
(1993) 04 AP CK 0033

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13062 of 1992

Smt. Satyavani and another

APPELLANT

Vs

A.P. Pollution Control Board and others

RESPONDENT

Date of Decision : 06-04-1993

Acts Referred:

Andhra Pradesh Prohibition of Cow Slaughter and Animal Preservation Act, 1977 —
Section 5, 6, 6(1), 6(2)
Constitution of India, 1950 — Article 134, 19, 19(1), 48A, 51A
Criminal Procedure Code, 1973 (CrPC) — Section 195
Environment (Protection) Act, 1986 — Section 5
Industries (Development and Regulation) Act, 1951 — Section 11
Penal Code, 1860 (IPC) — Section 191

Citation : AIR 1993 AP 257

Hon'ble Judges : Sivaraman Nair, J;S.V. Maruthi, J

Bench : Division Bench

Advocate : S. Ramachandra Rao and A. Ramamurthy, for the Appellant; E. Kalyan Ram, S.C., Govt. Pleader, P. Innayya Reddy, Sr S.C., M/s. Gopal Subramanya and P. Venugopal, for the Respondent

Judgement

Ms. S.V. Maruthi, J.—This Writ Petition is filed by Smt. Satyavani, Head of the Women Wing of the Society for protection of animals for the State of Andhra Pradesh, Hyderabad and another one Dr. A. Kishan Rao. Smt. Satyavani is the Honorary Animal Welfare Officer of the Animal Board Government of India. The 2nd petitioner is also an Honorary Animal Welfare Officer of the State Board.

2. The relief claimed in this writ petition is an injunction restraining the respondents 1 to 5 from making any type of killing of animals for any purpose. After the filing of the writ petition, a petition was filed for amending the prayer in the writ petition by adding the additional prayer, namely, to set aside the industrial licence granted to the 5th respondent in November, 1992 by the Union of India, Industries Department and to declare the same as illegal. The petition was allowed on 2-2-93.

3. It is necessary briefly to refer to the facts which led to the filing of the writ petition:

M/s, Al-Kabeer Exports Ltd., 5th respondent in the writ petition is a public limited company incorporated under the Indian Companies Act, 1956. It carries on business of processing meat and supply of exporting the frozen meat. They applied for industrial licence on 30th January, 1989 u/s 11A of the Industries (Development and Regulation) Act, 1951, seeking permission for the establishment of a modern Buffalo and Mutton Meat Processing Food Project to be located at Rudraram village, Patancheru mandal, Medak district. The scheme envisaged the processing of about 15,000 tons of buffalo meat, 3,500 tons of mutton meat and about 300 tons of fruits and vegetables. The scheme expected to generate a net foreign exchange in flow of about 72 crores of rupees during the first five years. They have obtained permission from the District Revenue Officer, Medak on 15-3-89 to appropriate agricultural land to non-agricultural purpose. The Gram Panchayat, Rudraram, issued No Objection Certificate (hereinafter referred to as "NOC") on 24th March, 1989 for establishment modern abattoir. Andhra Pradesh Pollution Control Board also issued "NOC" on 13-4-89 for setting up the unit at Rudraram village subject to the condition that the trade and domestic effluents should be treated to the standards laid down in the concerned I.S.I. norms and that the industry should submit the detailed proposals on the effluent treatment and air pollution control measures along with the commissioning of the industry. The District Medical and Health Officer, Medak district accorded permission for the project on 3-5-89 subject to conditions laid down for the construction of the plant. Director of Town and Country Planning approved the lay-out on 31-5-89. Gram Panchayat, Rudraram in its proceedings dated 26-6-89 accorded sanction of lay out of factory building as per the plan enclosed by the 5th respondent. Director of Animal Husbandry issued NOC on 13-7-89 to establish the factory at Rudraram. Director of Factories approved the plans of the factory on 2-9-89, subject to the conditions laid down for such construction under the Factories Act. The National Airports Authority cleared the proposal on 16-10-1989. In view of the above, the State Government recommended for grant of industrial licence to the 5th respondent on 4-5-89. The Government of India in turn issued the Industrial Licence on 18-7-89. The Gram Panchayat, Rudraram, accorded sanction for construction of factory building on 29-6-89. The permission was further extended for a period of one year from 29-6-89 in G.O. Rt. Nos. 1455, Panchayat Raj and Rural Development Dept. dated 15-9-90. The Gram Panchayat, Rudraram accorded renewal permission on 3-6-91 for construction of buildings from 29-6-91 to 28-6-92. The State Government also accorded environmental clearance after enquiry on 22-7-1991 for locating the industry at Rudraram village. In pursuance of the NOC and the building plan approval issued by the Gram Panchayat, Rudraram, the 5th respondent commenced construction of the factory buildings. The Executive Officer of the Gram Panchayat at that stage issued a notice on 24-7-90 to the 5th respondent directing them not to proceed with the construction and to stop all

further work till further orders. The 5th respondent then filed a revision petition before the Government of Andhra Pradesh in P. R. and R. D. Department. The said revision was allowed by the Government setting aside the notice issued by the Gram Panchayat dated 24-7-90. The Government also renewed the building permission for a further period of one year from 29-6-90. During the hearing before the Government on the revision, seven Organisations filed their objections to the establishment of the Industry by the 5th respondent in Rudraram. Against the order of the Government setting aside the notice dated 24-7-90, Jeeva Rakshaka Prachara Mandal and others filed W.P. Nos. 13763 and 13808 of 1990, 1041/91, seeking cancellation of the various licences and permissions granted by the different authorities of the State and Central Government. The said Writ Petitions were dismissed by this Court on 16-11-1991, along with Writ Appeals 1281, 1282, 1325 and 1359 of 1990. While dismissing the writ petitions, the learned Judges observed that under the Industries (Development and Regulation) Act, 1951, it is for the Central Government to determine the location of the undertakings. It determined the location of the unit and granted permission in favour of the 5th respondent M/s. Al-Kabeer. Since it is the Central Government which is the competent authority about the location of industrial undertaking under the Industries (Development and Regulation) Act, 1951, the State Government cannot decide about the location of an industrial undertaking in respect of which Letter of Intent (hereinafter referred to as "LOI") had already been granted by the Central Government. The learned Judges noticed that before granting LOI, the 5th respondent approached the A. P. Pollution Control Board which has granted NOC on 15-4-89 subject to certain conditions and the Agricultural and Processing Food Export Development Authority in its letter dated 28-8-91 observed that according to 1982 Livestock census of the Ministry of Agriculture, buffalo population in Andhra Pradesh was estimated at 8.7 million and therefore the area was suitable for setting up the proposed unit, The learned Judges also noticed that the Government of Andhra Pradesh also issued Environment Clearance Certificate on 22-7-1991 for setting up the unit at Rudraram village. It was also noticed that the food processing industry does not require any licence under the Industries (Development and Regulation) Act, 1951 under the liberalised industrial licencing policy taken in 1991. However, having regard to the apprehension expressed by the petitioners that the establishment of mechanised slaughter-house at Rudraram village would result in total depletion of the cattle population and that the surrounding areas have already been badly affected by water, air and environmental pollution and it is one of the fundamental principles in the governance of the country enunciated in Article 48A of the Constitution of India that the State shall endeavour to protect the environment and it is one of the fundamental duties of every citizen of the country to protect and improve the natural environment and to have compassion for living creatures, directed the State Government to prepare a detailed report regarding the water, air and environmental pollution, if any, as at present in Rudraram village and surrounding villages of Patancheru Mandal, Medak district, having regard to the provisions of the Water (Prevention and Control of Pollution)

Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, and the Environment (Protection) Act, 1986 and the rules made thereunder, the likely effect of the setting up of the mechanised slaughter house at Rudraram village on the prevailing environment, and also its likely effect on the cattle wealth in the area, after considering the representations which the petitioners in the writ petitions and other interested Parties may submit in writing in the matter. The Bench also observed that the State Government shall prepare and submit a detailed report to the Central Government within eight weeks from the date of receipt of the copy of the judgment and on receipt of the report, the Central Government shall consider the same, having regard to the provisions of the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, (1981, the Environment (Protection) Act, 1986 and the Industries (Development and Regulation) Act, 1951 and pass appropriate orders in relation to the establishment of the mechanised slaughter-house (abattoir) At Rudraram village, Patancheru Mandal, Medak district, within eight weeks from the date of the receipt of the report.

