## Case Property Maintenance

Live animals

# Assessment of the condition of the animals

### In case of an FIR

- Seizure memo
- Panchnama
- Identification
- Health report
- Photographs

### In a Complaint Case:

The IO may be asked to submit a time bound report

### Recommendation by the AWBI



#### **Animal Welfare Board of India**

(Ministry of Environment, Forest & Climate Change, Govt. of India)
13/1, Third Seaward Road, Valmiki Nagar, Thiruvanmiyur, Chennai - 600 041.
PostBoxNo.8672Email: <a href="mailto:awbi@md3.vsnl.net.in">awbi@md3.vsnl.net.in</a>, animalwelfareboard@gmail.com</a>
<a href="mailto:website:www.awbi.org">website:www.awbi.org</a>, Phone:044-24571025, 24571024, Fax: 044-24571016.

27.1.2016

No.9-1/2015-16/PCA
The Director of Prosecution.

The Director of Prosecution,
Office of the Director of Prosecution,
Govt. of NCT of Delhi

Tis Hizari Courts, Delhi-110054.

Sir,

I write to you on behalf of the Animal Welfare Board of India (AWBI), which is a statutory body established under Section 4 of the Prevention of Cruelty to Animals Act, 1960 [hereinafter referred to as the "Act"] for the promotion of animal welfare generally, and for the purpose of protecting animals from being subjected to unnecessary pain or suffering, in particular.

In exercise of its functions under Section 9 of the Act, the AWBI is issuing the following recommendations for all cases where animals have been seized from owners/persons on allegations of cruelty, including slaughter, and the question of release of custody to the accused owners/persons on superdari has arisen-

- I. The State must vehemently oppose the release of custody of animals to owners/persons against whom allegations of cruelty, or allegations of slaughter in respect to animals not permitted to be slaughtered, have been made. The State can do so on the basis of an order passed by the Hon'ble Supreme Court in the matter of State of UP Vs Mustakeem, on 22.2.2002. We enclose the order for your ready reference. A perusal of the same will reveal to you that the Hon'ble Supreme Court had expressed the view in that matter, that in a complaint of cruelty to animals, when there is apprehension of slaughter, the case property animals must not be given into the custody of the accused during the pendency of the trial.
- II. In cases where the courts are inclined to return the case property animals to the accused owners/persons, we recommend that the following conditions be sought to be imposed on the owners/persons in the order of release -
  - That the owner/custodian of the case property animal shall give an undertaking to the Court by means of an affidavit stating –
  - That the case property animals shall be kept within the jurisdiction of the Court.
    He shall give the exact address of and space availability at the place where such animals are going to be shifted and kept.
  - That detailed records relating to the feeding, treatment and vaccination for each animal shall be maintained and be furnished as and when required by the Investigating Officer or the Court or at the time of inspection by any other authorized person.
  - iii. That in the eventuality of death of any animal which is case property, the concerned Investigation Officer, the Station Officer and the Court shall be informed within 6 hours of such death. That the post-mortem shall be conducted by the Jurisdictional Veterinary Doctor in the presence of the Investigating Officer and the body shall not be disposed off by the custodian prior to the same.
  - That no cruelty will be meted out to the case property animal under any circumstances.

- v. That the custodian shall not sell, transfer ownership, gift or donate the animals to any person and will be solely responsible for their safekeeping,
- vi. That a personal bond of the amount being the current market value of the animals shall be deposited in the concerned police station which will be forfeited in case the animals are misused, missing or slaughtered.
- vii. That at the time of receiving custody of animals, custodian shall permit each case property animal to be microchipped for proper identification, by the jurisdictional veterinary officer.
- 2. That the Investigating Officer be directed to ensure the compliance of the above conditions by the accused, stated by him / them on affidavit filed before the Court. The Investigating Officer be also given the following directions to ensure the protection of the animals-
- That before giving custody of the case property to the custodian/owners, the Investigating Officer shall physically verify the address given in the abovementioned Affidavit and ascertain the possibility of housing the case property animals comfortably, in terms of space.
- That in case of death of animal being case property, a post mortem is conducted by the Jurisdictional Veterinary Officer and photographed for record.
- That at the time of giving custody of animals, detailed Panchnama must be made for each animal and the microchip number must be mentioned in the Panchnama.
- That apart, for the purpose of care and protection of these animals, the Jurisdictional Veterinary Officer be directed to conduct a weekly health check of each animal and submit a report to the concerned Investigation Officer.
- 4. Further that the Members of the State Animal Welfare Board be urged to conduct regular inspections and submit their reports to the Investigation Officer.

It is reiterated that the State must and ought to oppose release of custody to accused persons where there are serious allegations of cruelty including slaughter in respect of animals not permitted to be slaughtered.

The Police be further given the above-stated directions to ensure compliance with the conditions imposed by the Court, and to ensure adherence with the provisions of the Act at the time of release of the animals.

It is requested to kindly inform the Board of the action taken in this regard.

Yours faithfully,

(S. VINOD KUMAAR) Assistant Secretary

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# Identification - Perma Flex Tags



## **Identification - RFID**



### Selection of Custodian

- Will it be cruel to keep the animal alive?
- Is it a wild animal?
- Where is the animal now?
- Is there a notified infirmary or a district SPCA in within the jurisdiction of the Court?
- Is there a recognized animal welfare organisation within the jurisdiction of the Court?
- Has the IO sourced information about the nearest infirmary/shelter/gaushala where the animals can be kept?

