

(2012) 10 P&H CK 0142

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 9902 of 2012 (O and M)

Kuljit Singh Bedi

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 31-10-2012

Acts Referred:

Constitution of India, 1950 — Article 51A(g), 51A(g)
Prevention of Cruelty to Animals Act, 1960 — Section 11(3)(b)

Citation : (2013) 1 RCR(Civil) 451

Hon'ble Judges : A.K. Sikri, C.J.; Rakesh Kumar Jain, J

Bench : Division Bench

Advocate : Ranjivan Singh and Ripudaman Singh Roop, for the Appellant; J.S. Puri, A.A.G., Punjab, Mr. B.S. Rana, A.A.G., Haryana, Ms. Lisa Gill and Mr. J.S. Toor, Advocates for Respondent Nos. 10 and 11 and Mr. Sanjay Kaushal, Senior Standing Counsel for the U.T., Chandigarh, for the Respondent

Judgement

A.K. Sikri, C.J.—The petitioner wants this court to issue a writ of mandamus thereby directing the respondents to take appropriate measures to tackle the rising stray dog menace in the States of Punjab, Haryana as well as Union Territory of Chandigarh. The petitioner had also earlier approached this Court by way of CWP No. 3653 of 2012, in the nature of Public Interest Litigation (PIL) for the same relief in which orders dated 27.2.2012 were passed observing that the municipal authorities would take all necessary steps to control this menace. The grievance of the petitioner, however, is that after the said order and despite representation made by him, no steps are taken by the respondent-authorities which has forced him to file present petition, again as PIL. As per the petitioner, provisions of Section 11(3)(b) of the Prevention of Cruelty to Animals Act, 1960 (hereinafter to be referred to "PCA Act") are available to the respondents to take effective steps and action to tackle the menace. The petitioner is a former Municipal Councillor, Mohali (Punjab) and claims himself to be a public-spirited person. He claims that he has taken various issues relating to the welfare of the public of Mohali at various for as including this High Court for their logical

redressal and had earlier also filed writ petitions pertaining to enhancement of water supply capacity to Mohali. In the present petition, he has highlighted that in the recent past, it has been seen that stray dogs in the States of Punjab, Haryana and also Union Territory of Chandigarh have created a terror and are endangering human lives of all age groups resulting into injuries/deaths of innocent people who fall prey to these stray dogs. Some of the news items, depicting the fright/terror created by the stray dogs, are attached with the petition. News-item appearing in the Hindustan Times dated 4.2.2012 (P-1), inter alia, reports the menace and the helplessness on the part of the State of Punjab to tackle the same. This report indicates that State of Punjab has no funds to arrange for the sterilisation of the dogs across the State and killing could be an alternative. However, the Government is at a loss as to under what provisions these stray dogs can be killed. In the news item which appeared in The Tribune dated 11.2.2012 (P-2), it is mentioned that at least 10 dog bite cases are reported from Doaba cities daily. However, the authorities have no effective plans in place to check the menace. Worse still, Jalandhar, Hoshiarpur, Nakodar and other Government hospitals in the Doaba belt have no stock of the anti-rabies vaccine and patients are forced to turn to private suppliers. It is also stated that civil authorities in these cities have failed to find a solution to the stray dog menace, which is getting beyond their control. Moreover, nobody wants to touch them for fear of animal rights organisations. About Jalandhar, in particular, it is stated that there is hardly any locality in the city which has remained unaffected by stray dogs. The city has even more than 3000 such dogs.

2. On issuing notice of motion, States of Punjab and Haryana have filed their affidavits. Affidavits are also filed by the Municipal Corporations of Mohali, Panchkula and Chandigarh. Director, Health Services (Training), O/o Director General Health Services, Haryana, has also filed affidavit indicating the action taken. Respondent No. 5, namely, Directorate, Animal Husbandry & Dairying Department, Haryana, has filed separate written statement.

