

(2023) 03 PAT CK 0006

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 2310 Of 2022

Dharmdeo Paswan

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 04-03-2023

Acts Referred:

Prevention of Cruelty to Animals (Slaughter House) Rules, 2001 — Rule 3
Prevention of Cruelty to Animals Act, 1960 — Section 38

Citation : (2023) 03 PAT CK 0006

Hon'ble Judges : Sanjay Karol, CJ; Partha Sarthy, J

Bench : Division Bench

Advocate : Yogendra Kumar Singh, Yogendra Pd. Sinha

Final Decision : Disposed Of

Judgement

Heard learned counsel for the petitioner as also learned counsels for the respondents.

The petitioner has filed the instant application for the following relief(s):-

“(i) For issuance of an appropriate writ, order or direction directing and commanding the respondents to close immediately the illegal slaughter houses situated in Mohallah Sahjalal Pir Sasaram in east of Sahjalalpir Urdu Middle School on both sides (North and South) of the Main Road.

(ii) For issuance of an appropriate writ directing and commanding the respondents to secure the Health and safety of the local residents of all community as well as of the residents of the nearby villages and of the persons passing through the aforesaid Main Road by closing immediately the aforesaid illegal slaughterhouses from the locality of the Mohallah Sahjalal Pir, Sasaram immediately.

(iii) For issuance of an appropriate writ, order or direction directing and commanding the respondents to secure the environment of the entire locality

surrounding Mohallah Sahjalal Pir, Sasaram from pollution by closing the aforesaid illegal slaughterhouses immediately.

(iv) For any other relief/ reliefs of which the petitioners are legally entitled to.”

The contention of the petitioner in the instant public interest litigation is against the opening and running of the illegal slaughter houses without any licence, non-disposal of the remains of the animals in an unscientific manner leading to pollution in the entire area and as a result of which threat of spread of the diseases/pandemics exist.

In brief, it is the case of the petitioner that large number of slaughter houses are being run in Mohalla Mubarak Ganj, by the side of the main road under town Police Station in the town of Rohtas. The waste ie the bones as also remains of the large animals slaughtered in the illegal slaughter houses are being thrown in the open on the road side leading to different types of pollution and imminent threat of spread of diseases. Inspite of representations having been filed by the petitioners as also others before the authorities including the Station House Officer of the Police Station concerned, complaint before the District Public Grievance Redressal Cell, the Superintendent of Police, Rohtas, the D.I.G. of Police, Sahabad Office, Dehri etc. no action was taken by the respondents. The slaughter houses continue to remain operational and the people of locality continue to be forced to live in an unhygienic condition as a result of their illegal running. It is thus submitted that as the respondent authorities have not acted as they were required to under the law, hence the writ application for the reliefs prayed for as mentioned above.

Counter affidavits were filed on behalf of the different respondents.

In the counter affidavit filed on behalf of the Bihar State Pollution Control Board (Respondent no. 17), with regard to the contention raised by the petitioner in the application it was submitted that the slaughter houses were inspected by the team of the said respondent, however due to public movement/resistance, the inspection could not be carried out. It is mentioned that foul smell was felt by the inspecting team and on inquiry from the workers of the Sararam Municipal Council, it appeared that the slaughter houses were slaughtering 4-5 big animals daily with no arrangement for the disposal of the waste.

The slaughter houses were clearly illegal being operated without having obtained licence as required under the Municipal Act, 2007.

A separate counter affidavit was filed on behalf of the Superintendent of Police, Rohtas (Sasaram) (Respondent no. 9) stating therein that as per the report submitted by the Station House Officer, Sasaram Town Police Station (respondent no. 13), no licence has been granted for running of slaughter houses in the area under the Sasaram Town Police Station. The Municipal Corporation had cleaned up the area and at the time of inquiry the slaughter houses were not in operation.

