
(2000) 11 KAR CK 0010
In the Karnataka High Court
Case No : Writ Petition No. 15278 of 1998

People for Animals

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 29-11-2000

Acts Referred:

Prevention of Cruelty to Animals Act, 1960 — Section 21, 22, 22 (ii), 24

Citation : (2001) 1 KCCR 175

Hon'ble Judges : Ashok Bhan, J;A.V. Srinivasa Reddy, J

Bench : Division Bench

Advocate : K. Sarojini Muthanna, for the Appellant; G.S. Visweswara, for Respondent 5 and N.K. Ramesh, A.G.A. for Respondents 1 to 4, for the Respondent

Final Decision : Dismissed

Judgement

A.V. Srinivasa Reddy, J.—The Petitioner claiming to be an organisation interested in the preservation and protection of all animals has filed this petition seeking for a writ of mandamus to the respondents to ban the exhibition of performing animals in Karnataka.

2. The Petitioner has averred in the petition that the confinement of animals by the 5th respondent in cages for 23 hours causes disturbing behavioural patterns in wild animals and they turn violent because of the cruelty they are subjected to in their lives. According to the Petitioner the animals which are tethered 24 hours a day show stress and neurotic behaviour. This exposes the people both inside the circus and outside the circus where the circus is being exhibited. The various animal activists such as the Petitioner raised their voice against the plight of the animals in the fifth respondent Gemini circus by holding demonstrations and writing to the respondents-authorities but there was no positive response from the authorities and the fifth respondent had been granted the licence under the Licensing and Controlling of Places of Public Amusements (Bangalore City) orders, 1989 despite the protests by the animal activists. Aggrieved by the

inaction of the authorities in preventing the cruelty to the animals that are exhibited in the circus, the Petitioner-organization has filed the petition.

3. Heard the learned Counsel for both the parties.

4. The point that arises for our consideration is, whether the Petitioner is entitled for the relief sought for in the writ petition.

5. The learned Counsel for the Petitioner has fairly conceded that prayers 2 to 6 of the writ petition do not arise for consideration in view of the fact that the Gemini Circus against which the writ petition was filed is no longer performing its circus in State of Karnataka. That takes us to the prayer No. 1, namely, a direction to the respondents to ban the exhibition of performing animals in Karnataka. In order to appreciate the contention of the learned Counsel for the Petitioner, it is necessary for us to refer to some provisions of law relating to performing animals. The Parliament has enacted the Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as, "the Act No. 59 of 1960"). Subsequently, the Parliament has also enacted the Wildlife Protection Act, 1972 (hereinafter referred to as "Act No. 53 of 1972"). At the outset, we may point out that both the Acts govern the different aspects of wildlife preservation. In the former Act, namely Act 59 of 1960, Chapter 5 deals with performing animals. Sections 21 and 22 of Chapter 5 is relevant for our purpose. They read:

21. "Exhibit" and "train" defined.-In this chapter, "exhibit" means exhibit at any entertainment to which the public are admitted through sale of tickets and "train" for the purpose of any such exhibition and the expression "exhibitor" and "trainer" have respectively the corresponding meanings.

22. Restriction on exhibition and training of performing animals.-No person shall exhibit or train-

(i) any performing animal unless he is registered in accordance with the provisions of this chapter.

(ii) as a performing animal which the Central Government may, by notification in the official Gazette, specify as an animal which shall not be exhibited or trained as a performing animal.

6. The learned Counsel has also pressed into service certain provisions of Wild Life Act of 1972. The contention of learned Counsel for the Petitioner with reference to Act 53 of 1972 are without any merit for the simple reason that the relief sought is in respect of certain performing animals. Neither the vires of the Act 53 of 1972 nor any of the provisions of the said Act are under challenge in the present writ petition.

7. A Division Bench of Kerala High Court in N.R. Nair and Others, Vs. Union of India (UOI) and Others, had occasion to consider certain provisions of the Act 59 of 1960 with reference to the performing animals and in that regard, a notification produced before the Kerala High Court was taken note of under which

the Central Government had issued a notification dated 14.10.1988 in exercise of the powers conferred u/s 22 of Act 59 of 1960 specifying the following animals shall not be exhibited or trained as performing animals with effect from the date of publication of the notification. They are:

1. Bears. 2. Monkeys 3. Tigers 4. Panthers 5. Lions

The notification dated 14.10.1998 was to come into effect from the date of publication of the same in the gazette. The learned Counsel has also produced a true copy of the gazette extraordinary whereunder the above notification was published on October 15, 1998. On a detailed consideration of several contentions urged by the contesting parties the Kerala High Court upheld the validity of the notification dated 14.10.1998. Thus, with effect from October 15, 1998 the restriction on exhibition and training of performing animals would also extend to bears, monkeys, tigers, panthers and lions. But, that would not bar the exhibition of all performing animals. Nothing could prevent a person duly registered under Act 59 of 1960 to exhibit and train animals other than those specified under Sub-clause (ii) of Section 22. The first prayer of the Petitioner, however, is to ban exhibition of all performing animals in the State of Karnataka which is not stipulated by the Act itself. Such a prayer which is opposed to the letter and spirit of the Act cannot be granted unless the vires of Act 59 of 1960 is challenged. Section 24 also empowers the Magistrate to prohibit or restrict exhibition and training of performing animals if he is satisfied on a complaint made to him that the training and exhibition of any performing animal results in unnecessary pain or suffering. Therefore, any violation of Section 22 of Act 59 of 1960 can be stalled by resorting to the provisions provided in the statute itself. It is by now well-settled that where an effective statutory remedy is available, the person aggrieved cannot set in motion the special remedy of public interest litigation. The petition is misconceived and, therefore, is liable to be dismissed.

We, accordingly, dismiss the petition.