3. None of these respondents have denied the prevalence of stray dog menace. It is further stated that meetings are being held to attend to this menace and take appropriate measures to curb the same. The State Governments have also mentioned that primary responsibility is that of municipal corporations/councils in the States and the Panchayats in the villages to tackle this problem. The State of Punjab, in particular, has stated the following measures which have been taken by it:-

4 That it is submitted that as per demand of Municipal Committees and village Panchayats specialist doctors of Animal Husbandry Department are providing technical services. For this purpose 13 Veterinary officers have been imparted special training of 45 days duration to sterilize stray dogs at Guru Angad Dev Veterinary and Animal Sciences University, Ludhiana. The surgical specialists at district level polyclinics of the department are also trained in sterilization operations. Besides this 5 doctors and 10 veterinary inspectors have been sent to

get special training regarding dog sterilization operations from 17.06.2012 to 30.06.2012 at Jeev Ashram, New Delhi, organized by Animal Welfare Board of India, So that as per the demand of Municipal corporations/Municipal committees and Panchayats more technical services could be provided.

4. The State of Haryana has given the details of measures taken in Panchkula, namely, catching of stray dogs, sterilising them and releasing them after sterilisation as per Animal Birth Control Scheme. It is stated that from October-2010 to November-2011 a total number of 1347 stray dogs were sterilized in Panchkula town. Municipal Corporation, Mohali, in its affidavit, has mentioned that after order dated 27.2.2012 passed in CWP No. 3653 of 2012, the Corporation has constituted a team of 7 employees provided with 1 vehicle for capturing stray dogs and sterilisation work is done under the supervision of Sanitary Inspector; from the year 2005, 930 sterilisation operations have been performed on stray dogs under the Animal Birth Control Scheme. Municipal Corporation, Chandigarh, in its affidavit, has stated that total number of 3774 dogs have been given anti-rabies vaccine since October-2010 till 30th June, 2012 and from April-2008 to 30th June, 2012, 5883 stray dogs have been got sterilized/neutered under the ABC Control Programme. It is also mentioned that the dog bite cases reported in the years 2008, 2009, 2010 and 2011 were 4115, 3856, 4253 and 3785, respectively, in the Chandigarh city. The Corporation has referred to Animal Birth Control (Dogs) Rules, 2001 (to be referred to as "ABC Rules" hereafter). Rule-3 thereof provides for classification of dogs and their sterilisation. Rule-6 deals with the obligation of the local authorities in this behalf, whereas, Rule-7 deals with capturing/sterilisation/immunization and release of the dogs. All these rules including Rules-8 and 9, which may be relevant, read as under:-

3. Classification of dogs and their Sterilization: (1) All dogs shall be classified in one of the following two categories (i) pet dogs, (ii) street dogs.

(2) The owner of pet dogs shall be responsible for the controlled breeding, immunization, sterilization and licensing in accordance with these rules and the law for the time being in force within a specified local area.

(3) The street dogs shall be sterilized and immunized by participation of animal welfare organizations, private individuals and the local authority.

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6. Obligations of the local authority:

(1)xx xx xx

(2) If the Municipal Corporation or the local authority thinks it expedient to control street dog population, it shall be incumbent upon them to sterilize and immunize street Dogs with the participation of animal welfare organizations, private individuals and the local authority.

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7. Capturing/sterilization/immunization/release: Capturing of dogs shall be based on:

(a) Specific complaints (for which the local authority in consultation with the Monitoring Committee shall set up a dog control cell to receive complaints about dog nuisance, dog bites and information about rabid dogs) and

(b) General:

(i) On receipt of specific complaint about nuisance or dog bite the same shall be attended on priority basis, irrespective of the area from which the complaint comes. On receipt of such complaint the details such as name of the complainant, his complete address, date and time of complaint, nature of complaint etc. shall be recorded in a register to be maintained for permanent record.

(ii) Capturing for general purpose will be on such dates and time to be specified by the Committee.

2. The dog capturing squad shall consist of

(i) The driver of the dog van

(ii) Two or more trained employees of the local authority who are trained in capturing of dogs, (iii) One representative of any of the animal welfare organization.

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(5) While the dogs are being captured in any locality the representative of the local authority or of the animal welfare organization accompanying the dog squad will make announcements on a public address system that dogs are being captured from the area for the purpose of sterilization and immunization and will be released in the same area after sterilization and immunization. The announcement may also briefly educate the residents of the area about the dog control programme and solicit the support of all the residents reassuring them that the local authority is taking adequate steps for their safety.

