

(2005) 05 RAJ CK 0056

In the Rajasthan High Court

Case No : Civil Writ (PIL) Petition No. 6556 of 2004

Pashu Krurata Nivaran Samiti

APPELLANT

Vs

Jaipur Municipal Corporation

RESPONDENT

Date of Decision : 09-05-2005

Acts Referred:

Constitution of India, 1950 — Article 47, 48, 51A
Prevention of Cruelty to Animals Act, 1960 — Section 11
Rajasthan Municipalities Act, 1959 — Section 237
Rajasthan Preservation of Certain Animals Act, 1950 — Section 2

Citation : (2005) 3 RCR(Civil) 431 : (2005) 3 RCR(Criminal) 775 : (2005) 3 RLW 1659

Hon'ble Judges : Shiv Kumar Sharma, J;K.S. Rathore, J

Bench : Division Bench

Advocate : Paras Kuhad and Pancham Surana, for the Appellant; S.S. Hora, P.C. Jain and S.P. Gargey, for the Respondent

Judgement

K.S. Rathore, J.—The main grievance of the petitioner society is that the respondents are not following provisions of the Prevention of Cruelty to Animals (Slaughter House) Rules, 2000 (for short, the Rules, 2000) as the provisions of Slaughter House Rules 2000 are mandatory in nature.

2. After referring the mandatory provisions of the Rules 2000, learned counsel for the petitioner submits that in the area of Municipality of Jaipur or in the Panchayat area of Chainpura there is no slaughter house conforming to the requirement of the Rules 2000. And no person is having a valid licence for slaughtering. Slaughter house cannot be owned by the Municipal Corporation under the provisions of the Rajasthan Municipalities Act, 1959 (for short, Act of 1959) and also no slaughter house can be built on the land owned by a Municipal Corporation. Therefore, in view of the Directive Principles of State Policy which are contained in Articles 47 and 48 of the Constitution of India the state is required to take up proper steps to raise the level of nutrition, improve public health and for prohibition of slaughter of cows, calves and other milch and

draught cattle.

3. It is further stated that in view of Article 51-A(g) of the Constitution of India it is the duty of every citizen to protect and improve the natural environment and to have compassion for living creature. Killing of animals amounts to cruelty within the meaning of Section 11 of the Prevention of Cruelty to Animals Act, 1960 (for short the Act of 1960) and as such the public authority or the public officer cannot permit the slaughter of animals in the slaughter houses.

4. It is also contended on behalf of the petitioner that the cows, bulls, bullocks etc. and milch and draught cattle and other animals are the backbone of our entire agricultural economy structure with the growing awareness for non-conventional energy sources like bio-gas the necessity of dung all these cattle/animals has achieved further importance in addition to its utility as manure and fuel for rural population.

5. Article 48 of the Constitution of India gives power to take steps for prohibition of slaughter of cows, calves and other milch and draught cattle. Section 2 of the Rajasthan Preservation of Certain Animals Act, 1950 gives power to penalize the persons for killing of bull, cow, ox, or calf and provides punishment of imprisonment upto ten years and Section 3 provides punishment of imprisonment upto seven years for causing serious bodily injury to any bull, cow, ox or calf.

6. Learned counsel for the petitioner in support of his submissions placed reliance on the judgment rendered by Hon'ble the Supreme Court in the cases Hasmattullah Vs. State of Madhya Pradesh and others, Shri Sachidanand Pandey and Another Vs. The State of West Bengal and Others, Rural Litigation and Entitlement Kendra and Ors. v. State of Uttar Pradesh and Ors. reported in 1987 S C 359 and Mohd. Hanif Quareshi and Others Vs. The State of Bihar,

