

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Thursday, the Eighteenth day of August Two Thousand Sixteen

PRESENT

THE HON'BLE MR. SANJAY KISHAN KAUL, THE CHIEF JUSTICE

and

THE HON'BLE MR JUSTICE R. MAHADEVAN

WP Nos. 13749, 11519, 13748 and 28899 of 2015

E. SESHAN [PETITIONER IN WP No. 13749 & 13748/15]

PEOPLE FOR CATLE IN INDIA [PETITIONER IN WP No. 11519/15]
REP. BY ITS SECRETARY,
MR. G. ARUN PRASANNA HAVING OFFICE AT
8/22, RAGAVAI AH ROAD, T. NAGAR,
CHENNAI - 17, PAN NO. AACTP4703F

TAMIL NADU THOWHEAD JAMADH [PETITIONER IN WP. 28899/15]
REP. BY ITS GENERAL SECRETARY,
MR. M. MOHAMED YUSUF, STATE HEAD QUARTERS,
NO. 25, ARANMANAIARAN STREET,
MANNADI, CHENNAI-1.

Vs

1 THE UNION OF INDIA [1 to 3 RESPONDENTS IN WP. No. 13749
REP. BY ITS SECRETARY, & 13748/15]
GOVERNMENT OF INDIA,
DEPARTMENT OF ENVIRONMENT AND FORESTS,
PARYVARAN BUILDINGS,
C.G.O. COMPLEX, NEW DELHI

2 THE STATE OF TAMILNADU
REP. BY ITS SECRETARY, DEPARTMENT OF ANIMAL
HUSBANDRY AND FISHERIES DEPARTMENT, FORT ST.
GEORGE, CHENNAI-600009

3 THE ANIMAL WELFARE BOARD OF
INDIA, REP. BY ITS CHAIRMAN, NO. 13/1, 3RD
SEAWARD ROAD, VALMIKI NAGAR, THIRUVANMIYUR,
CHENNAI-600041

4 THE DIRECTOR GENERAL OF POLICE [4th RESPONDENTS IN WP No. 13749/15]
TAMILNADU, MYLAPORE, CHENNAI-4

9 THE COMMISSIONER OF POLICE,
VEPERY, CHENNAI 600 007.

10 DEPUTY COMMISSIONER OF POLICE,
WASHERMANPET DISTRICT,
CHENNAI 600 081.

11 THE CHAIRPERSON,
FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA,
C-1-D, RAJAJIBHAVAN, BESANT NAGAR,
CHENNAI 600 090.

12 THE ASSISTANT SECRETARY,
THE GOVERNMENT OF INDIA ANIMAL WELFARE BOARD OF INDIA,
WORKING UNDER THE MINISTRY OF
ENVIRONMENT & FOREST (MOEF) NO.13/1, THIRD SEAWARD ROAD,
VALMIKI NAGAR, THIRUVANMIYUR, CHENNAI-41.

13 THE SUPERINTENDENT OF POLICE,
THIRUVALLUR DISTRICT.

14 MR. SU. SRINIVASAN,
ASSISTANT SOLICITOR GENERAL
HIGH COURT, CHENNAI -104

C.C. to M/S. R. SRINIVAS Advocate on payment of necessary charges
C.C. to MR. S. T. S. MOORTHY, Advocate on payment of necessary charges
C.C. to M/S. RITA CHANDRASEKARAN, Advocate, Sr.No.11090
C.C. to MR. NORTON AND GRANT, Advocate, Sr.No.11074
C.C. to MR. K. SOUNDARAJAN, Advocate on payment of necessary charges
C.C. to M/S. P. VIJENDRAN, Advocate, Sr.No.11158.
C.C. to MR. JAYESH B. DOLIA Advocate, Sr.No.11089.
The Government Pleader, High Court, Chennai-104.

Order

in

WP Nos.13749, 11519, 13748 and 28899 of 2015

Date :18/08/2016

From 26.2.2001 the Registry is issuing certified
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SM 27/01/2016

SM 17/02/2016 [IT]

SM 10/06/2016

SM 12/07/2016

KP(23.08.2016)

AZ 0019845

11. Parties to file a short synopsis running into not more than three pages each.

List on 17th October, 2016 at the end of the Board.

-sd/-
18/08/2016

/ TRUE COPY /

S. Pambanday 26-08-16
SUB-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY
THE UNION OF INDIA,
GOVERNMENT OF INDIA,
DEPARTMENT OF ENVIRONMENT AND FORESTS,
PARYVARAN BUILDINGS, C.G.O.COMPLEX, NEW DELHI

2 THE SECRETARY
THE GOVERNMENT OF TAMILNADU, DEPARTMENT OF
ANIMAL HUSBANDRY AND FISHERIES DEPARTMENT,
FORT ST. GEORGE, CHENNAI-600009

3 THE CHAIRMAN
THE ANIMAL WELFARE BOARD OF INDIA,
NO.13/1, 3RD SEAWARD ROAD, VALMIKI NAGAR,
THIRUVANMIYUR, CHENNAI-600041