In the counter affidavit filed on behalf of the Principal Secretary, Urban

Development Department, Government of Bihar (Respondent no.2), it was stated that the matter in issue has also been under consideration by the Hon'ble Supreme Court in different writ petitions wherein several directions have been given. In the event of non-compliance of the Rules and Regulations the petitioners are entitled to approach the concerned District Collector or the judicial authorities. Further for purpose of managing the unauthorised sale of animal flesh, the Patna Municipal Corporation (Licence for Sale of Animal Flesh, Fish, Poultry) Regulation, 2014 has been framed for monitoring the same under the jurisdiction of the Patna Municipal Corporation. The authorities of the Patna Municipal Corporation have been asked to file their affidavits.

Several affidavits were filed on behalf of the Sasaram Municipal Corporation as also the Deputy Development Commissioner, Rohtas- cum- Municipal Commissioner, Nagar Nigam, Sasaram (Rohtas). It was stated therein that the fact remains that no licence for operation of slaughter house has been issued by the Nagar Nigam. Some persons may be illegally slaughtering animals, however, the same would be without having any licence. It was stated that pursuant to the order of this Court, a team headed by the City Manager was constituted vide letter no. 717 dated 4.4.2022 to make spot inquiry in regard to the operation of illegal slaughter houses. The team conducted inspection and submitted its report on 12.4.2022. As per the reports, it transpired that some of the residents of the area were running illegal slaughter houses in their residential premises and the garbage of the slaughtered animals were found thrown and damped, polluting the area. It is further stated that by letter dated 18.4.2022 the Sub-Divisional Officer, Sasaram and the Sub-Divisional Police Officer, Sasaram were requested to make regular inquiries in the matter and to take legal action against any person found running slaughterhouse. It was thus submitted that no licence having been issued for running a slaughter house within the area of the Municipal Corporation, Sasaram, the Nagar Nigam was taking effective steps to ensure that no illegal slaughterhouse remain operational in the area. The local staff of the Nagar Nigam have been instructed to provide immediate information in case they find illegal slaughtering of animals and the local police and the civil administration have both been requested to take immediate legal action against such persons.

It may be stated here that in course of hearing of this public interest litigation and having been perused the affidavits filed on behalf of the respondents, the Court also directed for personal appearance and interacted with the Deputy Development Commissioner, Rohtas, Municipal Commissioner, Nagar Nigam, Rohtas who also filed his affidavit indicating the steps taken for ensuring that no illegal slaughtering takes place in the different mohallas of Sasaram and in its vicinity.

It also transpires that advertisements were published inviting applications for issuance of licence for running of slaughter houses and a total of 25 applications were received in the office of the Nagar Nigam, Sasaram. The applications were

forwarded to a four men Committee constituted vide memo no.1868 dated 10.9.2022 issued under the signature of the Commissioner, Nagar Nigam, Sasaram. The Committee visited the place of each of the applicants to conduct on the spot inspections and also to examine as to whether the applicants fulfilled the requisite criteria. The Committee found that none of the applicants were fulfilling the criteria and conditions and thus by notice contained in letter dated 21.11.2022 asked the applicants to fulfill the required conditions. It was further stated in the affidavit filed on behalf of the Municipal Commissioner, Nagar Nigam, Sasaram that efforts are being made to ensure that no illegal slaughtering takes place within the Municipal limits. Relevant paragraphs of the 4th supplementary counter affidavit of the Municipal Commissioner, Nagar Nigam Sasaram (respondent no.16) are being quoted hereinbelow:

"5. That the deponent most humbly states that in the light of advertisements made in respect of slaughtering of animals and sale of meat, altogether 25 applications are received in the office of the Nagar Nigam from various applicants seeking license for sale of meat etc. within the municipal limits of Nagar Nigam Sasaram which are registered and are forwarded to the four men committee constituted vide memo no. 1868 dated 10.09.2022 (Annexure-B to the 3rd supplementary counter affidavit) to examine the applications and also to make spot inspection to ensure that as to whether the applicants fulfil requisite criteria, conditions and requirements for running business of flesh and meat as prescribed under law or not.

