterinary Officer, District Animal Husbandry Office, Thrissur who shared a copy of the fitness certificate that were issued to 67 elephants. The fitness certificate failed to mention whether the elephants are free from wounds, abscesses, painful foot conditions etc. When contacted with a request to share a copy of the Ownership Certificate of the 67 elephants who were permitted by the forest department to be used for Thrissur Pooram, Mr. N. Prem Chander, Assistant Conservator of Forests (Social Forestry) Thrissur, refused to share them. Thereafter the inspection team also visited the office of the District Collector, Thrissur to meet Mr. V. Ratheesan and share its concerns and observations from the Pooram inspection; however his office informed that, a meeting is not possible since he is busy with the preparations for state legislative assembly election.

IX. OBSERVATIONS ON GROUND

The AWBI inspectors noted that, on 16 April an elephant named Thechikottukavu Ramachandran, who reported to have impaired vision in both the eyes, for whom a fitness certificate was not issued, was caparisoned and used for carrying the replica of the deity of Neythalakkavilamma while opening the door of the southern gopuram (a large pyramidal tower over the entrance gate to a temple precinct) of the Vadakkumnathan temple, to formally announce the beginning of the Thrissur Pooram. On 17 April, from morning to late night, AWBI inspectors watched all the ceremonies of Thrissur Pooram. The inspectors observed that, some of the elephants being paraded were having open wounds on hip and point of elbow, which were hidden by a black substance. Elephants having abscesses on shoulder and temporal region of the head, and elephants with marks of injuries on the legs caused by constant chaining, elephants with painful cracks on nails and poor body condition were also found to be paraded. None of these elephants are medically fit because of the existing painful physical conditions, but unfortunately were issued with illegitimate fitness certificates. During the parade, the elephants were chained by all four legs preventing them from making any movement under the threat of physical punishment and were forced to stand for many hours, with no protection from the hot sun, and were denied adequate access to drinking water. The elephants were also forced to stand for long hours amidst the loud noise of drums, trumpets, pipes and cymbals and blaring noise of the crowd. It was also observed that, prohibited weapons like ankus were rampantly used against the elephants by their mahouts. Elephant Thechikottukavu Devidasan (SI no 12 in the fitness certificate issued to Thiruvambadi Devaswom) who has a history of killing three people was also paraded, risking public safety. Elephant Lakshmi who is blind from left eye as per the two AWBI inspection reports dated 25.06.2015 and 13.01.2016, was allowed to parade (SI no 4 of fitness certificate issued to Thiruvambadi Devaswom) during this year's Thrissur Pooram. As per the Captive Elephant Database of Kerala Forest and Wildlife Department, the elephant Manuswami Madom Sree Vinayakan is blind from left eye; however he was issued with fitness certificate for Thrissur Pooram this year (SI no 1 of fitness certificate issued to Paramakkavu Devaswom). **Overall, the inspection revealed that, like last year, suffering elephants were subjected to cruelty throughout the event, in apparent violation of WPA, 1972, PCA Act, 1960, KCEMMR, 2012 and directives of the Honourable Supreme Court of India and Honourable High Court of Kerala.**



Picture 2: Elephant having swelling (possibly abscess) and open wound at right hip region was paraded by Thiruvambadi Devaswom (picture taken on 17.04.2016)



Picture 3: Elephant having multiple swellings (possibly abscess) and open wound at point of elbow and the mahout wielding an iron ankus which is banned in Kerala (picture taken while the elephant was given bath after the parade on 17.04.2016)