4 THE DIRECTOR GENERAL
OF POLICE RADHAKRISHNAN ROAD,
MYLAPORE, CHENNAI-4

5 THE CHIEF SECRETARY,
GOVERNMENT OF TAMIL NADU,
SECRETARIAT, FORT ST.GEORGE,
CHENNAI - 600 009.

6 THE SECRETARY
GOVERNMENT OF TAMILNADU,
ROAD TRANSPORT, FORT ST.GEORGE,
CHENNAI-9.

7 THE COMMISSIONER,
CHENNAI CORPORATION,
EVR PERIYAR ROAD, CHENNAI-3

8 THE CHAIRMAN
TAMIL NADU POLLUTION CONTROL BOARD,
NO.76 MOUNT ROAD, GUINDY,
CHENNAI 600 032.

AZ 0019261

3. An additional counter affidavit has been filed by the State Government seeking to rely on the very same provision of Section 28 of the PCA to claim as if camel slaughtering is permitted as a special measure, coupled with the fact that religious ceremony permits the slaughtering of camel. We may only add here that the admitted position is that there are no camels available in Tamil Nadu and thus, a comparison cannot be made of areas where camels are found easily. In fact, camels are imported into Tamil Nadu from Rajasthan, Gujarat and Maharashtra. It has been emphasised before us that these camels are found really in the border areas of those States which are deserts.

4. Rajasthan is stated to have prohibited even the export of camels out of the State for the purposes of slaughter by an enactment.

5. The affidavit of State Government also shows that the existing abattoirs are not used for slaughtering of camels and it is affirmed that camels are slaughtered for food during Bakrid festival alone and not eaten during the whole year.

6. It is trite to say that the slaughtering of camels cannot be the same as the slaughtering of goat. There is, thus, no facility in Tamil Nadu for proper slaughtering of camels were it to be permitted.

7. The mode and manner of transport of animals has also been set out by reference to different rules, but there are also rules applicable under different Central Enactments, which would have to be taken into consideration, including PCA. The affidavit now states that animals even when transported, should be given adequate rest, food and water. The examples which earlier came before us are both of camels that were brought by transportation and by foot.

8. One of the aspects referred to in the affidavit is that any area can be declared as slaughter house by the Commissioner of Corporation under the Chennai City Municipal Corporation Act, 1990. This however, cannot be said to supersede the Central Act - Prevention of Cruelty to Animals Act, 1960.

9. In one of the petitions, W.P.No.28899 of 2015, a challenge is sought to be laid to the circular issued under the Food Safety and Standards Act, 2006 (FSS Act) and Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011. That will be an aspect to be examined by us at the stage of final hearing of writ petition.

10. We are thus of the view that the matter should be set down for final hearing, but in the mean time, in view of the stand of the Central Government and the provisions of the Central Act including PCA, we cannot have a situation where such camel slaughtering is permitted especially in the absence of any facility for it. Ordered accordingly.

(iv) Issue appropriate writ orders or directions and in particularly writ of certiorarified mandamus to Call for the records from the respondent pertaining to the impugned Circular No.9-2/2015-16-PCA dated 17.8.2015 issued by the 1st respondent and quash the same and consequently forbearing the respondents from interfering with religious ceremonies/festivals of the Muslim Community (in WP.28899/2015) respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.R.SRINIVAS, Advocate for the petitioner in WP.13749 & 13748/15, and of and of M/S.NORTON AND GRANT, Advocate for the petitioner in WP.11519/2015 and of M/S.P.VIJENDRAN, Advocate for the petitioner in WP.28899/2015 and of M/S.S.T.S.MOORTHY, Special Government Pleader for R2 & R4 in WP.Nos.13749 and 2nd respondent in 13748/15 and 1 to 3, 6 to 8 respondents in WP.11519/15 and 2nd respondent in WP.No.28899/15 and MR.SU.SRINIVASAN, Assistant Solicitor General of India for 1st respondent in WP.No.13749 & 13848/15 and of M/S.RITA CHANDRASEKAR, Advocate 3rd respondent in WP.No.13749 and 8th respondent in WP.No.11519/15 and of M/S.JAYESH B DOLIA, Advocate for 9th respondent in WP.No.11519/15 and 3rd respondent in WP.13749 & 13748/15 and 1st respondent in WP.No.28899/15 and of MR.K.SOUNDARARAJAN, Advocate for R4 in WP.No.11519/15 and of MR.K.SURENDRANATH, Advocate for 10th respondent in WP.11519/15 and the court made the following order:-

The Union of India has finally filed its affidavit and the categorical assertion is that Section 28 of the Prevention of Cruelty to Animals Act, 1960 (PCA) does not support sacrifice of animals. Destruction of animals is allowed for food of mankind only and not for sacrifice purposes. It has also been affirmed that under the Food Safety and Standards (Food Products Standards and Food Additives) Regulation, 2011, a notification has already been issued prohibiting Camel meat as food. To prevent unnecessary pain or suffering, the Central Government has enacted the following Acts and Rules which have been set out in paragraph-6 of the affidavit.