6. That the four men committee visited the place of each and every applicants where they want to run their business for sale of meat for individual consumption and examined on 18 points formulated in this regard and the committee found that none of the applicant is fulfilling the criteria and conditions provided under law to get license for sale of meat and for slaughtering and as such the deponent vide letters/ notice dated 21.11.22 has asked all the applicants to change venue other than the venue mentioned in the application and complete the formalities on each and every points mentioned in spot inspection within two months so that further necessary steps may be taken to grant them license for sale of meat and other slaughtered articles.

A true copy of list of applicants, one of such application and the notice dated 21.11.2022 is annexed as Annexure-A series to this 4th suppl. counter affidavit

7. That apart from the above sincere efforts are being taken to ensure that no illegal slaughtering could take place in the municipal limits of Nagar Nigam Sasaram for which the staffs and officers of the Nigam are regularly visiting in the area and are closely monitoring the same.

.....

10. That from the facts and circumstances stated herein above it is apparent that the Nagar Nigam, Sasaram has taken sincere effective efforts to prohibit illegal slaughtering in municipal limits of Nagar Nigam and sincere efforts are being

taken to identify the place/ places in the light of statutory provisions so that slaughter houses may be established in hygienic manner with valid license at proper place as provided under the law. Further sincere steps has also been taken to educate and made aware the General public about provisions of Bihar Municipal Act as well as other statutory provisions relating to animal cruelty and its protection and the Nagar Nigam is committed to regulate the entire affairs of animal slaughtering within its municipal limits in accordance with law and the guidelines issued by the Hon'ble Supreme court and this Hon'ble court."

It may be mentioned here that in exercise of powers conferred under section 38 of the Prevention of Cruelty to Animals Act, 1960, the Prevention of Cruelty to Animals (Slaughter House) Rules, 2001 were made. Rule 3 thereof clearly provides that no person shall slaughter any animal within a municipal area except in a slaughter house recognised or licensed by the concerned authority empowered under the law. Further, the Rules provide in detail about the slaughter of animals, the construction of the building in which the same would be run, engagement of persons therein and inspections of the slaughter houses. Rule 3 is quoted herein below for ready reference:

"3. Animals not to be slaughtered except in recognised or licensed houses - (1) No person shall slaughter any animal within a municipal area except in a slaughter house recognised or licensed by the concerned authority empowered under the law for the time being in force to do so.

(2) No animal which, -

(i) is pregnant, or

(ii) has an offspring less than three months old, or

(iii) is under the age of three months or

(iv) has not been certified by a veterinary doctor that it is in a fit condition to be slaughtered,

shall be slaughtered.

(3) The municipal or other local authority specified by the Central Government for this purpose shall, having regard to the capacity of the slaughter house and the requirement of the local population of the area in which a slaughter house is situated, determine the maximum number of animals that may be slaughtered in a day."

Thus, from the Rules framed under the relevant Act as quoted herein above, it is clear that the law clearly prescribes not only the mandatory requirement of slaughter house under the Act but also the detail and the manner it is to be established and run.

From the affidavit filed in the instant writ petition both by the petitioners as also the different respondent authorities, what transpires is that illegal slaughter

houses are being run in Sasaram without the sanction of law. Although from the last affidavit filed on behalf of the Municipal Commissioner, Nagar Nigam, Sasaram (respondent no.16), portion of which has been quoted herein above, it transpires that steps have been taken by issuing advertisement for issuance of license for running of slaughter houses in the municipal area, the applicants not having satisfied the conditions, no license was issued till filing of the affidavit.

In view of the facts and circumstances of the case, the Court disposes of the instant writ application with the following directions:

(i) The respondent authorities shall take steps to check running of illegal slaughter houses by regular inspections both by police and the civil authorities and with periodical reports in writing being submitted by the police authorities before the Superintendent of Police, Sasaram and by the civil authorities before the Municipal Commissioner, Nagar Nigam, Sasaram.

(ii) Steps will be taken by the respondent authorities to enforce the provisions of the Prevention of Cruelty to Animals Act, 1960, the Prevention of Cruelty to Animals (Slaughter House) Rules, 2001 and for issuance of license for running of slaughter house in accordance with the provisions contained therein.

Writ application stands disposed of with the above observations and directions.