4. The Jeeva Rakshak Prachar Mandal and other organisations also made representation to the Government against the establishment of the factory. On the basis of the representations, the Director of Animal Husbandry was asked to re-assess the impact of establishing the slaughter house on the cattle wealth. The Animal Husbandry Department after conducting a survey presented a report suggesting that the modern slaughter house will have negligible effect on the cattle population. Thereafter, the Cabinet considered the report on 3-9-90 and resolved that no decision is required from the Cabinet.

5. In pursuance of the directions issued by the High Court in the writ petitions referred to supra, one Sri R. V. Krishnan, Principal Secretary, Energy, Forest Environmental Science and Technology Department made a report on the pollution and environmental and other aspects of the proposed slaughter house. While submitting his report, Mr. Krishnan considered (1) the representations made by 27 organisations, (2) representation of the 5th respondent, (3) views expressed by the Member-Secretary, A. P. Pollution Control Board on environmental aspect, (4) views expressed by Sri Y. S. Murthy Environmental Expert, on air and water pollution, (5) depletion of cattle wealth, (6) views of the journalists, (7) views of the Industries and Commerce Department and the views expressed by the Food and Agriculture Department. In his report Sri Krishnan found that "..... water and air pollution can be effectively controlled if adequate anti-pollution equipment are installed and operate, as most of the waste material is bio-degradable in nature and leaves very little by way of residue. The Secretary, A. P. Pollution Control Board has inspected the Pollution control arrangements put up and proposed to be put up by the factory and has given the opinion that they are substantially adequate to control air and water pollution if they are operated regularly..... industry may be requested to instal additional water pollution control facilities such as provision of exudation ponds and pisciculture ponds, in addition to the treatment facility proposed by the industry.

It must be stipulated that the effluent after treatment shall be utilised for growing vegetation inside the factory. Under no circumstances, it should be allowed to reach any water course. It may also be stipulated to provide at least ten meters of green belt around the factory and vegetation inside the factory in open spaces. The Pollution Control Board should periodically inspect the factory to ensure that the pollution control equipment is properly operated to eliminate water and air pollution.

6. The industry may be requested to submit a detailed Environmental Impact Study and also Environment Management Plan as agreed to by the representatives during their representation. The decision to give second NOC by the Pollution Control Board may be taken on the basis of the equipment installed by the Company for control of pollution and conclusions of the Environment Impact Study and Environment Management Plan.

7. On the question of depletion of cattle wealth, he found. ". . . .To start with, the capacity of the plant is so large that with the existing cattle wealth and possible increases thereto, will not be able to provide adequate input to this factory for more than a year or two unless drastic action is taken to increase the cattle wealth in the surrounding areas."

8. He, therefore, advised that ". . . . it is essential to insist on the company to ensure that there is an effective programme to raise feed cattle on their own initiative for not less than 50% of the capacity so that the impact on the surrounding area is limited to this extent at least. Further increases in capacity can be considered only if the company increases its own feed cattle. Eventually the Company will have to produce feed cattle for their entire extent of operations so as to minimise the impact on the existing cattle wealth."

The report was dated 22nd July, 1992.

9. One K. Purushottam Reddy and Mr. P. K. Jain also filed W. P. No. 6704 of 1991 against the Hyderabad Metropolitan Water Supply and Sewerage Board and four others. This Court by order dated 27-5-92 issued notice to the respondents and in the meantime stopped the Board from considering all proposals for sale of water to the fifth respondent's factory.

10. Dr. Kishanrao, 2nd petitioner herein along with Ahimsa Trust filed another W. P. No. 8193/92 against A. P. Pollution Control Board and four others. This Court directed that objection certificate if any granted by the A. P. Pollution Control Board in the meanwhile shall be subject to further orders in the W.P.M.P.

11. Akhil Bharat Goseva Sangh filed a fresh Writ Petition No. 10454/92 against the State of Andhra Pradesh. The A. P. Pollution Control Board on an application made by the 5th respondent granted permission to the 5th respondent's unit to conduct test run of the machinery and equipment as foreign technicians had arrived at the project site and the imported machinery and equipment were in warranty period.

12. Dr. Krishnarao along with Satyavani again filed the present W. P. No. 13062/92. Though interim directions were issued, they were, however, vacated by order dated 31-12-1992.

13. Before considering the arguments of Sri Ramchandrarao, learned counsel for the petitioners, we may refer to the conditions subject to which the LOI was granted on 18-7-1989 by the Government of India: It provides for manufacture of the following:

Item(s) of manufacture Annual capacity

1. Frozen buffalo meat. 14775 tonnes.

2.

Frozen buffalo meat Added products such as curry, burgers, sausages etc.
225 tonnes.

3. Frozen mutton meat. 3240 tonnes.

4.

Frozen mutton meat Added products such as curry, burgers, sausages etc.
360 tonnes.

The conditions stipulated in the LOI are:

(1) Buffaloes to be slaughtered shall be subject to anti-mortem and post-mortem examination by the concerned authorities;

(2) Only old and useless buffaloes shall be slaughtered and, for this purpose, their production and processing shall be subject to continuous inspection by the municipal authorities, Animal Husbandry and Health Department of the State Government or any other arrangement which the Central or State Government may evolve for ensuring this;

(3) Slaughter of cows of all ages and calves of cows and of buffaloes male or female, shall be prohibited;

(4) Factory shall undertake measures for preserving/improving the breeds of the buffaloes by adoption of suitable animal husbandry practices in consultation with the State Government; and

(5) At least 90% production of frozen buffalo meat would be exported for a period of ten years which may be extended by another five years at the discretion of the Government. The relevant conditions in the annexure attached to the LOI are as follows:

Adequate steps shall be taken to the satisfaction of the Government to prevent air, water and soil pollution. Such anti-pollution measures to be installed should conform to the fulfilment and emission standards prescribed by the State

Government in which the factory of the industrial undertaking is located....

Further adequate safety measures as provided in the Factories Act shall be made to the satisfaction of State Government in which the factory of the industrial undertaking is located;

The new industrial undertaking or the industrial activity for effecting substantial expansion or for manufacture shall not be located within 50 kilometres from the boundary of the standard urban area limits of any city having a population of more than 25 lakhs according to the 1991 census."

14. Before grant of LOI to the 5th respondent, 5th respondent obtained clearance from, the Directorate of Animal Husbandry and Andhra Pradesh Pollution Control Board. It is necessary to refer to the conditions subject to which, the Animal Husbandry Dept. gave clearance to the project:

".....No Objection Certificate to establish an abattoir at Rudraram village of Medak district is hereby issued to M/s. Al-Kabeer Exports Ltd., Hyderabad, subject to fulfilment of provisions under Sections 5 and 6(1) of Andhra Pradesh Prohibition of Cow Slaughter and Animal Preservation Act, 1977 and also subject to fulfilment of conditions prescribed under para. 123 of Animal Husbandry Department Manual."

"The Deputy Director (AH) Medak at Sangareddy is requested to make periodical visits to this proposed abattoir, and ensure that all the above conditions are being followed scrupulously." "

15. Paragraph 123 of the Animal Husbandry Manual stipulates the following conditions:

"123. Categories of animals prohibited from being slaughtered:

(1) The slaughter of the following categories of cattle for purposes of consumption either by civil or military authorities is prohibited;

(i) Cattle below three years of age;

(ii) Male cattle between three and ten years of age which are used for or likely to be used as working cattle;

(iii) All cows between three and ten years of age capable of producing milk other than cows which are unsuitable for bearing offspring and;

(iv) All cows which are pregnant or in milk.

