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Respected Jitendra Sharma ji,

**Subject: Appeal to declare the use of elephants for begging as illegal**

I write to you from the Federation of Indian Animal Protection Organisations (FIAPO). We are India's apex animal rights group. As the collective voice of the animal rights movement in India, FIAPO is the catalyst that protects the interests of animals at the local and national levels - through education, research, mobilisation, networking, training and direct action. Created for the movement, by the movement, FIAPO is India's only national federation. It has 83 members and over 200 supporter organisations, active in 70 cities across the country.

Presently, I am writing to you on the subject of elephants used for begging on urban streets. The elephant is culturally, historically and ecologically important to our country and deserves to be treated with dignity and compassion. The Indian elephant (*Elephas maximus*) is a keystone species of the tropical forests in India and has been accorded the highest level of protection in India by the Wildlife Protection Act 1972. It is also an endangered species according to the IUCN (International Union for Conservation of Nature) red list. It is unfortunate that the Heritage Animal of India is demeaned by making it beg on the streets. These elephants are made to walk on hot tar roads which damages their feet; often suffer from injuries and wounds that are neglected and are continuously chained. They have no space to exhibit natural behaviour like socializing, bathing and spray dusting. Begging elephants are also prone to accidents as they are made to walk on major city roads and highways.

Elephants are one of the most intelligent and sentient animals. One of the reasons for superior level of intelligence is the structure of their brain which is similar to that of humans. Various luminaries like Gary Varner (philosopher), Professor Richard W. Byrne (researcher), Rhea Ghosh (author of 'Gods in Chains'), Joyce Poole (researcher) and Dr. Gay Bradshaw (psychologist and ecologist) have time and again proved through their research that elephants have high cognitive and social skills. Some of the findings are as below -

- Like humans, they have memories that span many years which allows them to accumulate social skills, which is key to function as a member of a family.
- Elephants display a wide variety of behaviours including grief, joy, learning, mimicry, play, compassion, co-operation and communication.
- They are also self-aware i.e. they can introspect and recognize themselves as individuals separate from the environment and other individuals.
- They frequently display empathy in the form of protection, comfort and consolation, as well as by actively helping those in difficulty, such as assisting injured individuals to stand and walk, or helping calves out of rivers or ditches.
- The elephant has one of the most closely knit societies of any species and elephant families can only be separated by death or capture.
- The general demeanor of elephants attending to a dead elephant is one of grief and compassion. These behaviors are similar to human responses to the death of a close relative or friend and demonstrate that elephants possess some understanding of life and the permanence of death.

### Legal precedence on elephants' right to a dignified life

Furthermore, there is ample legal precedent on the need for better treatment of captive elephants and to specifically not use them for begging –

1. Constitution of India

**Article 51A (g) of the Constitution of India** imposes a duty on every citizen of India to have **compassion towards all living creatures**. Therefore the Constitution of India, the supreme law of the land, also recognizes intrinsic value of all living creatures.

**Article 48A** puts the onus on the government to protect and safeguard the environment, wildlife and forests.

## 2. Supreme Court

In the **landmark judgment of *Animal Welfare Board of India v. A Nagaraja (2014)***, the **Supreme Court** recognized the **inherent value** of all animals by declaring that animals have a **right to dignity and fair treatment**. The Supreme Court expanded the scope of Article 21 of the Constitution to include an animal's right to live with dignity and be treated with compassion. Therefore, apart from inflicting cruelty (violation of the Prevention of Cruelty to Animals Act 1960), using elephants for begging also blatantly violates the animals' right to dignity. It amounts to exploitation of animals in an undignified manner and is a regression from their natural behaviour. The following **rights of animals** have been explicitly recognized by the apex Court:

- a) Right to live in a healthy and clean atmosphere
- b) Right of animal to not be inflicted with unnecessary pain or suffering
- c) Right to proper care
- d) Right to get protection from human beings against inflicting of unnecessary pain or suffering
- e) Right to get food and shelter
- f) Right to dignity and fair treatment
- g) Right, not to be beaten, kicked, over-ridden or over-loaded
- h) Inherent right to live

## 3. High Courts

Various High Court judgments recognise elephants' right to live with dignity –

- a) The Madras High Court in *N. Sekar v. District Forest Officer (2017)* highlighted **the illegality of using elephants for the purpose of begging** and ordered that law enforcement agencies ensure no such exploitative and uncharacteristic practice takes place.
- b) In *Dr. Manilal Valliyate v. State of Maharashtra and others (2014)*, the Bombay High Court acknowledged that **elephants are highly cognitive and intelligent animals**. It also opined that "Laws being man-made, there is likelihood of bias towards the man and the rights of animals have been treated as subservient. It is the duty of the Court to ensure that the balance exists in the system."
- c) In *CUPA and others v. Principal Secretary to Govt. (Environment and Ecology) and others (2015)*, the Karnataka High Court directed the Karnataka Government authorities to formulate guidelines for **prohibiting the use of elephants in any form of begging, performance or procession**.
- d) In *Nitin Singhvi v. Union of India (2017)*, the Chhattisgarh High Court recognized the right of wild animals, especially elephants, to **non- interference into their lives and territories** by humans and the government.

### State Government orders and state laws

States like Assam have already banned the use of elephants for begging while Maharashtra has banned the entry of elephants in its municipal corporation areas.

It is also imperative to note that **the Juvenile Justice (Care and Protection of Children) Act 2015** as well as the **Punjab Prevention of Beggary Act 1971** prohibits exposing or exhibiting any sore, wound, injury, deformity or disease of an animal with the object of obtaining or extorting alms. The Tamil Nadu Captive Elephants (Management and Maintenance) Rules 2011 under the Wildlife Protection Act 1972 prohibits the use of elephants for begging.

### Elephant Task Force – recognition of intelligence and sentience of elephants

The Elephant Task Force, set up under Project Elephant of the Ministry of Environment, Forest and Climate Change, concluded in its report titled “**Gajah: Securing the Future for Elephants in India**” that ‘captive elephants have specific needs for access to water, adequate nutrition and exercise. They ideally need to interact with others of their own species. Elephants are a long lived and intelligent species with a developed sense of self and relationships with other elephant kin. The Task Force is convinced of the need to act decisively to improve the quality of care of captive elephants.’ The Elephant Task Force report recommended that the elephant be declared a National Heritage Animal which was done on 21<sup>st</sup> October 2010. **The report recognized the sentience and intelligence of elephants** and noted that **compassion** must not only extend to other humans but also to other living beings.

### Recommendations of Elephant Task Force – ban on begging

The Elephant Task Force also recommended prohibition of elephant begging as follows:

- a) Eventual phasing out of the acquisition of elephants, already in captivity or wild-caught, for entertainment, commercial or other purposes by agencies, institutions or individuals.
- b) End to new commercial acquisition of wild-caught elephants by agencies, institutions or individuals.
- c) Amendment to the Wildlife (Protection) Act 1972 to prohibit the use of elephants in exhibitions, circuses, weddings, unregulated tourism, public functions, begging or for other entertainment.

**To uphold the spirit of the Constitution of India, the various laws, policies and judgments with respect to elephants, and also to ensure that elephants' right to dignity is protected, it becomes necessary to declare this regressive practice of using elephants for begging as illegal.** As is evident from the information stated above, there is a growing consciousness in the way we treat our elephants and a significant step would be to stop the elephants from being used for begging.

Dear Sir, on behalf of all our members, and the animal protection movement of the country, I urge you to issue an order declaring the use of elephants for the purpose of begging as illegal and ensure strict implementation of the same.

Thanking you,

Yours sincerely



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