(6) The captured dogs shall be brought to the dog kennels/dog pounds managed by the Animal Welfare Organisations (AWOs). On reaching the dog pounds all the dogs shall be examined by the veterinarians and healthy and sick dogs should be segregated. Sick dogs should be given proper treatment in the hospitals run by Society for Prevention of Cruelty to Animals (SPCA)/other institutions and only after they are treated they should be sterilized and vaccinated. The dogs will be sterilized/vaccinated under the supervision of the veterinarians of the hospital run by the Society for Prevention of Cruelty to Animals (SPCA), Animal Welfare Organization or other dog shelters. After necessary period of follow up, the dogs shall be released at the same place or locality from where they were captured

and the date, time and place of their release shall be recorded. The representative of Animal Welfare Organisations (AWOs) shall accompany the dog squad at the time of release also.

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8. Identification and Recording: Sterilized dogs shall be vaccinated before release and the ears of these dogs should either be clipped and/or tattooed for being identified as sterilized or immunised dogs. In addition, the dogs may be given token or nylon collars for identification and detailed records of such dogs shall be maintained. Branding of dogs would not be permitted.

9. Euthanasia of Street Dogs: Incurably ill and mortally wounded dogs as diagnosed by a qualified veterinarian appointed by the committee shall be euthanized during specified hours in a humane manner by administering sodium pentathol for adult dogs and Thiopental Intraperitoneal for puppies by a qualified veterinarian or euthanized in any other humane manner approved by Animal Welfare Board of India. No dog shall be euthanized in the presence of another dog. The person responsible for euthanizing shall make sure that the animal is dead, before disposal.

It is further mentioned that Chandigarh Administration has also notified Chandigarh Registration of Pet Dogs Bye-Laws, 2010. Under these bye-laws, provisions of registration and control of pet dogs are made; breeding of dogs for commercial purpose is prohibited; efforts are made to sensitize the general public as well as to ensure proper control of population of stray dogs; anti-rabies vaccination camps are regularly held on Saturdays where stray dogs are vaccinated, etc. It is pointed out that rule 9 of the ABC Rules permits euthanasia of stray dogs only in case of incurably ill and mortally wounded dogs. Rule 10 of ABC Rules, which deals with furious or dumb rabid dogs, reads as under:-

10. Furious or dumb rabid dogs:

(1) On the receipt of complaints from the public to the Dog Control Cell of the Local Authority or on its own, the dog squad of the Local Authority would catch such dogs, suspected to be rabid.

(2) The caught dog would then be taken to the pound where it would be isolated in an isolation ward.

(3) The suspected rabid dog would then be subjected to inspection by a panel of two persons i.e.

(i) a veterinary surgeon appointed by the Local Authority and

(ii) a representative from an Animal Welfare Organisation

(4) If the dog is found to have a high probability of having rabies it would be isolated till it dies a natural death. Death normally occurs within 10 days of contracting rabies. Premature killings of suspected rabid dogs therefore prevents

the true incidence of rabies from being known and appropriate action being taken.

(5) If the dog is found not to have rabies but some other disease it would be handed over to the AWOs who will take the necessary action to cure and rehabilitate the dog.

On that basis, it is emphasised that extermination/destruction of stray dogs is not permissible particularly having regard to the provisions of Section 11(3)(b) of the PCA Act.

5. The aforesaid narration brings out two things. In the first instance, it is accepted by all the parties before us that stray dog menace is rampant in the various cities of Punjab and Haryana as well as in U.T. Chandigarh. At the same time, having regard to the provisions of the PCA Act, the authorities are finding that it is not possible to cull these dogs. They are adopting measures which are confined to the sterilization of these stray dogs. But, these steps are not taken in sufficient measures to curb the problem totally. In this scenario, the question arises as to what effective steps can be taken to control the menace of dog bites, etc. When the problem posed by the stray dogs is acknowledged, the first issue would be as to how to balance the problem caused by the stray dogs on the one hand and rights of these animals given to them under the provisions of law noted above on the other. We may like to mention here that in a Public Interest Litigation of similar nature filed in the High Court Delhi (Civil Writ Petition No. 2600 of 2001) titled as: New Friends Colony Resident's Welfare Association v. Union of India and others, wherein the uncontrollable menace caused by Monkeys, stray dogs and stray cattle was brought to the Court by means of PIL, this very dilemma was taken note of and explained in the following manner in the judgment dated 27.9.2002.