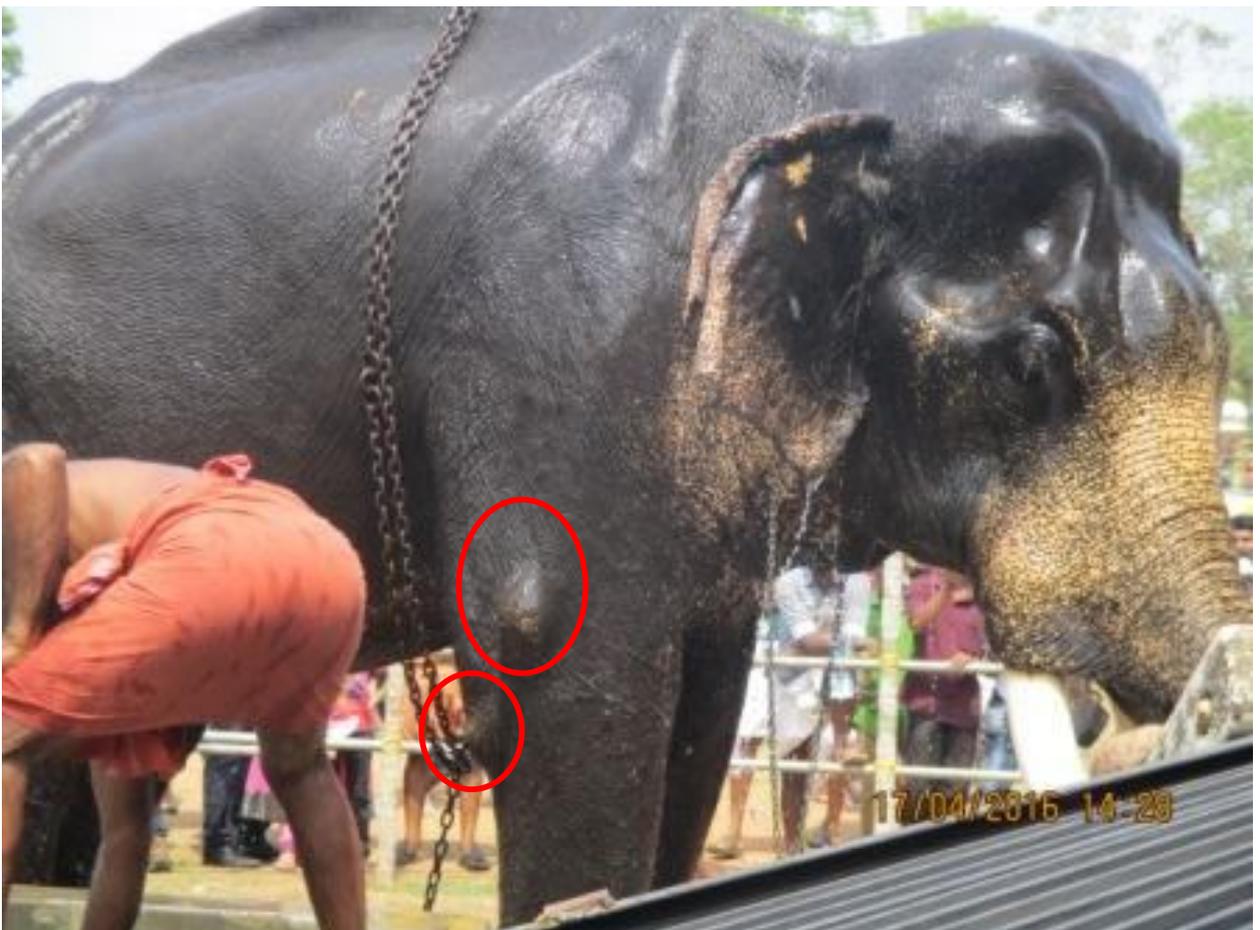
Picture 4: Elephant with open wound and swelling on left side of the hip (picture taken when elephant was walked towards Paramakavvu temple on 17.04.2016)



Picture 5: Elephant with open circular and linear wounds at right side of hip (picture was walked towards Paramekevvu temple on 17.04.2016)



Picture 6: Elephant with open circular wound covered with black substance (picture taken during the parade on 17.04.16)



Picture 7: Elephant with multiple swellings (possibly abscess) at right side of shoulder (picture taken while elephant was given bath after the parade on 17.04.2016)



Picture 8: Elephant with swelling (possibly abscess) left shoulder and left temporal region of head (picture taken when elephant was walked towards Paramakavvu temple on 17.04.2016)



Picture 9: Elephant Ollukkara Jayaram of Thiruvambadi with swelling at the base of tail



Picture 10: Elephant with painful vertical crack of nail on left hind leg (picture taken when elephant was walked towards Paramakavvu temple on 17.04.2016)



Picture 11: Elephant with painful vertical crack on nail- probably infected- on left forelimb (picture taken when elephant was walked towards Paramakavvu temple on 17.04.2016)



Picture 12: Elephant with vertical crack on nail of right foreleg (picture taken when elephant was paraded towards Paramakavvu temple on 17.04.2016)



Picture 13: Elephant with damaged nail with exposed sensitive tissues on right foreleg (picture taken on 17.04.2016)



Picture 14: Elephant with vertical crack on left hind leg nail (picture taken when elephant was paraded for 'kudamattom' ceremony on 17.04.2016)



Picture 15: Elephant with poor body condition indicated by deep temporal depression, prominent spinal process and ribs, and has swellings (possibly abscess) at right shoulder (picture taken while the elephant was given bath after the parade on 17.04.2016)



Picture 16- Elephant on the right side with deeply concave, frontal ridge forming a crater-like rim around the temporal depression indicating emaciation/ very poor body condition (picture taken while elephant was given bath after the parade on 17.04.2016)



Picture 17: Elephant Lakshmi who is blind from left eye as per the two AWBI inspection reports dated 25.06.2015 and 13.01.2016, was given fitness certificate (Sl no 4 of fitness

certificate issued to Thiruvambadi Devaswom) for parading in this year's Thrissur Pooram (photo from AWBI inspection report of 13.02.2016)