Explanation:-- The terms "Cattle" and "Cows" include buffaloes."

16. Section 5 of Andhra Pradesh Prohibition of Cow Slaughter and Animal Preservation Act, 1977 (hereinafter referred to as "Act 11 of 1977") prohibits slaughtering of cows or calves or she-buffaloes.

Sub-section (1) of Section (6) of the said Act provides for slaughters of animals

subject to the condition of obtaining certificate from the competent authority appointed for the area that the animal is fit for slaughter. Subsection (2) of Section 6 provides for grant of certificate in respect of the animals referred to under sub-section (1) of Section 6. Subsection (2) of Section 6 provides that no certificate shall be granted under sub-section (1), if in the opinion of the competent authority, the animal is or is likely to become economical for the purpose of -- breeding or draught or any kind of agricultural operations; or giving milk or bearing offspring. However, the refusal for grant of certificate should be accompanied by reasons.

17. In other words, the Animal Husbandry Dept: while giving NOC imposed conditions to be fulfilled not only under Act 11 of 1977, but also under paragraph 123 of the Animal Husbandry Manual. Persons who violate the provisions of the Act are liable for conviction with imprisonment for a term which may extend to six months or with fine and the violation is a cognizable offence.

18. The Andhra Pradesh Pollution Control Board by their letter dated 13-4-1989, while granting NOC to the 5th respondent imposed the following conditions:

"1. The industry shall treat the trade and domestic effluents to the standards laid down in IS 2490 Part 1, 1981 2nd revision and shall use the treated effluent in their own land for irrigation.

2. The Industry shall submit the detailed proposals on effluent treatment and air pollution control for Board's perusal within two months from the date of issue of this letter. If the proposals are found to be unsuitable the NOC issued will be cancelled.

3. The industry shall construct and commission the effluent treatment plant and air pollution control measures; along with the commissioning of the industry.

4. The industry shall carry out the necessary measures to control air pollution so as to meet the following standards;

1. SPM -- 115mg/Nm(sic)

2. SO(sic) -- 800"

5. The industry shall install the stack after suitably designing the height and diameter of stack strictly adhering to the ground level concentrations (enclosed) and other meteor-logical factors."

19. The A. P. Pollution Control Board by their letter dated 25-7-89 clarified the conditions imposed in the NOC dated 13-4-89 in the following manner:

The domestic wastes can be mixed with industrial effluents and treated in the proposed treatment plant to the prescribed standards. However, if it is proposed to treat it in septic tanks, the same shall be followed with sub surface open jointed filed drain for proper dispensation. It was also mentioned that the industry shall comply with the second NOC of the Board before the factory goes into trial

production.

20-21. From the above, it is clear that before the LOI was issued by the Government of India,"the Animal Husbandry Department as well as the A.P. Pollution Control Board had granted clearance to the project in question.

22. The purpose of the project is to earn foreign exchange; and therefore the establishment of the same is incidentally in the national interest as well. According to the project report of the 5th respondent, the Chernobyl nuclear disaster forced Russia and East European countries to look for meat outside. Indian animals are raised on green and natural fodder unlike in advanced countries where they are fed on artificial hormones and syntehctic nutrients. The buffaloes meat is far superior to beaf, cow and ox meat in quality and taste and is considered to be the healthiest meat for human consumption because it is low in calories and cholesterol and high in protein. The project would generate direct employment of around 300 local people besides giving boost to ancillary industries like leather, pharmaceuticals, mutton tallow etc., thus generating indirect employment.

23. The Supreme Court in Mohd. Hanif Quareshi and Others Vs. The State of Bihar, while upholding the validity of Bihar Preservation and Improvement of Animals Act and other enactments held that a total ban on the slaughter of she-buffaloe after they cease to be capable of yielding milk or of breeding, or working as draught animals cannot be supported as reasonable in the interest of the general public, thus recognising it as a fundamental right under Article 19(1)(g) of the Constitution of India.

24. According to the Supreme Court, "The country is in short supply of milch cattle, breeding bulls and working bullocks. If the nation is to maintain itself in health and nourishment and get adequate food, our cattle must be improved. In order to achieve this objective our cattle population fit for breeding and work must be properly fed and whatever cattle food is now at our disposal and whatever more we can produce must be made available to the useful cattle which are in praesenti or will in future be capable of yielding milk or doing work. The maintenance of useless cattle involves a wasteful drain on the nation's cattle feed. To maintain them is to deprive the useful cattle of the much needed nourishment. The presence of so many useless animals tends to deteriorate the breed. Total ban on the slaughter of the cattle, useful or otherwise, is calculated to bring about a serious dislocation, though not a complete stoppage, of the business of a considerable section of the people who are, by occupation, butchers (kasais), hide merchants so on. Such a ban will also deprive a large section of the people of what may be their staple food. At any rate, they will have to forgo the little protein food which may be within their means to take once or twice in the week. Preservation of useless cattle by establishment of Gosadans is not, for reasons already indicated, a practical proposition.. Preservation of these useless animals by sending them to concentration camps to fend for themselves is to leave them to a process of slow death and does no good to them. On the

contrary, it hurts the best interests of the nation in that the useless cattle deprive the useful ones of a good part of the cattle food, deteriorate the breed and eventually affect the production of milk and breeding bulls and working bullocks, besides involving an enormous expense which could be better utilised for more urgent national needs." While holding as above, the learned judges have taken note of the following circumstances, namely:

".....Drastic and stringent regulations have been imposed by municipal laws and have been tried but experience shows that they are not sufficient at least to protect the cow. It has been found to be extremely difficult to enforce the regulations for inadequacy of staff and veterinary inspectors, little or no check on the veterinary inspectors who succumb to the pressure or inducements of the butchers and pass animals not really useless as and for useless and aged animals. A large percentage of the animals not fit for slaughter are slaughtered surreptitiously outside the municipal limits."

25. In other words, maintenance of useless cattle involves a wasteful drain on the nation's cattle feed. To maintain them is to deprive the useful cattle of the much needed nourishment. Further, the fact that it is extremely difficult to enforce the regulations for inadequacy of staff and veterinary inspectors, little or no check on the veterinary inspectors who succumb to the pressure or inducement of butchers is not a relevant consideration in holding that the total ban on the slaughter of she-buffaloes etc. is not a reasonable restriction in the interest of general public.

26. The argument of Sri Ramachandra-rao is that the LOI is a licence to commit crime and is in violation of the provisions of Act 11 of 1977. We have already extracted the provisions of Act 11 of 1977. Section 6 of Act 11 of 1977 imposed prohibition on slaughtering of animals without a certificate from the competent authority. The competent authority cannot grant a certificate, if in its opinion, the animal is likely to become economical for the purpose of breeding or draught or any kind of agricultural operations or giving milk or bearing off-spring. If the authority refuses to issue a certificate, it has to give reasons for such refusal. The provisions imposed a check on the slaughter of the animals and in the absence of a certificate, animals cannot be subjected to slaughter.

27. We have already extracted the conditions subject to which the LOI was granted, according to which, only useless buffaloes shall be slaughtered and the project shall be subject to continuous inspection by the municipal authorities, Animal Husbandry and Health Departments of the State Government or any other arrangement which the Central or State Government may evolve. In other words, before the animal is subjected to slaughter, the certificate of the competent authority is mandatory. In view of the judgment of the Supreme Court referred to above, and when slaughter is subject to fulfilment of the State laws and when State Act itself permits slaughter of animals, subject to certain conditions, we are unable to appreciate how the LOI would amount to granting a licence to commit crime or constitute a cognizable offence.