7. Heard rival submissions of the respective parties and perused the provisions of Rajasthan Bovine Animals (Protection of Slaughter and Regulation of Temporary Migration or Export) Act, 1995 as well as Rules 2000. We have perused the judgment passed by this court in the civil contempt petition No. 66/2004 dated 19.3.2004 by which the Division Bench of this Court constituted a committee to implement the order dated 2.4.93 and 7.7.95 and the committee so constituted comprising the Collector, Jaipur; the Superintendent of Police; the Chief Executive Officer, Municipal Corporation, Jaipur, the Secretary, Jaipur Development Authority and the President of Meat Merchant Association, submitted its report with regard to transfer of slaughter house from Jaipur city to village Chainpura in Khasra No. 227 and it is also given out on behalf of the Municipal Corporation that the slaughter house pursuant to the direction has been established.

8. Now the grievance of the petitioner is with regard to cruelty to animals. We have also perused Section 11 of the Act of 1960 which deals with the cruelty towards animals and reads as under:-

11. Treating animals cruelly:- (1) If any person-

(a) beats, kicks, overrides, overdrives, overloads, torture or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes or, being the owner permits, any animals to be so treated; or

(b) willfully and unreasonably administers any injurious drug or injurious substance to any animal or willfully and unreasonably causes or attempts to cause any such drug or substance to be taken by (any animal); or

(c) conveys or carries, whether in or upon any vehicle or not, any animal in such a manner or position as to subject it to unnecessary pain or suffering; or

(d) being the owner of (any animal), fails to provide such animal with sufficient food, drink or shelter;

(e) mutilates any animal or kills any animal (including stray dogs) by using the method of strychnine injections in the heart or in any other unnecessary) cruel manner, or) The offence of cruelty is punishable.

9. Upon perusal of Rules 2000 by which no person shall slaughter any animal within the municipal area except in slaughter house recognized or licenced by concerned authority empowered under the law for the time being in force.

10. Here, in the instant case, as per direction issued by the Division Bench of this court to shift the slaughter house from densely populated area of city to any suitable area for which the court has constituted a committee and the committee decided to shift the slaughter house at village Chainpura and there the slaughter house has been established and recognized and licenced by the concerned authority and the capacity of the slaughter house also determined by the Municipal Corporation and there is adequate area available for live stock and proper infrastructure is provided by the authority and for compliance of the other mandatory requirement as stipulated in the Slaughter House Rules 2000, the Municipal corporation has given undertaking to ensure the compliance of the Rules, 2000 to regulate the slaughter house.

11. Dr. P.C. Jain informed that the Corporation also framed bye laws and regulation and inspection of markets, public places used for sale of articles and slaughter house.

12. Upon careful perusal of the judgment rendered by Hon''ble the Supreme Court in the case of Hasmattullah wherein Hon''ble the Supreme Court classified the animals which were to be slaughtered and which were to be saved from the butchers in the interest of society and held that there would be total ban on the slaughter of cow, calf of cow and calf of she buffalo.

13. In view of the observation by Hon''ble the Supreme Court in the case of Hasmattullah (supra), it is for the Municipal Corporation and the state to ensure that in the newly set up slaughter house total ban should be imposed on the slaughter of cows, calf of cow and calf of she-buffalo.

14. We are not agree with the submission made on behalf of the petitioner that there should be total ban on the slaughter of animals as claimed in the writ petition, therefore, we are not inclined to issue any writ order or direction to cancel the allotment of land for construction of slaughter house at village Chainpura. We are also not inclined to restrain the Municipal Corporation to take any step for construction and for running of slaughter house by the butchers at village Chainpura as the Municipal Corporation has right/power or authority to establish slaughter house within the municipals limits at Jaipur or in the area or Panchayat Chainpura.

15. The petitioner is not able to make out any case as to how Section 237 of the Rajasthan Municipalities Act, 1959 is ultra vires, we are also not going to restrict the butchers from slaughtering animals like goat and sheep etc. in mechanic slaughter house or in any slaughter house which are in operation after obtaining licence under the Slaughter House Rules, 2000.

16. In, view of the aforesaid observation, the writ petition stands disposed of.