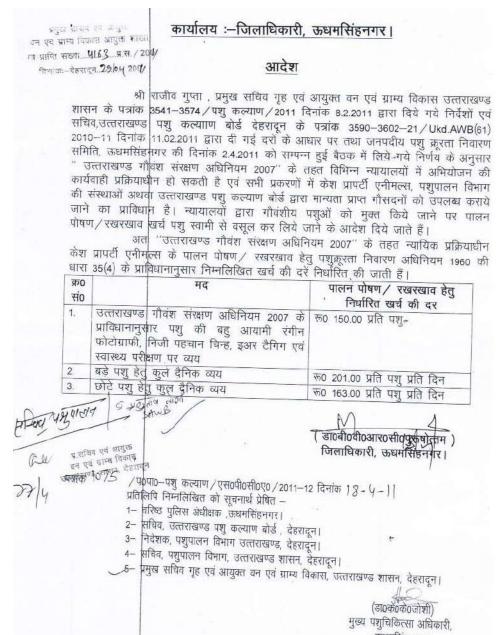
# Prevention of Cruelty to Animals Act 1960

- 35. (1) The State Government may by general or special order **appoint infirmaries** for the treatment and care of animals in respect of which offences against this Act have been committed, and may authorize the detention therein of any animal pending its production before a Magistrate.
- (2) The Magistrate before whom a prosecution for an offence against this Act has been instituted may direct that the animals concerned **shall be treated and cared for in an infirmary**, until it is fit to perform its usual work or is otherwise fit for discharge, or that it shall be sent to a pinjrapole, or if the veterinary officer in charge of the area in which the animal is found or such a veterinary officer may be authorized in this behalf by rules made under this Act certified that it is incurable or cannot be removed without cruelty, that it shall be destroyed.
- (3) An animal sent for care and treatment to any infirmary shall not, unless the magistrate directs that it shall be sent to a pinjrapole or that it shall be destroyed, be released from such place except upon a certificate of its fitness for discharge issued by the veterinary officer in charge of the area in which the infirmary is situated or such other veterinary officer as may be authorized in this behalf by rules made under this Act
- (4) The **cost of transporting the animal to an infirmary** or pinjrapole and of its maintenance and treatment in an infirmary, shall be payable by the District Magistrate, or, in presidency- towns, by the Commissioner of Police;

Provided that when the magistrate so orders on account of the poverty of the owner of the animal, no charge shall be payable for the treatment of the animal.

- (5) Any amount payable by an owner of an animal under sub-section (4) may be recovered in the same manner as an arrear of land revenue,
- (6) If the owner refuses or neglects to remove the animal within such time as a Magistrate may specify, the magistrate may direct that the animal be sold and that the proceeds of the same be applied to the payment of such cost.
- (7) The surplus, if any, of the proceeds of such sale shall, on application made by the owner within two months from the date of the sale be paid to him.

# Transportation and maintenance cost – Order to be issued by the DM/DC under Section 35(4) of the PCA Act 1960



# State of UP Vs Mustakeem – Landmark judgement for custody of case property

570595 CRIMINAL APPELLATE JURISDICTION CRIMINAL APPEAL NOs. 283-287/2002 (arising out of SLP(CRL) Nos. 2790, 2793, 2795, 2797, 2800/1999) State of H.P. Mustakeem & Ors. Leave granted. The State of Uttar Pradesh is in appeal against the direction of the Court directing release of the animals in favour of the owner. It is alleged that while those animals were transported for the purpose of being slaughtered, an FIR was registered for alleged violation of the provisions of Prevention of Cruelty to Animals Act, 1960, and the specific allegation in the FIR was that the animals were transported for being slaughtered, and the animals were tied very tightly to each other. The criminal case is still pending. On an appeal for getting the custody of the animals was filed, the impugned order has been passed. We are shocked as to how such an order could be passed by the learned Judge of the High Court in view of the very allegations and in view of the charges, which the accused may face in the criminal trial. We therefore set aside the impugned order and direct that these animals he kept in the Goshala and the State Government entire responsibility of the preservation of those animals so long as the matter is under

trial.

The appeals stand disposed of accordingly.

( G.B. PATTANAIK )

New Delhi, February 22,2002

( BRIJESH KUMAR )

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SUPREME COURT OF INDIA

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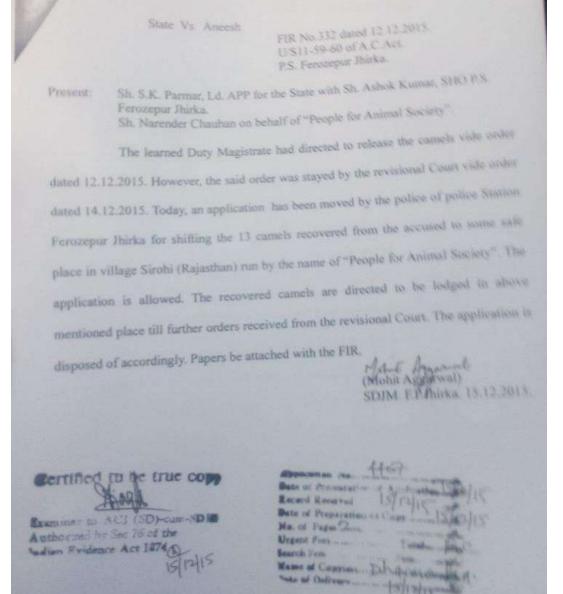
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SEATTLE IN SEX PRESSES

State of Haryana Vs Aneesh – Custody of animals given to a suitable shelter in another state



# Sonali Circus – ACJM Malda – Custody of elephant granted to the Forest Department

Copy of of St. 03/7/15

Rey: Bdn East RS. Case No. 57/15 2+18/5/15

ups 188 IRC. 2 57 of The Dild Rife protection Act 1972 L

14 of The Child labour Prohibition & Regulation Act, 1986.