There is no doubt cruelty to animals has to be prevented. These animals have to be protected. At the same time, one has to ensure that existence of these stray dogs and simians does not become menace to the mankind. After all human life is more precious than the animals. The existence of such animals cannot be tolerated to the extent that it becomes difficult for citizens to live in the city. Animal lovers or Animal Welfare Board at no cost want these stray dogs and monkeys to be disturbed a bit. They want to find a solution by making people realise their duties and adjust themselves to the habits of these animals in order to avoid any mis-happening. Their answer in checking stray dogs biting the children lies in advising the residents of the localities not to allow the children to go on streets without parents and that the children should develop "dog love". They only want to go to the extent of sterilising or immunizing the stray dogs with clear intentions that after doing this, these dogs should be left back in the colonies to which they are used to as they have pre-emptive rights to continue to stray there. However, that is also an extreme view which may not be possible to adhere to one has to find a solution to the problem which takes into consideration interest of animals as well as human beings. With this objective in mind we may consider the solution in respect of problem relating to stray dogs,

stray cattle as well as monkeys.

Specifically dealing with the issue of stray dogs, the Court took note of the decision of the Civil Judge in Suit No. 1246 of 1992 titled: Maneka Gandhi v. Municipal Corporation of Delhi and New Delhi Municipal Corporation. In that suit, Smt. Maneka Gandhi had sought the relief of injunction restraining the MCD and NDMC from meting out cruel, brutal and inhuman treatment as well as indiscriminate killings of stray dogs in Delhi. Learned Civil Judge while decreeing the suit as per judgment & decree dated 16.12.1992 emphasised the need of striking balance between two interests, viz., animals should be treated with utmost respect and avoided to be subjected to unnecessary cruelties and at the same time it should also be ensured that they do not endanger the human life. Learned Civil Judge decided the issue after taking note of Article 51-A(g) of the Constitution casting obligation on citizens to show compassion for living beings as well as various other Acts forbidding cruelty to animals and also certain MCD and NDMC Acts incorporating the provisions for killing stray dogs, especially rabid infected dogs. It would be apt to quote the following observations made by the learned Judge:-

To start with, it is to be kept in mind that it is one of the obligatory function of the Corporation to take measures for preventing and checking of spread of dangerous disease. That equally applies to duties of municipalities. The diseased dogs pose a constant threat of Rabies to human population, and unless their population is also checked the area of threat also increases.

The provisions contained in section 399 of the MCD Act leave no doubt that the Corporation has absolute authority to destroy stray dogs which are not referable as property of anyone, and those dogs, which are suspected of Rabies and other diseases etc. Here comes the case of plaintiff that firstly the authorities catching the dogs should not use methods which unnecessarily hurt the dogs, secondly, the control on population of dogs, which are not diseased or Rabies etc. should not be by indiscriminate killings but by adopting a scientific approach in the matter i.e. by sterilization, vaccinations and tattooing of such dogs.

In my view, the provisions of MCD Act, permitting destroying of even healthy dogs, for the sole reason of being found straying without collar etc. are of an era, when animal life and role of animals in "environment" and relation of man with animals as mutually interdependent, and "environment" was not legal concern. But now the progress made in this direction by the Environment (Protection) Act, 1986, and now capped by Constitutional provision under Art. 51A(g) embodying compassion to living creatures as a Fundamental Duty of citizen have changed the scenario. Now, all state functionaries as MCD/NDMC, cannot ignore this obligation of theirs arising out of the provision.

6. The Court then considered it appropriate to constitute a Committee for considering modalities and delineating its task in the following words:-

In my view, once MCD/NDMC are not destroying all the dogs, except, the

diseased or Rabies cases, the scheme of sterilization, vaccination and tattooing, put forth by plaintiff and her case for using the services of voluntary bodies, in the field, already welcomed by MCD, in its WS in Court, as based on a scientific approach to reduce dogs population, MCD/NDMC can take a decision, by constituting a Committee to consider the modalities etc. of taking such help and to extend the scheme to other zones of MCD and in the NDMC area.