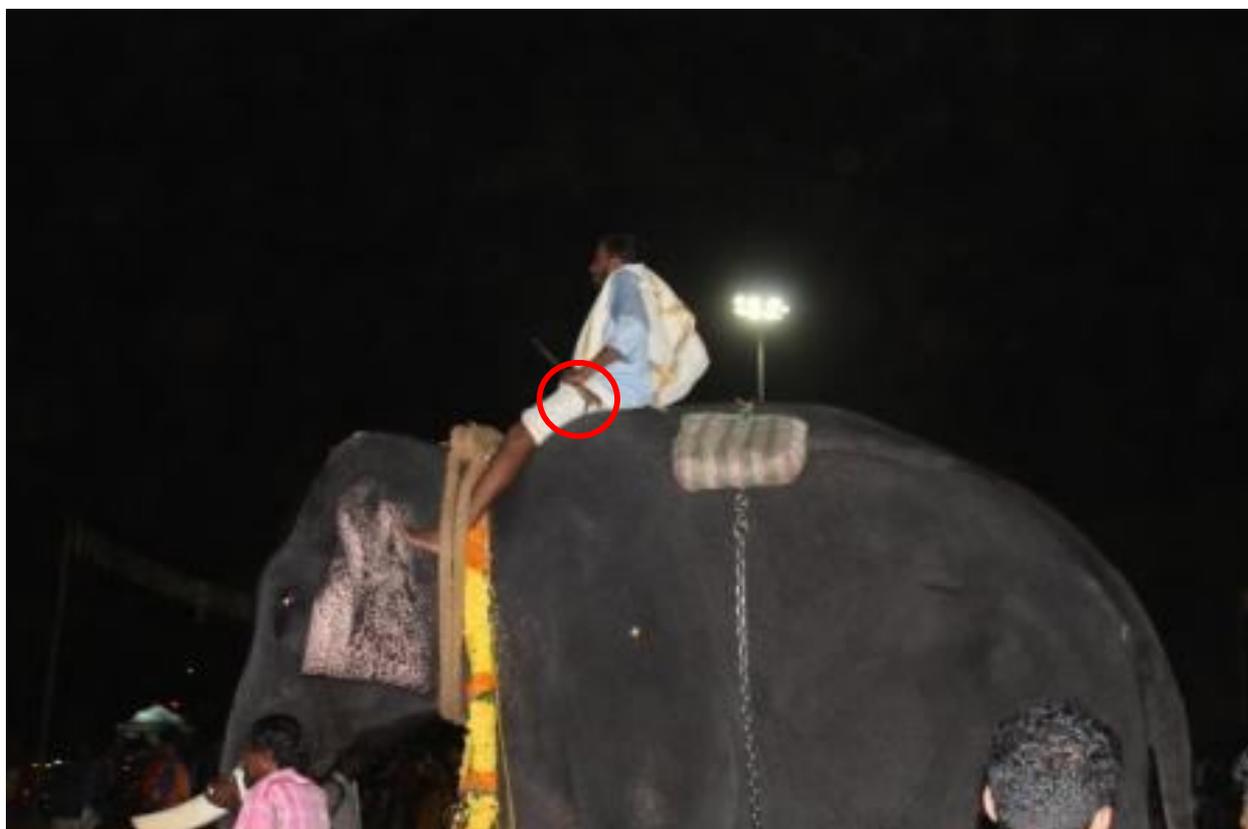
Picture 18: Elephant Thechikottukavu Ramachandran, who has impaired vision in both the eyes and for whom a fitness certificate was not issued, was caparisoned and used for carrying the replica of the deity of Neythalakkavilamma while opening the door of the southern gopuram of the Vadakkumnathan temple, to formally announce the beginning of the Thrissur Pooram (Photo courtesy PTI)



Picture 19: Mahout with banned ankush in his hand while bringing the elephant to the fitness check camp run by forest and animal husbandry department on 16.04.2016



Picture 20: Mahout with banned ankush in his hand while bringing the elephant to the fitness check camp run by forest and animal husbandry department on 16.04.2016



Picture 21: Mahout with banned ankush in his hand while bringing the elephant to the fitness check camp run by forest and animal husbandry department on 16.04.2016



Picture 22: All the mahouts were keeping ankus ready in their hands during the parade (picture taken on 17.04.2016)



Picture 23: All the mahouts were keeping ankus ready in their hands during the parade (picture taken on 17.04.2016)



Picture 24: Marks of injuries caused by constant chaining was a common sight. Heavy restraining during the parade by hobbling all four legs with short heavy chains, and chain around belly completely restricted their movement.



Picture 25: Elephants were restrained with short heavy chains on all four legs, preventing them from taking even one step forward or backward



Picture 26: During 'Kudamattom', ankus with its sharp end touching the skin was positioned so as to induce pain, and prevent the animal from making any movement



Picture 27: Mahouts were sitting and standing between and under the elephants to control the animals with ankus, to ensure the safety people standing around the elephants



Picture 28: Thechikottukavu Devidasan, (first elephant from left) who has a history of killing 3 people was paraded, risking public safety (Sl no 12 in fitness certificate issued)



Picture 29: Elephants were forced to stand for long hours under direct sun without water, on both days of Pooram- 17 and 18 April



Picture 30: Elephants were forced to stand for hours together hot sun, while the mahouts rested under the animals with ankus in hand



Picture 31: Elephants are trained to lift their hind legs so as to allow people to get on top of the elephant and get down (picture taken during 'kudamattom' on 17.04.2016)



Picture 32: During 'kudamattom' 3-4 people were standing and sitting on top each elephant, changing colourful umbrellas (picture taken on 17.04.2016)