GR-445/15

Both parties take steps. Today is fixed for passing order in respect of the application dt. 16.06.15 filed on behalf of the D/C and also the application which is filed by one Parul Singh both of whom praying for necessary order for safe custody of elephant namely Champa. Both the applications re taken up together for discussion & passing order to avoid unnecessary repeatation.

The D/C Radhika Bose being the Animal Welfare Officer of Animal Welfare Board of India, Ministry of Environment & Forest, Government of India filed this case as well as application on 16.06.15 and praying for necessary order for safe custody of the elephant namely Champa with the Principal Chief Conservator of Forest, Wild Life & Chief Wild Life Warden, West Bengal on the grounds that she lodged this case against the wrongful captivity of an elephant named Champa alleged to have violated the provisions of the Wild Life Protection Act, 1972 & Prevention of Cruelty Act, 1960, Child Labour (Prohibition & Regulation) Act, 1986 for violation of the guidelines for care and management of captive elephants. It is also stated that on 19.05.15 direction was given by this court upon the I.C.,BDN(E) P.S to hand over the elephant to the Bidhannagar Forest Range Office, Wild Animal Rescue and Transit facility Center, Wild Life (HQ) Division, Block-AE, Sector-I, Salt Lake under BDN(N) P.S for the proper wellbeing of the elephant. It is further claim of the D/C that the elephant in question falls under the category of Schedule-I of the wild Life Protection Act, 1972, Chapter-V of PCA Act, 1960 and performing Animal (Registration) Rules, 2001 requires all animals to be exhibited and performed to be register with the AWBI and all circuses with captive animals need to be mandatorily recognized by the CZA. It is further alleged that the instant circus in question had no valid permission from the competent authority concern. It is further alleged that the Forest Department is now looking after the wellbeing of the elephant for its proper care and the circus company had no valid ownership certificate in respect of the captive

elephant Champa. The further case of the D/C is that the Manager & Principal Officers of the said circus have violated the grant of renewal of recognition "Captive Animal Facility" as Zoo of Sonali Circus. It is also alleged that the elephant Champa is falling under Schedule-I of the Act, 1972 being a Wild Life is a Government property and the Forest Department is obliged to look after the upkeep of the elephant at all times and for which by filing that application she prays for necessary directions upon the Principal Chief Conservator of Forest, Wild Life & Chief Wild Life Warden, West Bengal to take immediate and permanent custody of the elephant Champa who is now in the Bidhannagar Forest Range Office, Wild Animal Rescue and Transit facility Center, Wild Life (HQ) Division, Block-AE, Sector-I, Salt Lake under BDN(N) P.S for wellbeing and maintenance of the elephant.

In support of its contention Ld Advocate of the D/C files several documents as well as Government Notification as well as Rules for Guidelines of care & Management of Captive elephants, Ministry of Environment and Forest. He also filed Gazette of India,Performing Animal Rules, 1973, Guidelines for care & management of Captive Elephant and Photograph of the captive elephant in Chain.

At the time of hearing Ld Advocate of the petitioner Parul Singh has stated that she is the actual owner of the elephant namely Champa which was seized by the police of BDN(E) P.S on 18.05.15. Ld Advocate of the petitioner also submits that the elephant was seized from the possession of Gopal Singh @ Bapi of Sonali Circus and as per the direction of this Court it was handed over to the Bidhannagar Forest Range Officer for safe custody. He also submits that the petitioner Parul Singh is an aged lady who is suffering from various ailments and she praying for return of the said seized elephant by rejecting the prayer of the D/C. In support of its contention Ld Advocate of the petitioner also filed some documents including one xerox copy of a report regarding permanent identification marking by

3.

implementary micro chip on female elephant Champa dt. 12.05.05, xerox copy of NOC of captive elephant for shifting dt. 03.09.12 issued by the DFO, North 24-Pgs at Barasat, xerox copy of permission for a procession on 175 Birthday Anniversary of Sri Sri Ramkrishna dt. 16.02.12, xerox copy fo movement of a female elephant Champa issued by DFO, West Bengal dt. 03.06.10 and several other applications for movement of the said elephant dt.16.04.04, 07.11.03,08.11.03, 16.10.07, 01.08.1, 08.04.11, 24.02.11; 30.09.13, 21.03.13, 12.11.14, 02.06.14, 04.05.15, 24.02.15 & 27.01.15. Ld advocate of the petitioner Parul Singh also filed one xerox copy of receipt regarding purchase of the elephant from one Dilip Kumar Sasmol.

Having heard the Ld Advocate of both sides as well as Ld APP and on perusal of the applications of the parties including the documents filed it reveals that the case was initiated by the D/C with BDN(E) P.S on 18.05.15 alleging offence punishable U/S. 188 IPC & 51 of the Wild Life Protection Act, 1972 & 14 of the Child Labour Prohibition and Regulation Act, 1986. It is admitted fact that the I.O has seized the elephant in question from the Sonali Circus at Baisakhi Mela Grounds of Bidhannagar including the tickets of Sonali Circus on 18.05.15 as well as Birth Certificate of Sathi Singh, Saurav Singh, Aloke Singh and Voter Card of Gopal Singh, Pratap Singh and Smriti Singh. Report was called for from the I.O regarding the prayer of the D/C as well as Parul Singh. Report was submitted by the I.O who has specifically stated that the present petitioner namely Parul Singh as well as the authority of Sonali Circus did not produce any relevant documents and permission from the Forest Department, Government of West Bengal for the said female elephant which they kept under their possession. I.O has also stated that to facilitate proper upkeepment of elephant Champa not only the petitioner but also the accd persons took no initiative during its stay. I.O also raised strong objection as the present claimant Parul Singh did not produce any valid ownership certificate as well as fitness to travel certificate, Health Register or