7. The Court thereafter, keeping in mind the duties cast upon MCD and NDMC, disposed of the Suit by giving certain directions which are as under:-

Defendants are duty bound to keep the dogs in hygienic conditions with provisions of food and care etc. In the circumstances, the best the Court can do in the matter is to direct the MCD/NDMC to seriously consider the proposals of the plaintiff by constituting a Committee, or other suitable forum, and they should augment their efforts by working out modalities to take assistance of voluntary bodies, in rehabilitation of healthy dogs, to control population. It is the duty of the defendants to identify the diseased and suspected rabies dogs and to eliminate them, as they are a threat to human beings. In the facts and circumstances of the case, after considering the case of MCD and NDMC, following orders are deemed fit to dispose of the suit:

(1) Whenever MCD decides to destroy the dogs, which are healthy, not suffering from Rabies or disease, etc. and are found without collars or marks distinguishing them as private property, MCD will make it a practice to issue a public notice u/s 399(2)(b) of the MCD Act in such a manner that people in the area have sufficient advance knowledge of the intention of the MCD. Public notice in Newspaper etc. will not be considered sufficient in such cases. MCD should also inform the interested voluntary agencies of plaintiff or others of the move of MCD, so that they could associate themselves, with equipment or manpower etc. so that dogs are caught without causing unnecessary pain or hurt etc.

(2) Whenever MCD/NDMC decide to destroy the diseased or Rabies dog or in such case posing imminent danger, it should follow the procedure duly prescribed by the Animal Welfare Board under the Prevention of Cruelty to Animals Act only.

(3) The competent authorities under the MCD, should genuinely entertain a reasonable suspicion of the dog suffering from Rabies so that indiscriminate killings do not take place. Here too, unless time does not permit, voluntary bodies concerned with Animal welfare should be associated only for the purpose of assistance in catching the dog. Before destroying, the veterinary surgeon should corroborate the suspicion of dog suffering from Rabies.

(4) Killing dogs in open public view by throwing poison mixed things should be avoided, and efforts should be to catch the dog to take away for destruction.

(5) Keeping in view the welcoming of suggestions made by plaintiff in the WS of MCD, MCD should make efforts to see that suggestions are implemented and duly taken care of.

(6) The sterilization and vaccination programme of MCD, in operation in Civil Zone, should be extended to other zones, with the help, assistance of voluntary bodies, if they supply manpower/material or other facilities.

(7) Public school should be suitably educated by public announcements on the media e.g. Radio, T.V., etc. about their responsibilities, duties mentioned u/s 399(1), (3), (4) and (5) and necessity of vaccination, sterilization, etc.

(8) MCD should also provide regular facilities at various hospitals of animals on particular days by public notice, where people can get their dogs vaccinated.

(9) MCD/NDMC should accept scientific attitude in their dealing with dogs, so that dogs are treated with utmost compassion and cruelties are avoided to the extent possible.

The Court also took note of a similar Public Interest Litigation (being CWP-1596/1998) entitled Viniyog Parivar Trust & Another v. Municipal Corporation of Greater Mumbai, decided by the High Court of Bombay vide order dated 5.10.1999) wherein, at the instance of the High Court, the parties submitted "Comprehensive Guidelines for Dog Control and Management". These guidelines were incorporated by the High Court in its judgment, to be followed by the municipal authorities. It would be relevant to reproduce those guidelines in their entirety:-

1. The learned Counsel for the parties and interveners have submitted an agreed, Comprehensive Guidelines for Dog control and management. The learned Counsel appearing for the Municipal Corporation states that the Corporation would implement the said Guidelines.

2. The Guidelines are as follows:-

I PREAMBLE.

The issue of dog control and management has been engaging the attention of the Municipal Corporation of Greater Mumbai as well as various nongovernmental organisations engaged in animal welfare in general and welfare of stray dogs in particular. The Animal Welfare Board of India has also paid specific attention to this issue and has framed guidelines as per the recommendation of the sub-committee, some years ago. The system of indiscriminate destruction of stray dogs to minimise the incidences of rabies and controlling their population has not succeeded. Hence, there is need to evolve more effective, result-oriented guidelines for dog control and management. In furtherance of this aim the following guidelines are being framed for observance in the city of Mumbai by the Municipal Corporation of Greater Mumbai in co-ordination and co-operation with various animal welfare organisation.

II. OBJECTIVES:

1) The primary objective is to evolve means to control the population of dogs, to achieve its gradual reduction and stabilize the same on a long-term basis and

thereby to control and reduce the incidences of rabies.

2) In order to achieve the main objective as above, to evolve methods of catching, transportation, sterilization, immunization, treatment of diseased dogs and killing of rabid, critically ill, fatally injured dogs upon their verification by a veterinarian.

III. CLASSIFICATION OF DOGS:

All dogs will be classified in one of the following two categories:

(i) Pet dogs (ii) Stray dogs

(a) Pet dogs owners shall be fully responsible for the controlled breeding, immunization, sterilization and licensing provisions as required by the Municipal/ State laws.