28. Before the LOI was issued, the 5th respondent obtained clearance from the Directorate of Animal Husbandry. The -Directorate of Animal Husbandry by their Lr.Roc. No. 22455/18/89 dated 13-7-89 cleared the proposal subject to the conditions mentioned therein. We have already extracted the conditions subject to which the clearance was given in the earlier paragraph. In view of the agitation by some organisations, the matter was re-examined and fresh discussions were made between the Animal Husbandry Department and Secretary, Food and Agriculture and Secretary, Industries Department, on the question of State's slaughter policy. The Director of Animal Husbandry, on a re-examination of the issues on 21-12-1990, observed as follows:

".... According to the quinquennial livestock census the total bovine population for the census years 1977-83 and 87 are as follows:

(Figures in lakhs)

	Cattle	Buffaloes	Total	Percentage of increase/ Decrease
1977	127.41	71.62	192.03	
1983	132.20	87.04	219.24	+ 13.73
1987	123.74	87.57	211.31	- 3.25

The bovines slaughtered as per the figures available in all the recognised slaughter houses in Andhra Pradesh are as follows:

(Figures in lakhs)

	Cattle	Buffaloes	Total
1987-88	1.83	2.41	4.24
1988-89	1.88	1.97	3.85
1989-90	2.61	2.01	3.82

The average slaughter per centage for both buffaloes and cattle put together works out to around 2%.

The additional slaughter rate of 1.5 lakh buffaloes every year, the total capacity of the proposed slaughter house (Al-Kabeer) would step up the total slaughter percentage of both buffaloes and cattle put together to 2.6%. In regard to buffaloes, exclusively, the slaughter percentage works out to 4%.

In nature under favourable conditions 5% increase is expected in population. As such, the present slaughter percentages worked out on the available figures i.e. 2.6% among buffaloes and cattle, and 4%. among buffaloes exclusively is within the limits.

Since cow slaughter is banned, no female animal or white cattle can be slaughtered in Andhra Pradesh. Even among buffaloes, only male animals are

sent to slaughter houses for slaughter. Because of these reasons also, the slaughter rate as mentioned above will have very negligible effect on population growth."

29. Again on 28-9-1991, the issue was considered by the Director of Animal Husbandry and he reiterated the observations made in the letter dated 21-12-1990 referred to supra. The Cabinet which met subsequently has not expressed any opinion different from what the Director of Animal Husbandry had expressed. Therefore, the issue was considered by the Government on three occasions and has taken the consistent stand that the establishment of slaughter house by the 5th respondent does not have any effect on the cattle wealth of the State.

30. In other words, NOC was issued by the Directorate of Animal Husbandry after taking into consideration the depletion of cattle population on account of project to be established by the 5th respondent and in their view the effect is negligible on the cattle growth.

31. The proceedings for the grant of NOC by the A.P. Pollution Control Board were started from 30th August, 1988 and the 5th respondent submitted its report along with the effluent treatment plan for the treatment of the waste water emanating from the sheep and cattle slaughter factory. The environmental engineer inspected the spot, water pollution and treatment proposals and air pollution from the industry and recommended for grant of NOC. The Pollution Control Board after examining the recommendations and the treatment proposals granted the first NOC on 13-4-1989. After discussing the matter with the 5th respondent, the Pollution Control Board imposed further conditions in their letter dated 25-7-89. The 5th respondent submitted its project report on Effluent Treatment Plant for the treatment of waste water emanating from the sheep and cattle slaughter factory.

32. We may also point out that the matter was also examined by the Energy, Forest, Environment, Science and Technology Department (E.F.E.S. & T.) of Government of Andhra Pradesh and by their letter dated 22-7-1991, Environmental Clearance Certificate was granted in favour of the 5th respondent subject to the following conditions:

"1. To provide green belt to a width of 25 metres all around the boundary on either side.

2. To strictly implement pollution control measures regarding solid and liquid waste disposal and for controlling odour as laid down by A.P. Pollution Control Board from time to time.

3. The industry should take up sufficient measures to safeguard the environment by utilising all the bio-products and not let out any of the effluents and prevent discharge of effluents outside their premises. The treated effluents should be used on their land for agriculture.

4. The clearance accorded is liable to be revoked as per Section 5 of the Environment (Protection) Act, if the conditions stated in the Environmental Clearance are not strictly complied with."

33. It follows from the above, that the Directorate of Animal Husbandry Department considered the effect of depletion of cattle wealth before the NOC was issued and the A.P. Pollution Control Board also had considered all the relevant aspects before granting the first NOC. Further, the environmental clearance certificate was issued by the Government of Andhra Pradesh, subject to the conditions, referred to above. From these, it is clear that the Government was alive to various considerations requiring thought and deliberations and has arrived at a conscious decision after taking them into account.

34. It is next contended by Sri Rama-chandrarao that the entire future of the State would result in depletion of cattle wealth. In support of his contention, he relied upon the comments made by the Secretary, Department of Food and Agriculture, State Report on Livestock Census, 1987, and the Report of All India Survey on Raw Hides and Skins, prepared by the Central leather Research Institute, Madras, indicating the depletion of cattle population. He also brought to our notice the Mysore Prevention of Cow Slaughter and Cattle Preservation Act and, also the enactments passed by the Madhya Pradesh and other States, prohibiting the transport of cattle from one State to another. Therefore, in view of the livestock census report and in view of the prohibition of transport of cattle from the one State to another, buffaloes may not be available to reach the required target of the 5th respondent, with the result that, the 5th respondent would adopt measures to violate the provisions of Act 11 of 1977.

35. According to the report of All India Survey on Raw Hides and Skins, "the availability of the livestock in India in relation to given human population is much lower compared to many livestock holding countries and hence it may not be correct to say India holds more than what it requires." The State Report on Livestock Census -- 1987 states "There were 27,535 he-buffaloes in the State which were not used either for breeding or for work. This category which formed 1.7 per cent of the total male buffaloes, declined by 42.3 per cent in the present census as compared to 1983 census. Non-descript and useless males (stray) buffaloes formed this category. Large numbers of this category were recorded in Nalgonda, Cuddapah and Warangal districts."

36. It is true that Sri H. K. Babu, Secretary, Department of Food and Agriculture, gave a dissenting note on the issue of depletion of cattle wealth. It is also true that Sri R. V. Krishnan in his report stated that it will have an effect on depletion of cattle wealth.

37. Commenting on the dissenting note of the Agriculture Secretary and Krishnan's report, the Chief Secretary observed that depletion of cattle wealth is a disputable area and that no figures have been given as the total figure for A.P. to substantiate the claim and that district figures alone is not enough. He also

pointed out that earlier the Department of Food and Agriculture has cleared the project.

38. On the question of depletion of cattle wealth, the 5th respondent is relying on the report of the Central Institute for Research on Buffaloes and the report of Agricultural Processed Food Products Export Development Authority, which are in their favour to the effect that the Project will not have any effect on the cattle wealth of the State.

39. The argument of Sri Ramachandra-rao is that in view of the depletion of cattle population in the State, the 5th respondent may adopt measures to acquire the animals which are prohibited for slaughter under the Act, thus violating the provisions of the Act. We have already referred to the observations of the Supreme Court in *M. H. Quareshi v. State of Bihar* supra made while considering a similar argument. At the cost of repetition, we repeat the said observations; ".....It has been found to be extremely difficult to enforce the regulations for inadequacy of staff and veterinary inspectors, little or no check on the veterinary inspectors who succumb to the pressure or inducements of the butchers and pass animals not really useless as and for useless and aged animals. A large percentage of the animals not fit for slaughter are slaughtered surreptitiously outside the muni-cipal limits.....". Therefore, the fact that the 5th respondent may adopt measures and acquire animals in violation of the provisions of the Act is not a ground either for not granting the No Objection Certificate or for cancelling the licence, in view of the observations of the Supreme Court that possible violation of the Act is not a ground for depriving the fundamental right of the persons who are engaged in the said business.