Picture 33: During the parade sufficient space was not given between the elephants as mandated by Kerala Captive Elephant (Management & Maintenance) Rules, 2012 (Photo Credit: M.V. Sinoj, Courtesy: Mathrubhumi published on 18.04.2016)

X. FINDINGS OF SCRUTINY OF THE DOCUMENTS

1. Scrutiny of the elephant data filed by forest department through its affidavits in the Honourable Supreme Court of India, on the matter of WP (C) 743/2014, WRRRC & Ors Vs Union of India & Ors, and the fitness certificates issued by the elephant squad during this year's Thrissur Pooram revealed that, out of the 67 elephants who were issued with a fitness certificate, 31 elephants do not have a valid Ownership Certificate issued under Section 42 of WPA, 1972 and are apparently under illegal possession. There is no justification for issuing fitness certificates to elephants whose custody is illegal. The detail of Ownership Certificate status of 67 elephants used for this year's Thrissur Pooram is enclosed as **Annexure - B**.

The fitness certificate issued by the elephant squad read- *"Certified that the elephant squad under the Animal Husbandry Department and Forest Department has jointly examined at the request of Secretary, X (name of the Devaswom), the above mentioned X (SI no) elephants on 16-04-2014. They are apparently healthy, free from any contagious and infectious diseases, and not showing any visible signs of musth at the time of examination. The elephant may be used for parading for the Thrissur Pooram 2016 with proper restraints and observing all the rules under captive elephant maintenance and management rules, and other relevant rules."* However the observations of the AWBI inspectors that many of the elephants being paraded were suffering from painful swellings or abscesses, cracked nails, wounds (that were deliberately hidden with black substance), impaired vision and marks of injuries on legs from constant chaining. Elephant Lakshmi, who was allowed to be paraded during this year's Thrissur Pooram with a fitness certificate issued on SI no 4 for Thiruvambady Devaswom, was inspected by AWBI inspectors on 25.06.2015 and 13.01.2016. The report dated 25.06.2015 stated that *"On recumbence, detailed eye examination revealed a corneal tear at 6 "O" clock position leading to deep seated corneal ulcer with severely inflamed third eyelid. The lacerated cornea at 6"o" clock position is suggestive of a sharp prick injury from downwards. There was loss of aqueous humor and sinking of eye with severe pan ophthalmitis."* The 13.01.2016 report stated that *"It was observed that Elephant Lakshmi does not have any vision in her left eye due to cataract. The cornea is completely opaque with scarring in the sclera. She is also displaying severe stereotypic behaviour because of being tethered to the same place for the whole day (except for 2 hours when she gets to walk)." As per the Captive Elephant Database of Kerala Forest and Wildlife Department, the elephant Manuswami Madom Sree Vinayakan is blind from left eye; however he was issued with fitness certificate for Thrissur Pooram this year (SI no 1 of fitness certificate issued to Paramakkavu Devaswom). Evidences of physical ailments observed in elephants, who were paraded, which have been validated by the records of AWBI and forest department, have proved the discrepancies in issuing fitness certificates. A copy of the fitness certificate issued by the elephant squad is enclosed as **Annexure - C**.*

XI. VIDEOS OF THE INSPECTION ARE ENCLOSED AS **Annexure – D**

XII. COMPARATIVE EVALUATION OF INCIDENCES OF CRUELTY IN ELEPHANTS REPORTED DURING THRISSUR POORAM 2015 AND 2016

Based on the comparative evaluation of the findings of AWBI inspections of 2015 and 2016, the compliance list is given below:

SI No	Observations	Thrissur Pooram	
		April 2015	April 2016
1	Fitness certificate issued to elephants with wounds, abscesses, impaired vision, foot problems, poor body condition etc	Yes	Yes
2	Wounds were deliberately masked by black substance	Yes	Yes
3	Elephants without valid ownership certificate used	Yes	Yes
4	Ankus used by mahouts (<i>banned in Kerala in May 2015</i>)	Yes	Yes
5	Inadequate provision for shade and water and elephants forced to stand under hot sun	Yes	Yes
6	Heavy restraints with short chains on all four legs and around the belly during the entire two days events	Yes	Yes
7	Elephants forced to stand for long hours amidst the loud noise of drums, trumpets, pipes and cymbals and blaring noise of the crowd	Yes	Yes
9	No sufficient distance between the elephants and between the elephants and the people	Yes	Yes
10	District Committee ineffective in ensuring the welfare of the elephants and preventing cruelty	Yes	Yes

XIII. ASSESSMENT ON WHETHER THRISSUR POORAM INVOLVES 'TRAINING', 'EXHIBITION', AND 'PERFORMANCE' OF CAPTIVE ELEPHANTS AND WHETHER IT IS MEANT FOR PROVIDING ENTERTAINMENT

It was observed that, elephants used in Thrissur Pooram, are often forced to sit down bending the knee, with the tusk and trunk touching the ground so as to allow the priests and the assistants to climb up and sit on the back of the elephant. The elephants also have to bend down their head & body so as to help the assistants hand over the replica of the deity to the priest sitting on top of the elephant. Moreover the elephants also have to lift the hind leg so as to allow the mahout, priest and assistants to get down. All these procedures require 'training' and are not natural acts while they are in captivity or in wild.