(b) These guidelines will be applicable for stray dogs who shall be sterilized and immunized by active participation of animal welfare organisations/private individuals with adequate financial and infrastructure support from the Municipal Corporation of Greater Mumbai.

(c) In the inevitable incidences where a rabid dog or a critically ill dog or a fatally injured dog needs to be put to sleep to alleviate its sufferings, the methodology for the same shall be in line with these guidelines.

IV. Creation of a Competent Authority or a Monitoring Committee for implementation of guidelines:

In order to ensure effective compliance with these guidelines and for effecting necessary changes as the scheme evolves, a monitoring committee consisting of following persons will be established:-

(1) One of the incumbents Dy. Commissioner of Municipal Corporation of Greater Mumbai, who shall be the ex-officio Chairman of the committee.

(2) A representative of the Public Health Department of the Municipal Corporation of Greater Mumbai.

(3) A representative of the Bombay Society for Prevention of Cruelty to Animals.

(4) One representative each of the following animal welfare organizations:

a) AHIMSA

b) All India Animal Welfare Association

c) In Defence of Animals

d) The Welfare of Stray Dogs

e) Bombay Humanitarian League

f) People for Animals

5) Mrs. R.....

V. FUNCTIONS OF THE COMMITTEE:

The above Committee will be responsible for planning and management of dog control programmes according to these guidelines and will:

- a) issue instructions for catching, transportation, sheltering, sterilization, vaccination, treatment and release of sterilized/vaccinated/treated dogs.
- b) the veterinary doctor who is a member of the above Committee will decide on case to case basis the need to put to sleep dogs which are critically ill/fatally injured/rabid.
- c) create public awareness, solicit cooperation and funding.
- d) provide guidelines to pet dog owners and commercial breeders from time to time.
- e) keep a watch on the national and international developments in the field of research etc. pertaining to stray dogs control and management, development of vaccines and cost effective methods of sterilization, vaccination etc.

The members of the Committee shall provide their services honorarily.

VI. INFRASTRUCTURE FACILITIES TO BE PROVIDED BY THE MUNICIPAL CORPORATION OF GREATER MUMBAI FOR THE PROGRAMME:

The Municipal Corporation of Mumbai shall provide the following infrastructural facilities for implementation of this programme:

- a) Three or more dog vans for capture of dogs attached to each of the dog pounds in the city i.e. Mahalaxmi, Malad and Deonar.
- b) Free water and electricity to be provided to each of the three dog pounds.
- c) Periodical repairs to the dog pounds buildings to be done by the Corporation.
- d) One driver and two trained dog-catchers to be provided to each dog van and these shall be the employees of the Corporation.
- e) An ambulance cum-clinical van to be provided as mobile center for sterilization/immunisation. The driver of the ambulance van will be an employee of the Corporation and the medical personal will be provided by the Bombay S.P.C.A.
- f) Incinerators shall be installed by the Corporation at each of the dog pounds.
- g) The NGOs will be reimbursed the expenses of sterilization/immunization at a rate fixed by the monitoring committee on fortnightly basis based on number of sterilization/immunization done.

VII. RULES FOR CAPTURING, STERILIZATION, IMMUNIZATION AND RELEASE OF

DOGS:

1) Capturing of dogs will be based on:

- a) Specific complaints (for which the corporation shall set up a cell to receive complaints about dog nuisance, dog bites and information about rabid dogs) and
- b) General (in the normal courses of implementing these guidelines).

a) On receipt of specific complaint about nuisance or dog bite, the same shall be attended on priority basis, irrespective of the area from which the complaint comes. On receipt of such complaint the details such as name of the complainant, his complete address, date and time of complaint, nature of complaint etc. shall be recorded in a register to be maintained for permanent record.

b) Capturing for general purpose will be as per a time-table drawn by the committee which will be covering various parts of the city zone-wise.

2) The dog capturing squad shall consist of:

- a) The driver of the dog van
- b) Two or more trained employees of BMC who are trained in capturing of dogs.
- c) One representative of any of the dog welfare organisations.

On receipt of specific complaint or for capturing dogs in normal course, the dog squad will visit the concerned area, capture the dogs identified by the complainant in case of complaint-oriented capturing and other dogs in case of general capturing. A record of dogs captured shall be maintained in a register mentioning therein the name of the area/locality, date and time of capture, names of persons in the dog squad on that particular day and details about dogs captured such as number of male dogs, number of female dogs, number of puppies etc.

