

(2023) 07 DEL CK 0116

In the Delhi High Court

Case No : Civil Writ Petition No. 8061 Of 2023

Ajay Gautam

APPELLANT

Vs

Delhi State Advisory Board For Animal Welfare & Anr.

RESPONDENT

Date of Decision : 03-07-2023

Acts Referred:

Citation : (2023) 07 DEL CK 0116

Hon'ble Judges : Satish Chandra Sharma, CJ;Subramonium Prasad, J

Bench : Division Bench

Advocate : Santosh Kr. Tripathi, Arun Panwar, Utkarsh Singh, Mahak Rankawat

Final Decision : Dismissed

Judgement

1. The present Writ Petition has been filed by the Petitioner, who states that he has studied to become a religious teacher/preacher, is a purohit and performs rituals, seeking an appropriate writ, order or direction to the Respondents to strictly implement and enforce provisions contained in Notification dated 23.05.2017, issued by the Ministry of Environment, Forest & Climate Change, on the occasion of Bakra-eid, which is scheduled to be celebrated on 29.06.2023 throughout the country. The Petitioner has further prayed for a direction to the Respondents to ensure that no Cattle markets be held in Delhi without obtaining prior permission of the competent authorities stipulated in above Rules on the occasion of Bakra-Eid.

2. It is stated that during Bakra-Eid/Eid Ul Addha which will be celebrated on 29.06.2023 throughout the country, innocent and helpless Goats/ships/ bullock will be mercilessly butchered throughout the country in the name of sacrifice during this festival. It is further stated that cattle markets are held at various places viz. Jaffrabad, Okhla, Jamia, Jama Masjid, Seelampur, Inderlok, Jamia amongst others without obtaining prior permission of the Administration or its competent authorities. It is stated that other than above mentioned places, illegal markets are held at several other places which badly impact the flow of

traffic in and around the places where these markets are held. It is further stated that animals are sold in these markets for earning more money. It is stated that these animals are treated with extreme cruelty without making necessary arrangements. It is stated that these illegal markets are held in open under scorching Sun and cattle traders treat animals mercilessly and inflict maximum cruelty on the animals with the sole aim of earning money to make hefty profit. The Petitioner has, therefore, chosen to file the instant Writ Petition.

3. Other than making some bald averments, no specific case has been highlighted in the instant Writ Petition. The Petitioner has chosen to file certain photographs which are claimed to have been clicked in the year 2021-22. It is needless to state that the State Government will adhere to the notification dated 23.05.2017 issued by the Ministry of Environment, Forest & Climate Change by which Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017 were brought into force. The said Rules mandates registration of existing animal markets. It lays down procedure of establishment of new animal markets, functions of District Animal Market Monitoring Committee, prohibited practices that are cruel and harmful to the animals, etc. These Rules also lay down that no person shall cause or permit any injury or unnecessary pain or suffering to an animal in an animal market.

4. In the absence of any specific instance by the Petitioner showing as to how these rules are violated, a writ of mandamus cannot be passed in air. Nothing has been shown that the State is not performing its duties and only a failure to perform its duty by the State, give rise to a writ of mandamus.

5. In *Bharat Singh v. State of Haryana*, (1988) 4 SCC 534, the Apex Court has held as under:

"13. As has been already noticed, although the point as to profiteering by the State was pleaded in the writ petitions before the High Court as an abstract point of law, there was no reference to any material in support thereof nor was the point argued at the hearing of the writ petitions. Before us also, no particulars and no facts have been given in the special leave petitions or in the writ petitions or in any affidavit, but the point has been sought to be substantiated at the time of hearing by referring to certain facts stated in the said application by HSIDC. In our opinion, when a point which is ostensibly a point of law is required to be substantiated by facts, the party raising the point, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter-affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or to the counter-affidavit, as the case may be, the court will not entertain the point. In this context, it will not be out of place to point out that in this regard there is a distinction between a pleading under the Code of Civil Procedure and a writ petition or a counter-affidavit. While in a pleading, that is, a plaint or a written statement, the facts and not evidence are required to be pleaded, in a writ petition or in the counter-affidavit not only the facts but also

the evidence in proof of such facts have to be pleaded and annexed to it. So, the point that has been raised before us by the appellants is not entertainable. But, in spite of that, we have entertained it to show that it is devoid of any merit.”

6. Therefore, the present Writ Petition cannot be entertained. However, it is always open for the Petitioner to approach this Court by showing specific instances of violation of the Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017.

7. Accordingly, the petition is dismissed, along with the pending application(s), if any.