Picture 34: Elephants are trained to bend knee of the foreleg and lift hind leg so as to allow people to get to the top and to get down (picture taken on 17.04.16)

During Thrissur Pooram, elephants, particularly the one in the middle are forced to keep his head held high so that he stands out and demonstrates his superiority among other elephants. So as to ensure this, the mahouts keep on touching or poking the lower jaw of the animals, forcing them to hold their head high. This act requires training and reinforcement, and is often done through painful stimuli with the use of ankus or similar torture devices.

During Thrissur Pooram, 15 elephants of Thiruvambadi Devaswom stand in a line and face the other group of 15 elephants belonging to Paramakkavu Devaswom. 3 people were found to be standing, sitting and riding on the back of each elephant before and during parade, and the elephants in the centre of both the group being mounted by 4 people either standing or sitting. These elephants are heavily restrained using short chains and are forced to stand for more than 3 hours, without being allowed to take even a single step forward or backward. Apart from

the weight of the people riding on their back, these elephants also have to carry the weight of the gears and the ceremonial materials such as golden elephant caparison (Nettipattam), elephant accoutrements (Chamayam), ornamental fan made of peacock feathers (Aalavattom), royal fan (Venchamarom), sacred bells and decorative umbrellas. The mahouts were using verbal cues and physical cues using ankush and sticks to make these elephants stand still, at one place. This is an act which requires training of the elephant and reinforcement of the training. The situation of 3-4 people sitting, standing or riding the elephant, carrying the gears and ceremonial materials is not different from the elephants used for safari rides in forest camps. Through a judgement dated 9 December 2014, on the matter WP(C) No. 10424 of 2014 (C), the Honourable High Court of Kerala had ordered that, the provisions of the Performing Animals (Registration) Rules, 2001 does apply for the elephant used for rides and that, these elephants must be registered with the AWBI when used for rides.



Picture 35: Caparisoned elephants were 'exhibits' for the visitors of Thrissur Pooram (picture taken on 17.04.2016)

During 'Upacharam Chollal' (bidding farewell) ceremony of the Thrissur Pooram, to mark the end of 36 hour long celebration, enacted at the Thekkinkad Maidan on 18 April, where the deities of the Thiruvambadi and Paramakkavu temples are believed to bid farewell to each other and the deity of Sree Vadakkunatha Temple, two elephants carrying the deities are forced to raise their trunk as a gesture of bidding farewell. This is an act of performance and requires training.



Picture 36: ‘Upacharam Chollal’ ceremony where two elephants were forced to lift the trunk as a gesture of bidding farewell (Courtesy: Mathrubhumi, published on 19.04.2016)

It was also observed that, most of the elephants were brought to Thrissur Pooram on a truck. The elephants are trained to climb up and get down from a truck when they are frequently transported from one place to another and required training.

Forcing these elephants to perform such acts requires training, and is done through punishment and often reinforced through verbal and physical cues. It was also observed that more than a ritual, use of elephants during Thrissur Pooram carries lot of public entertainment importance, because at one point of time, in the wake of the recent fireworks tragedy at Puttingal Temple in Paravur, Kollam, a combined meeting of Paramekavvu and Thiruvambady devaswoms on 13 April had decided to do away with ‘kudamattom’, fireworks and parading of elephants, events that claimed to have historically defined the festival. However, later part of the day on 13 April, the two devaswoms again declared that one elephant will be symbolically present on the occasion. This explains and establishes that, the use of elephants during Thrissur Pooram is solely for public entertainment purpose and that they are not essential part of the religious rituals. Though there is no ticketing for the public to attend Thrissur Pooram, it is a well-known fact that the temple management pay for the hiring charges of these elephants on behalf of the devotees and visitors, which explains the commercial nature of the event.

Public exhibition of the caparisoned elephants for entertainment, and forcing them to perform certain acts clearly establishes that use of elephants during Thrissur Pooram and other temple festivals qualifies to be brought under the purview of The Performing Animals (Registration) Rules (PARR), 2001, thus requiring registration of the elephants with the AWBI. The 2008 circular issued by Revenue (Devaswom) Department, Govt. of Kerala also states that “*The elephants under Devaswom Boards must be registered with Animal Welfare Board of India.*”