4) The dogs shall be captured by using humane methods such as lassoing or soft-loop animal-catchers such as those prescribed under the provisions of Preventions of Cruelties (Capture of Animals) Rules, 1972.

5) While the dogs are being captured in any locality the representative of the animal welfare organisation accompanying the dog squad will make announcements on a public address system that dogs are being captured from the area for the purpose of sterilization and immunization and will be released in the same area after four days. The announcement may also briefly educate the residents of the area about the dog control programme and solicit the support of all the residents reassuring them that the Corporation is taking adequate steps for their safety.

6) The captured dogs shall be brought to the dog kennels/dog pounds managed by the NGOs where they will be sterilized/vaccinated under the supervision of the

veterinarian of the hospital run by the SPCA or dog shelters. After necessary period of follow up, the dogs shall be released at the same place or locality from where they were captured and the date, time and place of their release shall be recorded. The representative of NGOs shall accompany the dog squad at the time of re-tease also.

7) At a time, only one lot of dogs shall be brought for sterilization, immunization from one locality at one dog kennel or dog pound. Two lots from different areas or localities shall not be mixed at the same dog pound or dog kennel.

8) The dog kennel must have sufficient space for proper housing and free movement of dogs. The place should have proper ventilation and natural lighting and must be kept clean. Adults and puppies must be housed separately and amongst the adults the males and females also should be housed separately adequate arrangement for drinking water and food shall be made for dogs while in captivity.

9) On reaching the dog pounds, all the dogs shall be examined by the veterinarians and healthy and sick dogs should be segregated. Sick dogs should be given for proper treatment to the hospitals run by S.P.C.A./other institutions and only after they are treated, they should be sterilized and vaccinated.

10) Female dogs found to be pregnant shall not undergo abortion (irrespective of stage of pregnancy) and sterilization and should be released for the litter.

VIII. CREATION OF ZONES:

The entire city of Mumbai shall be divided in three zones and the responsibility for effective implementation of the programme should be allocated area-wise to different NGOs as under:-

- a) Municipal Wards A, B, C, D and E for the Welfare of Stray Dogs.
- b) Municipal Wards F/S & F/N, G/S & G/M to all India Animal Welfare Association (AI-IAWA)
- c) All Municipal Wards from Bandra to Dahisar, H/E & H/W, K/E & K/W, P/S & P/N
- d) Entire Eastern suburbia from L Ward, M/E, M/W, N/W & N/S and T Ward from Kurla to Mulund for prevention of Cruelties to Animals.
- e) There are 3 existing dog pounds in the city and Thedog pound is being managed by

IX. IDENTIFICATION AND RECORDING:

Sterilized dogs shall be vaccinated before release and should be tattooed/branded on their ears for being identified as sterilized/immunized dogs. In addition, the dogs may be given token/nylon collars for identification and detailed records of such dogs shall be maintained.

X. KILLING OF STRAY DOGS:

1) No stray dogs shall be killed as a rule subject to the exception of critically ill, violent, fatally injured or rabid dogs. The decision whether a dog belonging to any of these three categories needs to be put to sleep with the sole object of relieving it of the pain of such sickness, injury or rabies shall be taken by a panel of at least three doctors, one of who will be the veterinary doctors appointed by the Animal Welfare Board of India at its own expenses.

2) Violent, diseased and incurably ill and mortally wounded dogs and those capable of transmitting diseases as identified and diagnosed by a qualified veterinarian, to be killed, shall be euthanised during working hours specified by the BMC in an approved humane manner i.e. by administering Sodium Pentothol for adult dogs and Thiopentol intra-peritoneally for puppies by a qualified veterinarian or euthanised in any other humane manner approved by the Animal Welfare Board of India. No dog shall be euthanised in the presence of another dog. The person responsible for euthanising shall make sure that the animal is dead before disposal.

XI. HANDLING OF RABID DOGS:

An insane or mad dog is the common term that is used to describe a rabid dog. Rabies is of two types - Furious and Dumb.

Symptoms of Furious Rabies:

An early symptom is that the dog becomes illtempered and loses its desire for human company. It attempts to isolate itself. The presence of other dogs make him very hostile and he will attack them. The rabid dog will make attempts to get rid of the frothing at the mouth. In the advanced stages of rabies, the dog's legs get paralysed.