I. Prevention of Cruelty to Animals Act, 1960.

II. The Prevention of Cruelty to Animals (Slaughter House) Rules, 2001 and as amended in 2010.

III.The Prevention of Cruelty to Animals (Transport of Animals on Foot) Rules, 2001.

IV.The Prevention of Cruelty to Animals (Transport of Animals) (Amendment) Rules, 2009.

V.The Transport of Animals Rules, 1978 and as amended in 2001.

2. The affidavit in fact, prays for direction to the State Government to enforce the PCA and the Rules made thereunder, both for prevention of illegal transport and slaughtering of animals.

12 RADHA RAJAN, W/O.S.SOUNDARA RAJAN,
H 6/2. PARI STREET, KALAKSHETRA COLONY,
BESANT NAGAR, CHENNAI-90/

R-12 IS IMPEADED AS PER ORDER DATED 11.01.2016 BY CJ & MSNJ IN
WMP.787/2016 IN WP.11519/2015.

1 THE GOVERNMENT OF INDIA [1 & 2 RESPONDENTS IN WP.28899/15]
REP. BY ITS ASSISTANT SECRETARY,
ANIMAL WELFARE BOARD OF INDIA,
WORKING UNDER THE MINISTRY OF
ENVIRONMENT & FOREST (MOEF)
NO.13/1, THIRD SEAWARD ROAD,
VALMIKI NAGAR, THIRUVANMIYUR,
CHENNAI-41.

2 THE GOVERNMENT OF TAMIL NADU,
REP. BY ITS CHIEF SECRETARY,
SECRETARIAT, FORT ST. GEORGE,
CHENNAI-9.

Writ Petitions under Article 226 of the Constitution of India
praying that in these circumstances stated therein and in the
respective affidavits filed therewith the High Court will be pleased
to

(i) Issue a Writ of Mandamus or any other Writ, Order, or
Direction in said nature directing the respondents 1 to 4 to prevent
any transport of Camels into the State of Tamilnadu by foot or on
vehicles without compliances to the transport rules and their killing
as religious sacrifices inside Tamilnadu in violation of Rules for
slaughter of animals, in places other than lawful slaughter houses,
in accordance with rules (in WP.No.13749/15) and ;

(ii) Issue a Writ, Order, or Direction in the nature of a writ
more particularly writ of Mandamus directing the respondents to take
effective steps to prohibit the illegal transportation & slaughtering
of camels in the state of Tamil Nadu (in WP.No.11519/15);

(iii) "Issue a Writ of Mandamus or any other writ, order,
direction in the said nature directing the respondents to ensure that
no destruction, killing or sacrifice of any nature, of any animal
takes place in the State of Tamil Nadu outside a registered and
licensed slaughter house and that such killing or destruction of
animals is only for arranging for food for mankind" (in
WP.13748/2015);

PRAYER AMENDED AS PER ORDER DATED 23/06/2015 BY S.K.K., CJ, and
T.S.S.J IN MP.2 of 2015 in WP.13748/2015.

- 1 STATE OF TAMILNADU [1 to 12 RESPONDENTS IN WP.No.11519/15]
REP. BY ITS CHIEF SECRETARY,
SECRETARIAT, ST.FORT ST. GEORGE,
CHENNAI-9
- 2 GOVERNMENT OF TAMILNADU
REP. BY ITS SECRETARY,
ANIMAL HUSBANDRY, DAIRYING AND FISHERIES DEPARTMENT,
FORT ST. GEORGE, CHENNAI-9
- 3 GOVERNMENT OF TAMILNADU
REP. BY ITS SECRETARY, ROAD TRANSPORT,
FORT ST. GEORGE, CHENNAI-9
- 4 THE COMMISSIONER
CHENNAI CORPORATION,
EVR PERIYAR ROAD, CHENNAI-3
- 5 TAMILNADU POLLUTION CONTROL
BOARD, REP. BY ITS CHAIRMAN,
NO.76, MOUNT ROAD, GUINDY,
CHENNAI-32
- 6 THE DIRECTOR GENERAL OF
POLICE, RADHAKRISHNAN ROAD,
MYLAPORE, CHENNAI-4
- 7 THE COMMISSIONER OF POLICE
VEPERY, CHENNAI-7
- 8 DEPUTY COMMISSIONER OF
POLICE, WASHERMANPET DISTRICT,
CHENNAI-81
- 9 ANIMAL WELFARE BOARD OF INDIA
REP. BY ITS SECRETARY,
13/1, 3RD SEAWARD ROAD, VALMIKI NAGAR,
THIRUVANMIYUR, CHENNAI-41
- 10 FOOD SAFETY AND STANDARDS
AUTHORITY OF INDIA,
REP. BY ITS CHAIRPERSON,
C-1-D, RAJAJIEHAVAN,
BESANT NAGAR, CHENNAI-90
- 11 GOVERNMENT OF RAJASTHAN,
REP BY ITS CHIEF SECRETARY,
MAIN BUILDING, SECRETARIAT,
JAIPUR (RAJASTHAN), INDIA

R-II DELETED AS PER ORDER DATED 21/04/2015 BY CJ & TSSJ IN
WP.11519/15