XIV. APPARENT VIOLATIONS OF LAWS AND COURT ORDERS

1. In apparent violation of Section 4 of the Prevention of Cruelty to Animals, 1960, and order dated 18.08.2015 of Honourable Supreme Court of India, AWBI–authorised inspection team which included animal welfare experts and veterinarians was not allowed to inspect the elephants, who were to be paraded during the Thrissur Pooram this year. AWBI is a statutory authority constituted under Section 4 of the Prevention of Cruelty to Animal Act, 1960 and is established for the promotion of animal welfare generally and for the purpose of protecting animals from being subjected to unnecessary pain or suffering, in particular. On the matter of WP (C) 743/2014, WRRC & Ors Vs Union of India & Ors, through an order dated 18.08.2015, the Honourable Supreme Court of India had stated that ***“We have been apprised that in addition to the members as per 2012 Rules (Rule 10, District Committee), at present (from January 2015), a representative of the Animal Welfare Board of India has been included apart from other authorities.”***
2. Using suffering and unfit animals for Thrissur Pooram and subjecting them to cruelty with the use of torture devices such as ankus, restricting their movement by heavy short chains and forcing them to stand for long hours under hot sun without any shade and water, is an apparent violation of 18.08.2015 directive of honourable Supreme Court on WP (Civil) No. 743/2014, which states that ***“It shall be the duty of the State, the District Committee, Management of the Devaswom, the Management of the Temple and the owners of the elephants to see that no elephant is meted with any kind of cruelty and, if it is found, apart from being lodging of criminal prosecution, they shall face severe consequences which may include confiscation of the elephants to the State”***, and 14.04.2016 directive of honourable Kerala High Court on WP (C) No 14978/ 2016 (S) which directed that ***“[n]o elephant which is found unfit to participate in the ceremonial parade shall be utilised and the District Magistrate will ensure that use of any such animal is clearly excluded.”***
3. Use of elephants suffering from untreated wounds (which was deliberately hidden by a black substance), abscesses, cracked nails, impaired vision, debility etc, is an apparent violation of Section 11(1)(a) of the Prevention of Cruelty to Animals (PCA) Act, 1960 which states that it is cruelty and a punishable offence if any person ***“beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes, or being the owner permits, any animal to be so treated”*** and Section 11(1)(b) of the PCA Act which states that it is cruelty and a punishable offence if anyone ***“employs in any work or labour or for any purpose any animal which, by reason of its age or any disease) infirmity; wound, sore or other cause, is unfit to be so employed or, being the owner, permits any such unfit animal to be employed.”*** It is also apparent violation of the Rule 4 (iii) of Kerala Captive Elephant (Management & Maintenance) Rules (KCEMMR), 2012 which states that ***‘Elephant which is sick, injured, weak or pregnant shall not be used.’***
4. It was also observed that, elephants were excessively restrained and hobbled with short heavy chains without any soft covering and it is an apparent violation of Section 11 (1) (f) of PCA Act which states that it is cruelty if any person ***“keeps for an unreasonable time any animal chained or tethered upon an unreasonably short or unreasonably heavy chain or cord.”***

5. The observations also include that, elephants were not being provided with adequate shade and drinking water in an apparent violation of Section 11(1)(h) of the PCA Act, 1960 which states that it is cruelty and a punishable offence if anyone, ***“being the owner of (any animal) fails to provide such animal with sufficient food, drink or shelter.”*** This along with lack of provision of necessary veterinary treatment and foot care services is also an apparent violation of Section 42 of the Wildlife (Protection) Act (WPA), 1972 which mandates that ***“adequate facilities for housing, maintenance and upkeep”*** of the animal is ensured so as to keep the custody of a wild animal. Forcing an elephants to stand under hot sun is also an apparent violation of Rule 4 (vi) of KCEMMR, 2012 which states that, ***“Making an elephant stand in scorching sun for long durations or bursting crackers near the elephants for ceremonial purpose shall not be permitted.”*** Not providing the elephants with adequate drinking water is an apparent violation of Rule (vii) of KCEMMR, 2012 which states that ***“It shall be ensured that sufficient food and water for the elephants are provided.”*** Also Rule 4 (ix) of KCEMMR, 2012 states that ***“There shall be facility to keep elephants under shade during hot sun,”*** which was totally inadequate at Thrissur Pooram venue this year.
6. It was observed that, the elephants were forced to stand in line with very less space between them (less than 3 meters) which is an apparent violation of Rule 4 (i) of the KCEMMR, 2012 which states that ***“There shall be sufficient space between elephants used in processions and parades”***. It is important to point out that the circular issued by Kerala Forest department on 13 April 2016 which was withdrawn on 14 April 2016 because of the intervention of the forest minister, had mandated that the belly of the elephants taken for the parade should be kept at a distance of three metres and their heads at four meters.
7. It was observed that, all elephants were forced to carry a load of 3-4 people, the weight of heavy chains used for restraining the animals, weight of gears and the ceremonial materials such as golden elephant caparison, elephant accouterments, ornamental fan made of peacock feathers, royal fan, sacred bells and decorative umbrellas, which all will cumulatively weigh more than 400 kg. This is an apparent violation of Rule 7(1) of the KCEMMR, 2012 which mandates that ***for an elephant of height 2.55 meter, the load being forced to carry should not exceed 400kg.***
8. The fitness certificate issued by the elephant squad, who examined the elephants simply states that *“Certified that the elephant squad under the Animal Husbandry Department and Forest Department has jointly examined at the request of Secretary, X (name of the Devaswom), the above mentioned X (Sl no) elephants on 16-04-2014. They are apparently healthy, free from any contagious and infectious diseases, and not showing any visible signs of musth at the time of examination. The elephant may be used for parading for the Thrissur Pooram 2016 with proper restraints and observing all the rules under captive elephant maintenance and management rules, and other relevant rules.”* However KCEMMR, 2012 Rule 4(17) mandated that ***“While issuing medical certificate, the Veterinary Doctor should verify the original documents such as ownership certificate of the elephant, (if received from forest department) microchip certificate, insurance certificate and original elephant data book to ensure the correctness. The Veterinary Doctor shall issue the health certificate of the elephant in the prescribed format shown as Appendix I.”*** The format (**Annexure - E**) includes information like, ownership certificate number, health parameters such as, health of trunk, tusks, oral cavity, eyes, temporal glands, limbs, nails, feet/ pad, wounds chain, dung/ urine, wounds abnormalities,