Vaccination record for the elephant and also fails to produce transport certificate or permission from Forest Officer/CWLW for transporting the elephant for previous camping location and also fails to produce the vaccination record, disease & treatment record, movement register, feeding register, work register etc. By submitting the report the I.O also praying for necessary order so that the captive elephant namely Champa is permanently shifted to the forest of North Bengal. From the basic ingredients of Wild Life Protection Act it is held that there is a provision which specifically stated in Sec39(3) of the said Act that no person shall without previous permission in writing of the Chief Wild Life Warden or authorized Officer a) acquire or keep in his possession, custody or control b) transfer, c) destroy such Government property. There is also a specific provision in the said Act which clearly states that no person shall after commencement of this Act acquire, receive, keep in his control, custody or possession sell, offer for sale or otherwise transfer or transport any animal specified in Schedule-I or Part-11. There is a specific direction that the Chief Wild Life Warden may for the purpose of Sec.40 of the said Act issue a certificate of ownership to any person. But in the case in hand the petitioner Parul Singh did not produce any valid documents regarding ownership of captive elephant that the required certificate has been issued in her favour. It is known to all vide Provisions of the Wild Life Protection Act that the trade of any elephant is purely illegal and to keep an elephant the owner must get an ownership certificate from the Chief Wildlife Conservator of the State. As per the latest decision of the Hon'ble Apex Court trading of elephant since long back is banned. It is admitted fact that the elephant Champa is the property of a Government for all purposes. By violating the basic mandates of the said Act the petitioner Parul Singh procured one fake document as if she purchased the elephant properly as per law. The document submitted by the petitioner Parul Singh regarding the sale receipt which was alleged to have executed on 25.07.93 is nothing but a fake

document thich semple ely violates the provisions of the Wildlife protection Act since when the Act, 1972 came into force all Wild animal being the property of Government for all purposes no private person can possess or own the same by any means. From the documents submitted by the petitioner Parul Singh who claimed as owner of the elephant Champa it is admitted fact that the petitioner Parul Singh has no license or permission from any statutory organization. In view of the above prayer of the petitioner Parul Singh is rejected.

The Prayer of the D/C is allowed in view of the above observation. Hence, it is:-

### **Ordered**

Prayer of the Defacto Complainant vide it's application dt. 16.06.15 is allowed. The Principal Chief Conservator of Forest, Wildlife and Chief Wildlife Warden, West Bengal is directed to take immediate and permanent custody of the elephant Champa which is now stationed in Bidhannagar Forest Range Office, Wild Animal Rescue and Transit facility Center, Wild Life (HQ) Division, Block-AE, Sector-I, Salt Lake under BDN(N) P.S. It is also directed to the Department of Forest, Government of West Bengal as well as Principal Chief Conservator of Forest, Wildlife & Chief Wildlife Warden, West Bengal for providing necessary funds for taking steps for transportation as well as proper wellbeing of the elephant Champa to the nearest sanctuary in West Bengal for well maintenance of the elephant Champa. Inform all concern.

### Prosecution Director - Haryana

From

The Director of Prosecution, Haryana Bays No. 9 & 10, Sector-14, Panchkula

To

All the District Attorneys, Posted at District HQs,

Memo No. AP(7)-2015/ 2 | 24/2— Dated Panchkula the 22-12-15

Subject:- Failur of Prosecution Officers in defending state action in cases of cattle smuggling.

Reference on the subject noted above.

It came to the notice that in most of the cases registered for the offences under Prevention of Crulty of Animals Act 1960, the APPs/PPs do not appear at the time of handing over custody of the animals by the courts on superidari and sometimes the custody of the animals is given to the accused by the courts rendering the entire exercise useless.

It is therefore, directed that all the PPs/APPs working under you be directed to appear in such cases and defend the cases zealously and ensure the compliance of orders of Hon'ble Supreme Court dated 22.02.2002 passed in Criminal Appeal No. 283-287/2002 State of U.P V/s Mustakeem & Ors (copy enclosed). Any lapse shall be viewed seriously.

Additional Director, for Director of Prosecution, Haryana

### Director Prosecution - Delhi

#### OFFICE OF THE DIRECTOR OF PROSECUTION

GOVT. OF NCT OF DELHI TIS HAZARI COURTS : DELHI – 110054

No.: 47 /DOP/2015/

Dated: 07-01-16

#### ORDER

Whereas, it has been observed that most of the cases registered for the offences under the Prevention of Cruelty of Ahimals Act, 1960, are not being conducted properly by the concerned Prosecuting Officers, resulting which, State is suffering from irreparable loss in such cases.

On a number of occasions, concerned Assistant Public Prosecutors / Additional Public Prosecutors do not appear at the time of handing over custody of the animals by the Courts on Superdari and sometimes the custody of the animals is given to the accused by the Courts, rendering the entire exercise useless.

Hence, in order to ensure the proper compliance of the Order of Hon'ble Apex Court dated 22.02.2002 passed in Criminal Appeal No. 283-287/2002, "State of U.P. V/s Mustakeem & Others" (copy enclosed), all the concerned APPs / Addl. PPs are hereby directed to defend the said cases with utmost dedication, zeal and enthusiasm and ensure the proper compliance of the provisions of the Act as well as Order of the Hon'ble Supreme Court.

Any default in this regard will be viewed seriously.

