
(2017) 12 DEL CK 0365

In the Delhi High Court

Case No : Civil Writ Petition No. 2316 Of 2017

Saurabh Gupta & Anr

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 15-12-2017

Acts Referred:

Transport Of Animals Rules, 1978 — Rule 47, 48, 49, 50, 51, 52, 53, 54, 55, 56
Prevention Of Cruelty To Animals Act, 1960 — Section 38

Citation : (2017) 12 DEL CK 0365

Hon'ble Judges : Gita Mittal, J;C. Hari Shankar, J

Bench : Division Bench

Advocate : Anupam Tripathi, Bharathi Rahu, Sanjoy Ghose, Pravesh Thakur

Final Decision : Disposed Of

Judgement

Gita Mittal, J

CM No.38183/2017

For the reasons stated in the application, delay in filing the counter affidavit on behalf of respondent Nos.1 to 4 is condoned.

The counter affidavit be taken on record.

CM stands disposed of.

W.P.(C) No.2316/2017

1. This writ petition is an important issue regarding illegal transportation of cattle, which is in violation of the Rules 47 to 56 of the Transport of Animals Rules, 1978. These Rules have been enacted in exercise of powers conferred under Section 38 of the Prevention of Cruelty to Animals Act, 1960.

2. The petitioner complains inter alia that a requisite certification from a

veterinary expert is not being obtained prior to the animals being herd together in transport and moved from one place to another.

3. Premised inter alia on these submissions, the writ petition seeks the following prayers:

â??a) Writ, order or direction in the nature of Mandamus or any other appropriate writ, order, direction for directing the Respondent No.2

i.e. Ministry of Home Affairs, Respondent No.4 Ministry of Food Processing Industries, Respondent No.5 i.e. Animal Welfare Board of

India, Delhi for issue of notifications and guidelines to be followed by the Police Station concerned in cases of illegal Transport of Cattle

reported to them.

b) Writ, order or direction in the nature of Mandamus or any other appropriate writ, order or direction including Writ of Certiorari

directing/issuing guidelines that the Courts of Magistrates are to follow in cases of illegal Transport of Cattle pending before them/that are

reported to them.

c) Writ, order or direction in the nature of Mandamus or any other appropriate writ, order or direction directing the Respondent No.1 i.e.

MOEF and Respondent No.6 i.e. MOEF State and Respondent No.5 i.e. AWBI to set up a raiding team to prevent and curb illegal transport

of cattle and for enforcement of Transport of Animal Rule, 1978.

d) Writ, order or direction in the nature of Mandamus or any other appropriate writs, order, direction for directing the Respondents Union

of India through the Secretary Ministry of Environment, Forest and Climate Change, Ministry of Home Affairs, Ministry of Road Transport

and Highways, Ministry of Food Processing Industries Animal Welfare Board of India, Government of Delhi and NCT through the Secretary

Department of Environment, Department of Home, Department of Food Safety and East Delhi Municipal Corporation for issuing guidelines

to be followed by the slaughter houses and to comply strictly with such guidelines or else hold them accountable and liable in cases of

failure of compliance thereof.

e) Pass such other order or orders as this Honâ??ble Court may deem fit in the facts and circumstances of this case and in the interest of

justice, equity and good conscience.â??

4. It cannot be denied that the issues flagged by the writ petitioner are important and that the requirement with the statutory provisions of Prevention

of Cruelty to Animals Act, 1960 as well as Rules 47 to 56 of the Transport of Animals Rules, 1978 is mandatory. No violation thereof can be countenanced.

5. In the counter affidavit filed by the Delhi Police, a Standing Order No.31/2010, vide No.10001-10250/RB/PHQ dated 19.10.2010 has been placed

before us. This Standing Order has been issued to ensure compliance of provisions of the Prevention of Cruelty to Animals Act, 1960.

6. The writ petitioner has pointed out that even though the Standing Order has been put in place and continues to bind the Delhi Police, the same is not being complied with.

7. The respondent No.1 to 4 " Union of India have also filed a detailed counter affidavit. A perusal thereof would show that though the reference is

made to the enactment as well as the Transport of Animals Rules, 1978, these respondents have largely referred to the order dated 13th July, 2015

passed by the Supreme Court in Gauri Maulekhi vs. Union of India [Writ Petition (Civil) No.881/2014)] regarding illegal smuggling of animals from

India to Nepal.

Additionally, reference has been made to a Draft Notification No.GSR 745 (E) notifying draft rules with regard to the transportation of livestock,

which was circulated as back as on 27th October, 2014 without anything more having been undertaken.

8. The respondent No.9-East Delhi Municipal Corporation has filed the counter affidavit referring to slaughter houses and meeting held on 16th

January, 2014 with regard thereto.

9. It is evident from the above that necessary regime as well as Rules stand notified and are put in place. The Delhi Police has also issued the

Standing Order as back as in the year 2010.

None of the affidavits filed before us has disclosed any aspect of compliance with the provisions of the Prevention of Cruelty to Animals Act, 1960 as

well as Rules 47 to 56 of the Transport of Animals Rules, 1978 thereof.

None of the authorities have placed before us any prosecution or punitive action

against even a single person for violating the same.

To say the least, not a single instance of violation of statutory provisions has been pleaded in the counter affidavits.

10. The petitioner has placed some photographs of actual instances of violations and has also referred to twenty one First Information Reports

registered by the Delhi Police.

Action on these complaints deserve to be taken.

11. In view of the above, it is directed that the respondents shall ensure compliance of the provisions of the Prevention of Cruelty to Animals Act,

1960 as well as Rules 47 to 56 of the Transport of Animals Rules, 1978.

12. The police shall abide strictly by the requirement of the Standing Order of 2010.

13. The respondents shall ensure very prompt action upon every complaint received regarding illegal transportation of the animals in violations of the aforesaid legal provisions including the FIRs already registered by them.

This writ petition is disposed of in the above terms.