temperament of animal (docile, controllable, aggressive, other relevant observations) and a certificate stating that *“The above described elephant by name.....is found to be apparently healthy, docile, and manageable by mahouts, free from visible symptoms of musth and does not appear to be suffering from any injuries or diseases. The elephant mentioned above may be permitted to participate in timber hauling/ social/ cultural/ ceremonial functions (strike out whichever is not applicable) with full complements of restraints, control and management under competent mahouts and observing the provisions of laws in force.”* Most of the fitness certificates issued by the veterinarians of animal husbandry department on 16 April 2016 are illegitimate because, the observation made by the AWBI inspectors on a good number of elephants on 17 and 18 April and the information verified through records of Kerala forest department and previous inspection reports of AWBI, proves that most of the elephant who were paraded during this year’s Thrissur Pooram were having wounds, abscesses, cracked nails, poor body condition, blindness and a history of killing people. Such illegitimate fitness certificates that are issued apparently violates Rule 4 (17) of KCEMMR, 2012 and Regulation 42 (3) of the Veterinary Council of India (Standard of Professional Conduct, Etiquette and Code of Ethics, for Veterinary Practitioners) Regulations, 1992 which states that **“*falsely providing professional certificates, report and other documents*”** constitutes an action of professional misconduct and disciplinary action may be initiated against the concerned veterinarian by Kerala State Veterinary Council under Regulation 44 of the said Regulations, 1992.

9. It was observed that, iron ankush was rampantly used by the mahouts of the elephants used in Thrissur Pooram in apparent violation of the order of Principal Chief Conservator of Forests (WL) and Chief Wildlife Warden, Kerala, No BDC2-295/ 2015 dated 14.05.2015 (**Annexure - F**), which banned use of iron ankus in Kerala. This order was issued subsequent to the judgement of the Honourable High Court of Rajasthan dated 26.02.2010 in a Public Interest Litigation (PIL) No. 8987/2006 and in compliance to the letter from Project Elephant, Ministry of Environment, Forest & Climate Change dated 05.05.2015.
10. The elephant Thechikottukavu Devidasan, of Thirvambady Devaswom who has a history of killing three people was also paraded with a fitness certificate that doesn’t certify whether he is psychologically fit, in apparent violation of Rule 8 (4) of KCEMMER, 2012 which states that **“*Any elephants going amok and causing death of human beings shall be banned from taking part in temple festivals for consecutive fifteen days, The elephant shall be permitted to take part again in temple festivals only after examination and certification by a three member team of Veterinary Doctors consisting of Forest Veterinary Officer and two Government Veterinary Officers of the concerned district or Forest Veterinary Officer and any other two Veterinary Doctors, that the animal is physically and psychologically fit.*”**
11. The overall failure of the District Committee constituted under Rule 10 of the KCEMMR, 2012 to protect the welfare of elephants and prevent cruelty against them indicates that, the said District Committee apparently failed to comply with the provisions Rule 10 (2) of KCEMMR, 2012 which states that **“*The District Committee shall meet before the festival season, preferably in the month of October and take necessary measures to ensure welfare of elephants and public safety.*”** Unfortunately, the said District Committee also effectively ensured that the animal welfare experts nominated by AWBI to the District Committee as per the directive of the Honourable Supreme Court of India (**Annexure - G**) and

the inspection team authorised by AWBI are denied access to examine the elephants being used for Thrissur Pooram. There seems to be a conspiracy to use illegal elephants who do not have a valid ownership certificate – as mandated by Section 42 of the WPA, 1972 – as well as unfit elephants, as was done last year, apparently in direct contempt of the Honourable Supreme Court of India (**Annexure - H**) and Honourable Kerala High Court (**Annexure - I**).