(PANKAJ SANGHI)
DIRECTOR OF PROSECUTION
DELHI

Copy forwarded to :

1. Head of Office / PP (Hqrs) : for necessary compliance

2. All PP/CP Incharge : -do-3. All Chief Prosecutors : -do-

4. All concerned Addl. PP/APPs
Through concerned PP/CP

Through concerned PP/CP : for compliance
5. Notice Board : for information
6. Guard File / Record File : for record

7. Reader to DOP : for record.

## Roles and Responsibilities

- Animal Welfare Board of India, MoEF&CC PCA Act
- State Animal Husbandry Department District SPCA and State Animal Welfare Board (PCA Act and Orders of the Hon'ble Supreme Court)
- Local bodies Kanjihouse and ABC Centers (State Municipal Corporation Acts and PCA Act)
- Health Department Food Safety Inspectors (FSSA Act 2006)
- Department of Road Transport (Motor Vehicles Act)
- Forest Department Wildlife Protection Act 1972

#### NOTIFICATION

New Delhi, the 26th March, 2001

**S.O.271 (E)** - Whereas the draft Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2000 were published as required by sub-section (1) of section 38 of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960), under the notification of the Government of India in the Ministry of Social Justice and Empowerment number S.0 1166 (E) dated the 2611 December, 2000 in the Gazette of India, Extraordinary, Part 11, Section 3, Sub Section (ii) dated the 27th December, 2000 inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of the period of sixty days from the date on which copies of the Gazette containing the said notification are made available to the public.

And, whereas, copies of the said Gazette were made available to the public on the 1 st January 2001.

And, whereas no objection or suggestion has been received from the public in respect of the said draft rules by the Central Government.

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (2) of section 38 of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960) the Central Government hereby makes the following rules, namely :

- 1. Short title and commencement (1) These rules may be called the Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001
- (2) They shall come into force on the date of their publication in the Official Gazette.
- **2. Definitions** In these rules, unless the context otherwise requires.
- (a) "Act" means the Prevention of Cruelty to Animals Act, 1960 (59 of 1960)
- (b) "Animal Welfare Organisation" means a Welfare Organisation for animals which is registered under the Societies Registration Act of 1860 (21 of 1860) or any other corresponding law for the time being in force and recognised by the Board or the Central Government.
- (c) "Board" means the Animal Welfare Board of India established under the Act.
- (d) "local authority, means a municipal board of municipal committee, a State Animal Welfare Board, district board or any local animal welfare organisation authorised by any law for the control and administration of any matter relating to animals within a specified local areas.
- (e) "Society" means Society for Prevention of Cruelty to Animals (hereinafter referred to as SPCA) established in any district under the Societies Registration Act, 1860 (21 of 1860) or any other corresponding law applicable in a state and shall include the existing SPCA functioning in any district.
- (f) "veterinary doctor" means a person registered with the Veterinary Council of India established under the Indian Veterinary Council Act, 1984 (52 of 1984).

- **3. Society for Prevention of Cruelty to animals in a district** (1) Every State Government shall by notification in the Official Gazette, establish, as soon as may be and in any event within six months from the date of commencement of these rules, a society for every district in the State to be the SPCA in that district.

  Provided that any society for Prevention of Cruelty to Animals functioning in any district on the date of commencement of these rules shall continue to discharge its functions till establishment of the SPCA in that district under these rules.
- (2) The Managing Committee of the Society shall be appointed by the State Government or the local authority of the district consisting of a Chairperson to be appointed by the State Government or the local authority of the district, as the case may be with the concurrence of the Board and shall consist of such number of other members as may be considered necessary by the State Government or the local authority of the district subject to the condition that
- (i) at least two members shall be representatives of the Animal Welfare Organisations which are actively involved in the work of prevention of cruelty to animals and welfare of animals preferably from within the district; and
- (ii) at least two members shall be the persons elected by the general body of members of the Society.
- (3) The duties and powers of the Society shall be to aid the Government, the Board and local authority in enforcing the provisions of the Act and to make such bye-laws and guidelines as it may deem necessary for the efficient discharge of its duties.
- (4) The Society, or any person authorized by it in this behalf, if it or he has reasonable grounds for believing that any person has committed an offence under the Act, it or such authorized person may require such person to produce forthwith any animal in his possession, control, custody or ownership, or any license, permit or any other document granted to such person or required to be kept by him under the provisions of the Act and may stop any vehicle or enter into any premises in order to conduct a search or inquiry and may seize an animal in respect of which it or such authorized person has reason to believe that an offence under the Act is being committed, and deal with it in accordance with law.
- (5) In addition to the powers conferred by these rules, the State Government may, in consultation with the Board, confer such other powers upon any Society for exercising the powers and discharging the functions assigned to it under these rules.

- **4. Setting up of infirmaries and animal shelters** (1) Every State Government shall provide adequate land and other facilities to the Society for the purpose of constructing infirmaries and animal shelters.
- (2) Every infirmary and animal shelter shall have -
- (i) a full time veterinary doctor and other staff for the effective running and maintenance of such infirmary or animal shelter; and
- (ii) an administrator who shall be appointed by the Society.
- (3) Every Society shall, through its administrator or otherwise, supervise the overall functioning of the infirmaries and animal shelters under its control and jurisdiction.
- (4) All cattle pounds and pinjrapoles owned and run by a local authority shall be managed by such authority jointly with the Society or Animal Welfare Organisations.

### 5. Regulation of SPCAs

- (1) Every Society shall submit its annual report to the Board incorporating therein the activities undertaken by it for the welfare of animals and the steps or measures taken by it to implement various provisions of the Act and the rules made thereunder along with annual accounts duly audited by a chartered accountant or any other body authorised by law within a period of one month from the date of its accounts having been finalised by its managing committee.
- (2) The Board shall examine such annual report and the annual accounts submitted by the Society and may give any directions to it for improvement of its functioning including the supercession of the managing committee of the Society with a view to give effect to the provisions of the Act and the rules made thereunder.
- Provided that the Board shall give opportunity of personal hearing to the office bearers of the Society or any representative authorised by it before giving direction of its supercession and holding of fresh elections for electing a new managing committee as per bye-laws of the society.
- (3) The Board shall give any direction to any Society in the interest of smooth and efficient functioning of the Society including the procedure for holding the election of the managing committee of the Society, utilisation of financial resources and management of assets of the Society with a view to give effect to the provisions of the Act and the rules made thereunder.