40. Conditions have changed considerably since then -- violations of statutory obligations by industry or business do not escape public scrutiny that easily now as it would have over thirty five years ago. Public are more enlightened about the impact of such violations -- thanks to the popular movements against environmental degradation and exploitation of consumers and the general awareness of the people of the need for stricter enforcement of laws which are meant to safeguard their interests. It is not as if violation of restrictive conditions may escape the regulatory machinery as easily in a large industrial undertaking as it may with a stray butcher somewhere, since the industry is more exposed to the public gaze. The more effective guarantee for strict enforcement of the norms subject to which the licence, permissions and certificates have been granted is an ever vigilant public opinion, even if attempts may perhaps be made to influence the regulators to condone such lapses. We find from the antecedent facts of this case that, if at all, there is only a surfeit, and not in any case any lack of awakened and enlightened public opinion which can function as sentinel to guard against any violation on the part of the industry.

41. The next issue relates to the environmental pollution. In this connection, it is necessary to quote the relevant paras of the counter-affidavit filed by the 5th respondent:

".....in a modern abattoir and meat processing plant, there are 2 types of wastes generated which need to be neutralised. These are solid wastes such as bones and trim ings, and the liquid waste which is waste water from the floor of the abbatoir. There is no air pollution as neither there is incineration of any kind nor is there any utilization of chemical in the entire process. The Company has ensured that both the solid and liquid waste is completely neutralised and has no adverse impact on the environment.

The solid wastes from the abattoir is transported in closed trolleys to the rendering plant The sole purpose of this plant is completely to neutralise all trimmings, bones, offals etc. by converting them into "meal" which is an essential ingredient in the manufacture of poultry feed. Briefly, the process (which is a closed process) consists of mincing-up all the raw materials in a large tank under high temparatures, and then putting the minced materials through a centrifuge which separates out the liquid and leaves behind dry, flaky and odourless pellete called meal.The liquid is sent to the Effluent Treatment Plant for further treatment.

The waste water from the floor of the abattoir and processing plant undergoes several stages of treatment before final discharge. Firstly, on the floor of the abattoir and processing hall, several hundred stainless steel traps are placed which block all trimmings larger than 1/2 a cm. from going through the drainage. These trimmings are sent to the rendering plant.

The water is then pumped through under ground pipes to the Effluent Treatment Plant imported from Holland at a cost of Rs. 54.5 lakhs. Here the water is once again passed through stainless steel rotary screen with a very fine mesh where all suspended impurities are captured and sent to the rendering plant, The waste water is then dosed with sodium hydride and ferric chloride. The heavier particles settle towards the bottom of the first tank and are cleared out to the rendering plant. The waste water is then passed to the flocculation tank where microscopic air bubbles are released which adhere to the remaining particles and float to the top of the tank. Here these solid particles are scrapped off the top and once again sent to the rendering plant. The entire treatment is called the Coagulation, Flocculation and Floation system and is specifically designed for treatment of abattoir/meat processing waste water. This technology is not indigenously available and is thus imported specially by the Company at significant expense. The equipment has already been installed at site.

While the water is now fit for discharge into the fields for irrigation, the Company does not stop here. The water is further pumped through pipes to large aeration tanks where the aerobic treatment of the water takes place. This process involved use of microscopic bacteria that consumes all the dissolved impurities in the water and enables the purity to reach beiw the 100 BOD level. The equipment for this process has been supplied by Thermax India

Although now fit for human consumption, the water will be discharged on 210

acres of land, purchased specifically for this purpose. Approximately 100 ac. of these 210 ac. has already been planted with maize, palm, mango, groundnuts etc. solely for utilisation of this water. In fact the treated effluent samples have been analysed in an approved laboratory of the A.P. Pollution Control Board and found that the B.O.D. in the discharge was only 8 which is far lower than the prescribed level....."

42. We have already referred to the material furnished by the 5th respondent, on the basis of which, the first NOC was issued. The 5th respondent applied to the Pollution Control Board on 17-7-1992 for grant of second NOC on the ground that the project was completely ready to commence trial production and that the foreign technicians (whose schedules all over the world are fixed well in advance) are on the site to test the equipment. In reply to the same, the Member Secretary of the Pollution Control Board stated that there is no necessity for any specific approval from Pollution Control Board to get the equipment tested by the foreign technicians. In the said letter, he also observed "that this is neither any permission nor approval for any clearance of trial production or forzen meat or transporting or movement of any finished goods outside the factory." In the meantime, there were some complaints by some Members of Parliament. On 19-8-1992, the Environmental Engineer inspected the project and he made the following observations:

- "1. Smell is perceptible near rendering plant and inside Slaughter House.
2. Industry has planted about 5,000 small trees all around the boundary and also developed 14 acres of land as mini forestry.
3. Industry has kept 120 acres of land separately for irrigation purpose.
4. The industry has installed air pollution control equipments in Rendering Plant to control air pollution being emanated from bone crushing unit."

43. On the basis of the above report, the Pollution Control Board directed the 5th respondent to furnish the up-to-date copy of the project report, a detailed statement of works and estimate in support of escalation of the project from Rs. 7.00 crores to over Rs. 40.00 crores, a complete document on Pollution Control (both air and water and solid wastes etc.) EIA and EMP report and the method of financing and the names of the financial institutions and the amounts released so far. The 5th respondent in its reply explained the reasons for escalation of cost of the project. According to the 5th respondent. in addition to the increase in the cost in other areas, originally the effluent was to be processed at a chemical treatment system, but in order to meet the stringent revised pollution control standards, they have introduced biological effluent treatment equipment and hence the increase in the cost. They have furnished the details of effluent treatment plant and the process along with the catalogues and other material.

Thereafter, the Technical Committee of the Board met consisting of Prof. T. Shivaji Rao, Sri M. Vittal Rao, Sri Krishna Ashrit, Addl. Director, Animal

Hushandry and Sri R.P. Vatal were present. The Chairman of the Technical Committee presided over the meeting. The Committee agreed to grant the second No Objection Certificate subject to certain conditions, and also subject to orders of this Court in W.P.M.P. No. 10101 of 1992 in W.P. NO. 8193 of 1992.

44. Sri Shivaji Rao, one of the members, observed that "In order to evaluate the adequacy of Effluent Treatment Plant either the industry has to furnish all the detailed designs and drawings of the Effluent Treatment Plant or the Technical Committee members of Pollution Control Board have to visit to the industry to satisfy themselves regarding the adequacy of Effluent Treatment Plant."

45. The experts did not therefore concur that the deliberations made till then were sufficient to clear the project from the environmental pollution angle. One of them wanted a second and a closer look to ensure adequacy of the anti-pollution devices.

46. In pursuance of the recommendations of the Technical Committee, the Pollution Control Board granted the second NOC to the 5th respondent on 1-10-1992, subject to the following conditions:

"1. This NOC is issued for trial production for a period of two months only, from the date of issue, to evaluate the adequacy of the E.T.P. constructed by you.

2. In plant study of the E.T.P. will be done by the technical committee members when the plant is in trial production, to evaluate the adequacy of the E.T.P.

3. If it is found that the E.T.P. is inadequate the industry shall immediately stop the trial production and shall modify the existing ETP suitably.

4. The treated effluent shall be chlorinated to kill the harmful bacteria if any for this suitable arrangements shall be made even before going into the trial production.

5. At the time of trial production week analysis reports of waste water samples collected before and after treatment shall be furnished.