Symptoms of Dumb Rabies:

The dog becomes very docile and cannot be provoked. In the later stages, the dogs' legs get paralysed and there is frothing at the mouth. A dog suffering from this variety is rarely a threat to others.

Proposed Action:

1) On the receipt of complaints from the public to the Dog Control Officer/Cells of the Municipal Corporation or on its own, the dog squad of the corporation would catch such apparent rabid dog.

2) The dog which is caught would then be taken to the pound where it would be isolated in an isolation ward. (The incidence of rabies is such that a large room with 5/6 partitions would be adequate.)

3) The suspected rabid dog would then be subjected to inspection by a panel of two persons i.e.

- i. A veterinarian surgeon appointed by the Animal Welfare Board of India and
- ii. An official of the Corporation in charge of this programme.

4) If the dog is found to have a high probability

of having rabies it should be isolated till it dies a natural death. Death normally occurs within 10 days of contracting rabies. If the dog does not die within 10 days, it does not have rabies but some other disease with similar symptoms such as toxicity or hypocalcaemia. Premature killing of suspected rabid dogs therefore prevents the true incidence of rabies from being known and appropriate action being taken.

5) If the dog is found not to have rabies but some other disease, it should be handed over to the above mentioned NGOs who will take the necessary action to rehabilitate the dog.

XII. DISPOSAL OF CARCASSES:

As only critically ill, fatally injured or dogs suffering from rabies will be killed, it is advisable in the interest of public health that disposal of their carcasses is not entrusted to any outside agency. The carcasses or such destroyed dogs shall be disposed of in incinerators to be provided by the NDMC at the Dog Pounds at

XIII. PUBLIC AWARENESS CAMPAIGN:

1) These guidelines, once approved by the Hon'ble High Court of Mumbai, shall be published in at least two English and two vernacular language dailies for the information of the citizens of Mumbai.

2) The Committee shall publish a brief quarterly report of the progress of this programme in local dailies giving details of sterilization and vaccination done so as to create public confidence and support for the progress.

3) As stated earlier, the representative of NGOs will educate the residents of different localities on public address system when they go for capturing of dogs.

XIV. REVIEW/REVISION OF GUIDELINES:

As the programme evolves itself, the committee shall consider review/revision of the guidelines for more and more effective implementation of this programme.

XV. TARGETS & DURATION:

The committee will set targets for annual number of sterilization/immunization depending on the infrastructure facilities available and the targets shall be increased gradually.

The programme will be given undisturbed run for at least 5 years to prove its effectiveness and emphasis should be to remove the difficulties in its implementation, rather than its scrapping.

The Delhi High Court gave direction for formulating the same guidelines for the city of Delhi as well.

8. In order to tackle the menace of stray dogs in these areas, namely, in the States of Punjab and Haryana as well as Union Territory of Chandigarh, effectively and comprehensively, we feel that similar scheme is required to be formulated by these States and Union Territory as well. We have already pointed out that in the responses filed by the respondents not only they have accepted the problems to safety of people because of stray dog menace, they have also stated the measures which they are adopting to curb this problem which is limited to capturing stray dogs, sterilising them and thereafter releasing them. However, these are only half-hearted measures and lacking seriousness in efforts which the problem at hand needs. Committees are constituted by some of the municipal corporations to devise ways and means. In the absence of any concrete plans devised by the authorities so far, we feel that the aforesaid scheme can provide basis for formulating the appropriate scheme(s) by the concerned authorities. In addition, ABC Rules framed by the Animal Welfare Board of India, National Welfare Division, Government of India, are also in place which can again provide guidance.

9. In the aforesaid circumstances, we direct the States of Punjab and Haryana as well as Union Territory of Chandigarh to make comprehensive Scheme(s) in the form of rules or otherwise keeping in view the ABC Rules as well as judgment and decree dated 16.12.1992 of the Civil Judge, Delhi in Suit No. 1246 of 1992 and "Comprehensive Guidelines for Dog Control and Management" framed by High Court of Bombay in CWP No. 1596 of 1998. On the lines of said rules/judgment/guidelines, comprehensive scheme(s) shall be formulated by the respondent-authorities within a period of two months from today and those would be effectively enforced/executed thereafter. Writ petition stands disposed of with the aforesaid directions. However, the respondents after formulating the scheme(s) within two months shall place the same before the Court to signify that action as directed has been taken.