(F.No.19/I/2000-AWD)
DHARMENDRA DEO,
Jt. Secv.

### Supreme Court of Formation of State Animal Welfare Board and District SPCAs

ITEM NO.3 COURT NO.1 SECTION PIL

SUPREME COURT OF INDIA RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s), 440 OF 2000

GEETA SESHAMANI

Petitioner(s)

VERSUS

UNION OF INDIA & ANR. Respondent(s)
(With appln(s) for exemption from filing O.T., directions, impleading party and office report) (For final disposal)

Date: 06/08/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE HON'BLE MR. JUSTICE A.K.MATHUR

For Petitioner(s) Mr. P.K. Manohar, Adv.

For Respondent(s) M/s Ashok Bhan, Sunita Sharma S.W.A.Qadri, DS Mahra, Advs.

For NCT of Delhi Mr. S.W.A.Qadri, and Uts Mr. J.A.Khan, Advs.

For Chhattisgarh Ms. Suparna Srivastava, Adv. (NP)

M/s Nidhi Minocha, Rajesh Srivastava, Advs.

For MCD M/s Sanjiv Sen & Praveen Swarup, Advs.

For State of AP M/s Manoj Saxena, Rajnish Kr. Singh Rahul Shukla for TV George, Advs.

For Mizoram M/s KN Madhusoodhanan & R.Sathish, Advs.

For NDMC Mr. Surya Kant, Adv.

For Maharashtra Mr. Sanjay V.Kharde, Adv. Mrs.Asha G.Nair, Adv.

For State of MP M/s CD Singh, Merusagar Samataray &

Vairagya Vardhan, Advs.

5/28/13 courtnic.nic.in/supremecourt/temp/44020003682008p.bt

For Nagaland M/s U.Hazarika, Satya Mitra & Ms. Sumita Hazarika, Advs.

For Haryana Mr. Manjit Singh, Addl. A.G.

Mr. Harikesh Singh, Adv. Mr. T.V. George, Adv.

For Assam Mr. Riku Sarma, Adv. for

M/s Corporate Law Group, Advs.

For Manipur Kh. Nobin Singh,

David Rao, S. Biswaji Meitei,

Vijay Prakash, Advs.

For W.B. M/s Tara Chandra Sharma, Neelam Sharma, Advs.

For Pondicherry M/s VG Pragasam, S.J.Aristotle & S.Prabu Ramasubramanian, Advs.

For Bihar& M/s Gopal Singh and Rituraj Biswas, Advs.

Tripura Manish Kumar, Advs.

For UP M/s Pramod Swarup, Aloka Sinha &

Anuvrat Sharma, Advs.

For Punjab Mrs. Jayashree Anand, Addl. Adv. General

Mr. Karunakar Mahalik, Adv.

For Rajasthan M/s Naveen Kumar Singh, Shaswat Gupta, Advs.

for Mr. Aruneshwar Gupta, Adv.

For Sikkim Mr. A.Mariarputham, Mrs. Aruna Mathurs, Advs. for

M/s. Arputham Aruna & Co., Advs.

For Meghalaya M/s Ranjan Mukherjee & S.C.Ghosh, Advs.

For HP Mr. JS Attri, Addl. Adv. General

For AWBI M/s Raj Panjwani & Vijay Panjwani, Advs.

For Jharkhand Mr.Rajesh Pathak, Advs.

For Mr.B.B.SIngh, Adv.

For Arunachal Pr. Mr. Rituraj, Adv.

For Gujarat Ms. Hemantika Wahi, Adv.

Ms.Pinky Behra, Adv. Ms.K.Enatoli Sema, Adv. Mr.Somnath, Adv.

Mr. Shreekant N. Terdal, Adv.

Ms. A.Subhashini , Adv.

Mrs Anil Katiyar , Adv

Mr. Rajesh Prasad Singh , Adv

Mr. R. Sathish , Adv

Mr. Surya Kant , Adv.

Mr. Anil Nag , Adv

Mr. Rajeev Sharma , Adv

Mr. R. Ayyam Perumal , Adv

Mr. K.R. Sasiprabhu , Adv

Mr. Ranjan Mukherjee , Adv

Mr. Annam D.N. Rao , Adv

Mrs.D. Bharathi Reddy , Adv

Mr. Ramesh Babu M.R. , Adv

Mr.A.Rohen Singh, Adv. Mr.Amit Kr.Chawla, Adv.

For Mr. Sanjay R. Hegde , Adv

Mr. Subramonium Prasad ,Adv

Mr. Ambhoj Kumar Sinha , Adv

Mr. V.N. Raghupathy , Adv

Mr. Ratan Kumar Choudhuri ,Adv

Ms. Rachana Srivastava , Adv

Mr. Rajesh Srivastava ,Adv

Mr. C.D. Singh , Adv

Mr. Kamlendra Mishra , Adv

Mr. Mohanprasad Meharia , Adv

Mr.P.N.Gupta, Adv.

Mr.Anis Suhrawardy, Adv. Mr.S.Mehdi Imam, Adv.

Mr. Naresh Kumar, Adv.

UPON hearing counsel the Court made the following ORDER

This writ petition has been filed by the petitioner alleging that the provisions contained under the Prevention of Cruelty to Animals Act, 1960 are not fully implemented by the various States. All the State Governments were impleaded as party respondents and some of the States have filed their responses.

Heard petitioner's counsel.