6. The industry shall comply all the conditions stipulated in 1st NOC.

7. The 2nd NOC order is subject to the court order to be delivered in W.P.M.P. No. 10101 of 1992 of W.P. No. 8193/92,"

47. From the record, we find that Pollution Control Board was very cautious in granting the second NOC. At every stage, they were asking the 5th respondent to furnish the necessary particulars relating to the project and it was only after they were satisfied that the first and second NOCs were granted. It is true before granting the second NOC, Prof, Shivaji Rao expressed that they should visit the plant.

48. We have referred to the various stages of deliberations made by the Government and Pollution Control Board while considering the effect of the project on depletion of cattle population and the environmental pollution. As

regards the effect of the project on "depletion of cattle population", the Director of Animal Husbandry granted NOC on the ground that the effect of project on cattle growth is negligible. Sri R. V. Krishnan's report without considering the report of Animal Husbandry Dept. supported the comments made by the Secretary, Food and Agriculture Dept. who expressed the view that it will have enormous effect on "depletion of cattle wealth". According to the Chief Secretary, the Agriculture Department expressed their view without taking into account the total figures of Andhra Pradesh and reliance on district figures alone is not enough. We are of the view that the effect of the project on the cattle wealth is a disputable area. The best judge for making the correct assessment is the Department of Animal Husbandry.

49-50. The Pollution Control Board was taking steps that are necessary and at every stage they were asking the 5th respondent to furnish the necessary materials. It is true that under Article 48A of the Constitution of India, the State shall endeavour to protect and improve the environment and to safeguard the forest and wild life of the country and Article 51A(g) declares it to be a fundamental duty of every citizen of India "to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures." However, after going through the record and the facts of the case, we are satisfied that the Government is alive to the various considerations requiring thought and deliberation and has arrived at a conscious decision after taking them into account. We are also satisfied that the decision arrived at by the Government in relation to the effect of project on the depletion of cattle wealth, and the Pollution Control Board on the question of effect of the project on environment, have taken into account all the relevant aspects, including the dissenting views expressed by some of the members. In this context, we may refer to the judgment of the Supreme Court in *Shri Sachidanand Pandey and Another Vs. The State of West Bengal and Others*, wherein it was held as follows at page 1114:

"Where an administrative action or order of the Government involves the problem of environment and the Government is alive to the various considerations requiring thought and deliberation and has arrived at a conscious decision after taking them into account, it may not be for the Court to interfere in the absence of mala fides/. On the other hand, if relevant considerations are not borne in mind and irrelevant considerations influence the decision, the Court may interfere in order to prevent a likelihood of prejudice to the public. Whenever a problem of ecology is brought before the Court, the Court is bound to bear in mind Art. 48A of the constitution, the Directive Principle which enjoins that "The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country", and Art. 51A(g) which proclaims it to be the fundamental duty of every citizen of India "to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures". When the Court is called upon to give effect to the Directive Principle and the fundamental duty, the Court is not to shrug its

shoulders and say that priorities are a matter of policy and so it is a matter for the policy-making authority. The least that the Court may do is to examine whether appropriate considerations are borne in mind and irrelevancies excluded. In appropriate cases, the Court may go further, but how much further must depend on the circumstances of the case. The Court may always give necessary directions. However, the Court will not attempt to nicely balance relevant considerations. When the question involves the nice balancing of relevant considerations, the Court may feel justified in resigning itself to acceptance of the decision of the concerned authority."

.....It is true that even an administrative decision must be arrived at after taking into account all relevant considerations "and eschewing all irrelevant considerations. However, the entire course of events revealed that the Government had taken into account the relevant considerations and therefore it could not be said that what was not said in the final decision could not be supplemented by giving fresh reasons later. *Chenchu Rami Reddy and Another Vs. Government of Andhra Pradesh and Others*, distinguished."

51. We may also refer to the observations of the Supreme Court in *State of Uttar Pradesh and Others Vs. Maharaja Dharmender Prasad Singh and Others*, wherein it was observed that "judicial review under Article 226 cannot be converted into an appeal. Judicial review is directed, not against the decision, but is confined to the examination of the decision-making process. The learned judges referred to the observations in *Chief Constable of the North Wales Police v. Evans* (1982) 1 SLR 1155 : (1982) 3 All ER 141 which are as follows:

"The purpose of judicial review is to ensure that the individual receives fair treatment, and not to ensure that the authority, after according fair treatment, reaches on a matter which it is authorised by law to decide for itself a conclusion which is correct in the eyes of the Court."

52. The learned Judges also referred to the observations made by Lord Brightman, "..... Judicial review, as the words imply, is not an appeal from decision, but a review of the manner in which the decision was made....."

53. In the present case, the Government as well as the A.P. Pollution Control Board, while arriving at their respective decisions, have taken into account the relevant considerations and were very cautious in arriving at the decisions. The observations of the Supreme Court in *State of Himachal Pradesh Vs. A Parent of a Student of Medical College, Simla and Others*, are relevant in the context of the present case:

"Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that under the guise of redressing a public grievance it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature."

54. We agree with learned Additional Solicitor General Sri V.R. Reddy that Courts

shall be circumspect in dealing with matters which require scientific expertise and interfering with decisions of expert bodies charged with determination of matters which require scientific knowledge. We also agree that the sentimental aversion of a group of persons cannot be the only criterion to judge the correctness of decisions affecting the fundamental rights of others. If fundamental rights are pitted against sentimental objections, choice of the Courts can only be in favour of the former. In any case, Courts shall be loathe to interfere only because some individuals or groups of persons with more than ordinary sensitivity would like to prevent at any cost the exercise of fundamental rights by other citizens.

55. The next contention of Sri Rama-chandrarao is that Patancheru is already declared as a pollution/prohibited area and the installation of the project in the said mandal will be contrary to the environmental policy.

56. We have in extenso extracted the LO1 and the conditions subject to which it was issued and the first NOC and second NOC subject to which they were granted. All the conditions imposed are in furtherance" of environmental protection. The 5th respondent has to fulfil these conditions, failing which, the licence is liable to be cancelled. The 5th respondent in the counter categorically stated about the steps taken by the industry to comply with the conditions laid down in the LOI and first NOC and the second NOC. The petitioners have not filed any reply controverting the statements made in the counter-affidavit of the 5th respondent.

57. The next submission of Sri Rama-chandrarao is that under the revised industrial policy of Ministry of Industry, Department of Industrial Development, licence is exempt from industrial undertaking if the proposed project is located within 25 kms from the periphery of the standard urban area of a city having a population of ten lakhs, according to 1991 census. As per the Gazette notification dated 3rd February, 1992, issued by the Government, which published the areas which are within 25 kms from the periphery of the standard urban area, Patancheru is a mandal within 25 kms from the periphery of the standard urban area of Medak. Therefore, licence is essential although meat and processing industry is a non-schedule industry. He, therefore, submits that there was a misrepresentation before the Government of India. It is true that the LOI was granted subject to the condition that the industrial establishment should not be within 50 kms. from the boundary of the standard urban area limits of any city having a population of more than 25 lakhs, according to the 1981 census.

58. The Government of India in its notification No.477(E) dt 25-7-1991 under the Industries (Development and Regulation) Act, 1951 provided that -

"Licensing is exempted for industrial undertakings (including MRTP/FERA companies) other than those in the small scale/ancillary sector, if

(1).....

(2) the proposed project is not located within 25 kms from the periphery of the standard urban area limits of a city having a population of more than 10 lakhs according to the 1991 Census (list enclosed):"

59. In the "list of cities with the population of 10 lakhs and above according to the provisional results of the 1991 Census", Hyderabad Urban Area is item No. 5 with a population of 42,80,261. The State Government followed the same by notification No. 47 dated 3-2-1992 of G. O. Ms. No. 49, Industries and Commerce (I.P.), Department dated 1st February, 1992 publishing the list of villages in the respective mandals in the Districts of Visakhapatnam, Vizianagaram and Hyderabad falling within and outside 25 kms from the periphery of standard urban area and declaration of survey numbers falling under the notified industrial area in Visakhapatnam and Hyderabad. Item-B of Annexure -- III -- A mentioned -- "Mandals and villages within 25 kms from the periphery of the standard urban area". Patancheru mandal in Ranga Reddy District is one of the mandals fully covered in Hyderabad District.