XV. DISCUSSIONS AND INTERPRETIONS

1. From the observations it can also be derived that, cruelty is inherent when wild animals are kept under captivity and used for public and private events, which are often organised for entertainment purpose. Since more than the animal welfare concerns, public safety being the primary concern in all such events, and these animals being huge, and having potential capabilities to harm people and damage properties when forced to react to an unpleasant situation and stress which is very common in Kerala, the situation eventually leads to punishing them than protecting them. In such occasions these intelligent animals with complex social nature, are handled under heavy restraints using chains, are forced to do acts or procedures which are not natural to their behaviour, mahouts use physical cues with the help of pain-inducing torture devices such as ankus, and they are forced to live and work in an urban environment which are entirely unnatural to them. In the wild often tuskers (male elephant) live alone and females live in matriarchal herds in tightly knitted communities for their entire life. Most of the elephants used in Thrissur Pooram are tuskers and it is an entirely unnatural and unacceptable situation for them as tuskers, to stand close to each other, which seriously challenges their intrinsic behaviour and mental health. Frightened and abused elephants have run amok, killing people and damaging properties.
2. As observed during the Thrissur Pooram 2015, this year too suffering and unfit elephants were forced to participate in the event and they were subjected to cruelty when paraded.
3. There are numerous apparent violations of animal protection laws such as Wildlife (Protection) Act, 1972, Prevention of Cruelty to Animals Act, 1960, Kerala Captive Elephant (Management & Maintenance) Rules, 2012 and directives of Chief Wildlife Warden of Kerala and that of Honourable Supreme Court of India and Honourable Kerala High Court.
4. Parading of elephants during Thrissur Pooram involves training of elephants, to carry out various ceremonial procedures such as sitting down and bending foreleg knee to allow people to climb, lifting one hind leg to allow riders to get down and lower the head and touch the tusk and trunk on the ground so as to allow handing over the replica of deity to the priest sitting on top of the elephant. Pooram also involves exhibition of elephants as they are caparisoned. It involves performance of acts such as bidding farewell, by forcing them to lift the trunk, on the last day of the Pooram. Parading of elephant carries entertainment value and these elephants are commercially hired by the Thrissur Pooram organisers for this purpose. Moreover, the decision of Thiruvambady and Paramakkavu Devaswoms not to use elephants four days before the Pooram indicates that elephants are not mandatory part of religious rituals. In abstract, all these observations indicates that, use of elephants should ideally be brought under the purview of Performing Animals Registration Rules, 2001, since there is definitely 'training', 'exhibition' and 'performance' of elephants happening during Thrissur Poroam and hence, the elephants must be registered with AWBI when used in temple festivals.

5. The District Committee constituted under Rule 10 of the Kerala Captive Elephant (Management & Maintenance) Rules, 2012 completely failed to ensure the welfare of elephants and prevent cruelty against them during Thrissur Pooram. Unfortunately, the same Committee also deliberately ensured that, nominees and inspectors of AWBI are not given access to examine the elephants during fitness camps. This incident also gives a very strong reason for registering the elephants with AWBI, as it is the only way to ensure the welfare of a captive wild animal, like elephant and to prevent cruelty against them when used in temple festivals.

XVI. RECOMMENDATIONS

1. AWBI may advise the Kerala Government to issue a directive to do a fresh health examination of all the 67 elephants used in Thrissur Pooram, as per the format given under the Kerala Captive Elephant (Management & Maintenance) Rules, 2012 and also to ensure that, elephants suffering from various physical and mental ailments are provided with immediate veterinary care and treatment. And that, those who need to be retired and rehabilitated are taken to a sanctuary where they may be provided with all the essential care and humane management and are allowed to lead a quality life without being chained and abused.
2. AWBI may advise the Kerala Government to take immediate action to ensure that, captive elephants in the State who are suffering physically or mentally and those who do not have a valid ownership certificate as per Wildlife (Protection) Act, 1972 are not allowed to be used in temple festivals and for any other public or private events, now onwards. And that, the elephants who are medically fit and have a valid ownership certificate are registered with AWBI under the provisions of Performing Animals (Registration) Rules, 2001.
3. AWBI may urge the Chief Wildlife Warden of Kerala to ensure that his directive on banning iron ankus in the State and various provisions of Wildlife (Protection) Act, 1972, Prevention of Cruelty to Animals, 1960 and Kerala Captive Elephant (Management & Maintenance) Rules, 2012, which are there to prevent illegal trade of elephants, to prevent cruelty on them and to ensure their welfare while being kept in captivity, are effectively implemented in the State.
4. AWBI may urge the Kerala Government to order an enquiry and initiate disciplinary action against the erring officials of the Thrissur district administration for preventing the inspection team authorised by a statutory body constituted under Prevention of Cruelty to Animals, 1960- which is AWBI, for denying access to the fitness camp and to examine the elephants to be paraded during Thrissur Pooram. And that, disciplinary action may be taken against the officials of Forest Department and Animal Husbandry Department in Thrissur, for issuing illegitimate fitness certificates to suffering elephants, which eventually subjected them to cruelty and also for ignoring the legality of the custody of captive elephants, by not checking their original ownership certificates.
5. So as to prevent cruelty to captive elephants which is inherent when they are used in public and private events, particularly meant for entertainment purposes such as Thrissur Pooram, for which they are trained, being exhibited and are forced to perform acts, AWBI may propose the Ministry of Environment, Forest and Climate Change (MoEF&CC) to issue a central notification, with exercise of powers conferred to the Ministry by Section 22 of The Prevention of Cruelty to Animals Act (PCA), 1960, to ban such use of elephants in India.

Dr Rakesh Chittora, Veterinary Trainer
Animal Rahat, Sangli, Maharashtra.

Shri M N Jayachandran
Member, Kerala State Animal Welfare Board
Honorary Animal Welfare Officer, AWBI President, Idukki SPCA

Ms. Preethi Sreevalsan
AWBI Nominee, District (Elephant) Committee, Palakkad
Honorary Animal Welfare officer, AWBI

Shri Sunil Havaladar,
Honorary Animal Welfare officer,
AWBI & Sr. Animal Welfare Officer, Animal Rahat.

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