The main grievance of the petitioner is that in many States the State

Animal Welfare Boards are not constituted and, therefore, implementation of the
provisions of the Act and the Rules are not done effectively. It is also pointed

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that the Animal Welfare Boards in the States are not taking effective steps to
establish Societies for prevention of Cruelty to Animals (SPCAs) in every
district as contemplated under Rule 3 of the Prevention of Cruelty to Animals
(Establishment and Regulation of Societies for Prevention of Cruelty to Animals)
Rules, 2001. Some of the States have submitted that they have filed a
statement to the effect that these SPCAs had already been constituted in all the
States.

We direct the States, which have not constituted the State Animal Welfare Boards to constitute within a period of three months and also to see that the Society for Prevention of Cruelty to Animals (SPCAs) be also constituted in every district as contemplated under the Rules.

A copy of this order be sent to the Chief Secretary of the all the States to do the needful.

The sum of Rs.1,11,363/- which is lying in F.D.R. may be made available

to the Delhi State Animal Welfare Board as and when the same matures.

The writ petition is disposed of accordingly.

(G.V.Ramana) Court Master (Vijay Dhawan)

Court Master

### Supreme Court of Formation of State Animal Welfare Board and District SPCAs

1 ITEM NO.17 COURT NO.4 SECTION PIL(W) SUPREME COURT OF INDIA RECORD OF PROCEEDINGS Writ Petition(s)(Civil) No(s). 881/2014 GAURI MAULEKHI Petitioner(s) VERSUS UNION OF INDIA AND ORS. Respondent(s) (with appln. (s) for directions and exemption from filing O.T. and office report) WITH W.P.(C) No. 210/2015 (With appln(s) for directions and exemption from filing OT and office report) Date: 13/07/2015 These petitions were called on for hearing today. HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR HON'BLE MR. JUSTICE ADARSH KUMAR GOEL For Petitioner(s) Mr. Anand Grover, Sr. Adv. Ms. Nithya Rajshekhar, Adv. Mr. Purushottam Sharma Tripathi, Adv. Mr. Mukesh Kumar Singh, Adv. Dr. Manish Singhvi, Adv. Mr. Mumal Rajvi, Adv. Mr. D.K. Devesh, Adv. Mr. Shantanu Sagar, Adv. For Respondent(s) Ms. Binu Tamta, Adv. Ms. Vimla Sinha, Adv. Mr. Sridhar Pottaraju, Adv. For Ms. Sushma Suri, AOR Mr. Anip Sachthey, Adv. Ms. Shagun Matta, Adv. Ms. Vimla Sinha, Adv. for Mr. Gopal Singh, AOR Mr. Siddhjarth Singh, Adv. Mr. Samir Ali Khan, Adv. Ms. Rachana Srivastava, Adv. Mr. Milind Kumar, Adv. UPON hearing the counsel the Court made the following ORDER

Learned counsel for the rival parties are agreed, that

the suggestions formulated by all the respondents, and incorporated in annexure A-2 placed on the record of this case (along with the affidavit dated 28.5.2015, filed by Mr. Banshi Dhar Sharma, IPS, Director General, Sashastra Seema Bal), deserves to be accepted, and an appropriate order need be passed for implementation thereof.

Based on the acceptance of the proposals, we direct all concerned, to implement the same forthwith. Whilst doing so, it shall be imperative for all the concerned State Governments to constitute District SPCAs, in each and every District of the State, as per Rule 3 of the SPCA Rules, within four weeks from today. Likewise, the State Governments concerned are directed to constitute State Animal Welfare Boards, to supervise and co-ordinate with the District SPCA. The aforesaid State Animal Welfare Boards, shall also be constituted within four weeks from today.

All State Governments concerned are directed to submit compliance report to this Court, within eight weeks from today. The aforesaid compliance report shall be verified by respondent no.7, i.e., The Secretary, Animal Welfare Division, Ministry of Environment and Forests, New Delhi, within a further period of four weeks.

 $\mbox{List the instant writ petitions for further consideration} \\ \mbox{on 16.11.2015}.$ 

(Renuka Sadana) Court Master (Parveen Kr. Chawla)
AR-cum-PS

### Notification issued under the Motor Vehicles Act 1988

रजिस्टी सं० डी॰ एल॰-33004/99

REGD. NO. D. L.-33004/99



#### असाधारण

### EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i) प्राधिकार से प्रकाशित

#### PUBLISHED BY AUTHORITY

सं. 4391

नई दिल्ली, बुधवार, जुलाई 8, 2015/आबाढ़ 17, 1937

NEW DELHI, WEDNESDAY, JULY 8, 2015/ASHADHA 17, 1937

### सड़क परिवहन और राजमार्ग मंत्रालय

#### अधिसूचना

नई दिल्ली, 8 जुलाई, 2015

सा.का.नि. 546(अ).—केन्द्रीय मोटर यान नियम, 1989 की धारा 212 की उपधारा (1) के अधीन अपेक्षानुसार केन्द्रीय मोटर यान नियम, 1989 का और संशोधन करने के लिए, भारत सरकार के सड़क परिवहन और राजमार्ग मंत्रालय की भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (i) में प्रकाशित अधिसूचना सा.का.नि. संख्यांक 745 (अ) तारीख 27 अक्तूबर, 2014 द्वारा प्रारूप नियम प्रकाशित किए गए थे, उन सभी व्यक्तियों से, जिनके उनसे प्रभावित होने की संभावना थी, उस तारीख से जिसको उक्त अधिसूचना से युक्त राजपत्र की प्रतियां जनता को उपलब्ध करा दी गई थी तीस दिन की अविध के अवसान से पूर्व आकोप और सुझाव आमंत्रित किए गए थे;