60. It is true that the letter of intent was sanctioned in 1989 with a stipulation that the industry should not be established within 50 kms from the boundary of standard urban area. The liberalisation of industrial licensing which took place subsequently is reflected in the above two notifications. The present requirement is that for establishing industries within 25 kms. from the standard urban area, license is required. Necessarily, such licensing is conditioned by the requirement of environmental and industrial clearance. We see considerable force in the submission urged by counsel for the respondents that the strict conditions contained in the Letter of Intent are relaxed by the statutory notifications issued by the Government of India; and thereafter, the present requirement is that the industrial undertakings shall obtain license subject to stringent conditions to be imposed by the respective authorities. We find that the 5th respondent has taken license on the ground that the project is within 25 kilometers periphery of standard urban area of Medak and 45 kilometers from Hyderabad.

61. Sri Innayya Reddy, learned counsel appearing for the Central Government submitted that in pursuance of the application made by the fifth respondent for the grant of Letter of Intent (LOI), S.I. A. (Secretariat for Industrial Approvals), convened the meeting of the Licensing Committee on 11th April, 1989 to consider the case of the 5th respondent. The matter was deferred due to nonavailability of comments from the Administrative Ministry, i. e. Ministry of Food Processing Industries and other agencies. The Ministry of Food Processing Industries received comments from the Development Commissioner, Small Scale Industries and Directorate General of Technical Development through "Secretariat for Industrial Approvals" (S.I.A.). Both the agencies had given their no objection and supported the case. The Government of Andhra Pradesh also recommended the case of the 5th respondent. The Ministry of Food Processing Industries recommended the case subject to the conditions mentioned in the LOI. On 14-8-1991, 5th respondent applied for amendment of the LOI to include

hides and skins and animals fat with a capacity of buffaloe hides 600 per day sheep/goat 2500 per day and animal fat 35 tonnes per day. The amendment was allowed. The 5th respondent indicated the site of the project is approximately at a distance of 45 kms from Hyderabad city. The application was circulated by the SIA to the concerned Departments of the Central Government and State Government including the Director of Industries, Andhra Pradesh, Hyderabad. After the comments were received from different agencies, the proposal was considered by the Licencing Committee. On recommendation of the Licencing Committee and on approval of the concerned Minister, the LOI was granted to the 5th respondent, which indicates that the distance "norm was taken into account. As regards the capacity of the factory, it is given in terms of tonnage and not in terms of number of animals. The Ministry of Food Processing Industries recommended for the inclusion of hides and skins as these items are industrial by-products of the project of the 5th respondent and not involving any separate activities. The over-all availability of animals for meat production has been taken into consideration and special conditions in this regard have been imposed as part of the LOI and these conditions would adequately ensure non-depletion of animals. On receipt of second NOC from the A.P. Pollution Control Board, allowing trial production for two months, and was satisfied that the party had taken adequate steps for implementation of the project. The Ministry of Food processing Industries recommended the conversion of LOI into Industrial Licence after receiving the second NOC issued by the Pollution Control Board. He also submitted that the decision to grant LOI and the conversion into an industrial licence is a conscious decision taken after taking into account the various relevant aspects.

62. The 5th respondent could not commence trial production as authorised by the second "No Objection Certificate" from the A.P. Pollution Control Board, because of the interim orders issued by this Court. That interim order in W.P.M.P. No. 16421 of 1992 was vacated in W.V.M.P. No. 2046 of 1992 by order dated 31-12-1992 to the effect that the order will be operative for a period of one week from 6th to 12th Janaury, 1993 to enable trial production of the plaint subject to the condition that the test killings must be con-fined to 50 buffaloes which are not yielding milk and 100 sheep/goats per day, after giving notice to various authorities. The second "No Objection Certificate" for trial production for two months has not thus become fully operative. We find force in the submission of counsel for the respondents that the exact impact of the industrial activity on environ-ment and industrial pollution can be assessed fully only if trial production continues for the stipulated period of two months. We are not informed that the trial production for a period of one week which was permitted by order dated 31-12-1992 has had any adverse effect in creating air or water or other atmospheric pollution or on the environment. We do not propose to venture an opinion as to what is likely to happen if trial production continue for a period of two months. It is for the authorities concerned to closely monitor the functioning of the industry during the period of trial production, and take final decision in the

matter, as the exigencies may demand on the basis of facts which emerge as a consequence of the trial production. We confine our consideration only to the grant of the Letter of Intent, its modifications, issue of industrial licence and the No Objection Certificates. What may emerge in the future may be matter for speculation. We do not propose to rule on the correctness of the impugned determination, on the basis of any such speculation. We find that respondents 1 to 4 and 6 had not acted in violation of any statutory duty or contrary to any public-law obligations in allowing the 5th respondent to establish the industry and commence trial production.

63. It is unfortunate that though the LOI was issued in the year 1989, the project has to face many hurdles at every stage, not because, the LOI was given in violation of any of the provisions of the Act and rules or the fundamental or legal rights of the petitioners are violated, but because a section of the public claim to have sentimental objection to slaughter of animals.. It is true that under Article 48A and Article 51A(g) of the Constitution of India, the State shall endeavour to protect and improve the natural environment,. including the forests, lakes, rivers, wildlife and to have compassion for living creatures. However, we have found that both the State and Central Governments have taken conscious and cautious decisions after taking into account all the relevant considerations, while granting and amending the LOI converting" that into "industrial license and in granting first and Second NOCs. Therefore, what is involved in this litigation is a conflict between the sentiments of a section of the public on the one hand and the Fundamental Rights of an industrial undertaking which incidentally promotes national interest. We have already referred to the observations of the Supreme Court made as long ago as in Mohd. Hanif Quareshi and Others Vs. The State of Bihar, that the maintenance of useless cattle involves a wasteful drain on the nation's cattle feed. Ban on slaughter deprives a large section of the people of what may be their staple food and people will have to forgo the little protein food which may be within their means to take once or twice in the week. Besides, the project would have earned some much needed foreign exchange when the nation is facing financial crisis. It is true that the Supreme Court in Rural Litigation and Entitlement Kendra, Dehradun and Others Vs. State of U.P. and Others, directed closure of some mining operations. But, such closure was ordered by the Supreme Court due to the devastating impact on environment and the lives of the people around. No such environmental degradation is proved to be likely in this case. On the other hand, it is manifest that sufficient care has been taken at every stage, to neutralise any adverse impact on environment by insisting upon installation of additional equipment at considerable cost to treat the liquid effluents and reduce the same into water which can be used for purposes of irrigation within the area around the factory in its land if self. In Bandhua Mukti Morcha Vs. Union of India (UOI) and Others, , the Supreme Court had laid down parameters for public interest litigation; According to the Supreme Court, where, however, the fundamental right of a person or. class of persons is violated but who cannot have resort to the Court on account of their poverty or disability or

socially or economically disadvantaged position, the Court can and must allow any member of the public acting bona fide to espouse the cause of such person or class of persons and move the Court for judicial enforcement of the fundamental right of such person or class of "persons. Therefore, it is ordinarily for enforcement of fundamental rights, that too on behalf of persons who are in a disadvantageous position on account of poverty or socially or economically disadvantaged position that public interest litigation can be entertained. It is also clear that an assumed affront to the sentiments of a group of people by an attempted exercise of his fundamental right by another person will not justify invocation of this Special jurisdiction which courts have assumed for themselves. In the present case, the petitioners are powerful organisations not of persons who cannot have resort to the court on account of their poverty or disability or socially or economically disadvantaged position. They cannot resort to public interest litigation to vindicate sentimental objections to legitimate industrial activities. We have already stated that the project may make significant contributions to the national interest by providing employment and earning much needed foreign exchange as also providing staple food to those needy and poor. In such a conflict between national interest and the sentiments of a section of the public the options for the court are limited but definite. In this context, we may refer to the observations of the Supreme Court in *Shri Sachidanand Pandey and Another Vs. The State of West Bengal and Others*, which are quoted below :

"My purpose in adding these few lines of my own is to highlight the need for restraint on the part of the public interest litigants when they move courts. Public interest litigation has now come to stay. But one is led to think that it poses a threat to courts and public alike. Such cases are now filed without any rhyme or reason. It is, therefore, necessary to lay down clear guidelines and to outline the correct parameters for entertain-; ment of such petitions. If courts do not" restrict the free flow of such cases in the name of Public Interest Litigations, the traditional litigation will suffer and the Courts of Law, instead of dispensing justice, will have to take upon themselves administrative and executive functions.

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"It is only when Courts are apprised of gross violation of fundamental rights by a group or a class action or when basic human rights are invaded or when there are complaints of such acts as shock the judicial conscience that the courts, especially this Court, should leave aside procedural shackles and hear such petitions and extend its jurisdiction under all available provisions for remedying the hardships and miseries of the needy, the underdog and the neglected. I will be second to none in extending help when such help is required. But this does not mean that the doors of this Court are always open for anyone to walk in. It is necessary to have some self-imposed restraint on public interest litigants".

64. We have noted that there has been no unanimity in expert opinion over availability of cattle wealth and environmental impact of the polluting effluents of the industry. We are not in a position to choose between these conflicting

opinions of Experts which both sides have produced in profusion. If a question is raised before this Court which involves a factual dispute, the resolution of which involves substantial expertise of technicians and scientists, the Court shall ordinarily leave the dispute to be decided by other statutory agencies, subject, of course, to the caution that such agencies shall adhere to the procedural safeguards which may have impact on the environment or the lives of citizens. If an analysis of the relevant documents requires a high level of technical expertise, we must defer to the informed discretion of the responsible State agencies, unless it is shown that such agencies acted for collateral purposes or ignored relevant data or were influenced by extraneous considerations. The Supreme Court of the United States of America in *Baltimore Gas and Electric Co. v. Natural Resources Defence Council, INC* (462 US 87) : 76 L Ed 2d 437 observed that :

"When examining this kind of Scientific determination, a reviewing Court must generally be at its most deferential".

65. It is true that review of a legal question deserves no defence to anybody else, but decisions of the relevant statutory authorities charged with scientific determinations cannot ordinarily be supplemented or supplanted, unless they are shown to be arbitrary or capricious. In deciding as to whether the decision of the Pollution Control Board was arbitrary or capricious, we may have to examine whether that decision was based on a consideration of irrelevant factors and whether there has been a clear error of judgment. Though the enquiry must be searching, we must remember that "the ultimate standard of review is a very narrow one".

In *Marsh v. Oregon Natural Resources Council* 1989 (490) US 360 : 104 L Ed 2d 377, the Supreme Court of the United States observed:

"When specialists express conflicting views, an agency must have discretion to rely on the reasonable opinions of its own qualified experts, even if, as an original matter, a Court might find contrary views more persuasive. On the other hand, in the context of reviewing a decision not to supplement an EIS (Environment Impact Study), Courts should not automatically defer to the agency's express reliance on an interest in finality without carefully reviewing the record and satisfying themselves that the agency has made a reasoned decision based on its evaluation of the significance -- or lack of significance -- of the new information. A contrary approach would not simply render judicial review generally meaningless, but would be contrary to the demand that Courts ensure that agency decisions are founded on a reasoned evaluation "of the relevant factors".

65A. We have to apply the above standards in reviewing the decision of the Pollution Control Board and other agencies involved in issuing and amending the Letter of Intent, the Industrial Licence and the No Objection Certificates. On such a careful examination, we find it difficult to conclude that the views of the various

agencies involved in the final decision-making were capricious or arbitrary or were informed by extraneous or irrelevant considerations or were the result of non-consideration of relevant facts. Nor are we in a position to hold that choice of one of the varying scientific opinions induces any inference that the resultant decision is vitiated by non-application of mind or mala fides.

66. We are not unaware of the contention of counsel for the petitioners that the Pollution Control Board did not really consist of scientific experts, and that in that sense, issue of No Objection Certificate by that body may not be considered as a result of informed expert opinion. That brush can as well paint the opinion of Sri H. K. Babu, Secretary, Food and Agriculture, as also that of Sri R. V. Krishnan, Secretary, Energy, Forest, Environment, Science and Technology in the same hues. We are informed that some, at least of the members of the Pollution Control Board was renowned scientists and there was some variance of opinion among them. It is difficult for us to choose between the two. We are of the opinion that the grant of second "No objection Certificate" by the Pollution Control Board only enables test production in the factory for a period of two months so that the Pollution Control Board will monitor the effects on the environment more closely during that period. The authorities concerned have not abdicated their power to review the entire matter either during the period of two months, or even later, if deleterious effects of the industry on environment manifest themselves. We are, therefore, of the opinion that the grant of "No Objection Certificate" for a limited period of two months by the Pollution Control Board does not have the effect of conferring finality on the proceedings for all times. The impugned decisions are tentative in that sense and may be subject to review as a result of what manifests during the period of trial production.

67. We may also refer to the observations of the Supreme Court in AIR 1991 420 (SC) , wherein it was observed that public interest litigation cannot be invoked by person or group of persons to satisfy his or its personal grudge and enmity. We also add that public interest litigation cannot be invoked by persons or body of persons to vindicate their sentiments. Therefore, we are of the view that the petitioners are not entitled to approach this Court for relief to vindicate their sentimental objection to the industry in a public interest litigation.

68. We shall not part with this case without referring to an unfortunate aspect of the matter. Second petitioner Sri Kishan Rao was the petitioner in Writ Petition No. 8193 of 1992. That Writ Petition was filed for a direction to respondents 1 to 4 not to consider the application of the 5th respondent for issue of Second No Objection Certificate i.e. consent to operate the mechanised slaughter house at Rudram village, in W.P.M.P. No. 10101 of 1992, our learned brother P. Venkatarama Reddi, J., passed an order on 6-7-1992 to the effect that "No Objection Certificates if any granted by the first respondent in the meanwhile shall be subject to further orders of this Court in the W.P.M.P." This Writ Petition No. 13062 of 1992 -- was filed on 1-10-1992, seeking a direction, in the nature of mandamus against respondents forbearing any type of killing of animals in the

case of meat exporting industry of the respondent No. 5 either for regular operation or in the name of testing the machinery.

69. In paragraph 6 of the affidavit which was sworn to by Sri Kishan Rao, it was stated that:

"I submit that we have not instituted any other proceedings before any Tribunal or filed writ petition questioning the action of the respondents."

70. We find that this assertion is contrary to facts. We find that the above assertion may amount to perjury in the context of the fact that second petitioner had already filed W.P. No. 8193 of 1992 and had sought an interim order virtually of the same nature as he sought in this writ petition. In view of the above, we direct, the Registrar (Judicial) of the High Court to file complaint under S. 195 of the Code of Criminal Procedure against the second petitioner for an offence under S. 191 of the Indian Penal Code before the Magistrate having jurisdiction.

71. For the reasons mentioned above, there are no merits in this Writ Petition and the same is accordingly dismissed. Advocate fee Rs. 1000/-.

72. While disposing of the writ petition we followed the judgments of the Supreme Court. We are of the view that no substantial question of law of public importance is involved. Therefore, an oral application for leave under Art. 134A of the Constitution of India is refused.

73. Petition dismissed.