और राजपत्र की प्रतियां जिसमें उक्त अधिसूचना प्रकाशित की गई थी, जनता को 27 अक्तूबर, 2014 को उपलब्ध करा दी गई थी:

और उक्त प्रारूप नियमों की बाबत जनता से प्राप्त आक्षेपों और सुझावों पर केन्द्रीय सरकार द्वारा विचार कर लिया गया है:

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 110 की उपधारा (1) के खंड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय मोटर यान नियम, 1989 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात:-

- 1. (1) इन नियमों का संक्षिप्त नाम केन्द्रीय मोटर यान (ग्यारहवाँ संशोधन) नियम, 2015 है।
  - (2) ये नियम 1 जनवरी, 2016 को प्रवृत्त होंगे।

2. केन्द्रीय मोटर यान नियम, 1989 (जिसे इसमें इसके पश्चात मूल नियम कहा गया है) के नियम 125घ के पश्चात् निम्नलिखित नियम अंत:स्थापित किया जाएगा, अर्थात :-

"125इ. पशुधन का परिवहन करने वाले मोटरयानों के लिए विशेष अपेक्षाएं—(1) 1 जनवरी, 2016 को और उसके पश्चात् सड़क द्वारा पशुधन का परिवहन करने के लिए उपयोग किए जा रहे मोटरयान, यथास्थिति समय-समय पर संशोधित भारतीय मानक ब्यूरो की आईएस 14904: 2007; या आईएस 5238:2001; या आई एस 5236:1982 में यथाउपवंधित विशिष्टयों के अनुसार होंगे और पशुधन का परिवहनकर्ता या परेषणकर्ता संबंधित विशिष्टियों में पशु धन के परिवहन की बाबत अधिकथित ब्यवहार संहिता का अनुसरण करेगा।

- (2) उपनियम (1) के अधीन रहते हुए जानवरों को ले जाने वाले मोटर यान में यान की बाडी में स्थायी विभाजन होंगे जिससे प्रत्येक विभाजन में जानवरों को व्यष्टिक रूप से ले जाया जाए, जिसमें विभाजन का आकार निम्नलिखित से कम नहीं होगा, अर्थात्:-
  - (i) गाय और भैंसें=2 वर्गमीटर
  - (ii) घोड़े और घोड़यां= 2.25 वर्गमीटर
  - (iii) भेड़ और बकरी=0.3 वर्गमीटर
  - (iv) सूअर =0.6 वर्गमीटर; और
  - (v) कुक्कुट =40 वर्ग सेंटीमीटर
- (3) जानवरों को ले जाने के लिए आशयित किसी मोटर यान को अन्य माल को ले जाने के लिए अनुज्ञात नहीं किया जाएगा।
- (4) प्रादेशिक परिवहन अधिकारी उपनियम (2) के उपबंधों के अनुसार उपारित मोटर यान के आधार पर जानवरों को ले जाने के लिए आशयित मोटर यानों को विशेष अनुज्ञप्तियां जारी करेगा।

[फा. सं. आरटी-11036/24/2014-एमबीएल]

संजय बंदोपाध्याय, संयुक्त सचिव

टिप्पण:--मूल नियम भारत के राजपत्र, असाधारण, भाग II, खंड 3, उप-खंड (i) में अधिसूचना सं. सा.का.नि. 590(अ), तारीख 2 जून, 1989 द्वारा प्रकाशित किए गए थे और अंतिम संशोधन सा.का.नि. सं. 498(अ), तारीख 16-06-2015 द्वारा किया गया।

### MINISTRY OF ROAD TRANSPORT AND HIGHWAYS NOTIFICATION

New Delhi, the 8th July, 2015

G.S.R. 546(E).—Whereas, the draft rules further to amend the Central Motor Vehicles Rules, 1989, were published, as required under sub-section (1) of Section 212 of the Motor Vehicles Act, 1988 (59 of 1988), vide notification of the Government of India in the Ministry of Road Transport and Highways number G.S.R. 745 (E), dated the 27th October, 2014 in the Gazette of India, Extraordinary, Part-II, Section 3, sub-section (i) inviting objections and suggestions from all persons likely to be affected thereby before the expiry of the period of thirty days from the date on which copies of the said notification containing the draft rules were made available to the public;

And whereas, copies of the said Gazette notification were made available to the public on the 27th October, 2014;

And whereas, the objections and suggestions received from the public in respect of the said draft rules have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by clause (m) of sub-section (1) of Section 110 of the Motor Vehicles Act, 1988 (59 of 1988), the Central Government hereby makes the following rules further to amend the Central Motor Vehicles Rules, 1989, namely:—

- (1) These rules may be called the Central Motor Vehicles (Eleventh Amendment) Rules, 2015.
  - (2) They shall come into force on the 1st day of January, 2016.
- In the Central Motor Vehicles Rules, 1989 (hereinafter referred to as the principal rules), after rule 125D the following rule shall be inserted, namely:—
  - "125E. Special requirements of motor vehicles transporting livestock.- (1) On and after, the 1st January, 2016, motor vehicles used for transportation of livestock by road shall be in accordance with the specifications of the Bureau of Indian Standards as provided in IS-14904:2007; or IS-5238:2001; or IS-5236:1982, as the case may be, as amended from time to time and the transporter or consigner of the livestock shall follow the code of practice laid down in the respective specification regarding the transport of the livestock.
  - (2) Subject to sub-rule (1), the motor vehicles for carrying animals shall have permanent partitions in the body of the vehicle so that the animals are carried individually in each partition where the size of the partition shall not be less than the following namely:—
    - (i) Cows and buffalos = 2 sq. mts.
    - (ii) Horses and mares = 2.25 sq. mts.
    - (iii) Sheep and goat = 0.3 sq. mts.
    - (iv) Pig = 0.6 sq. mts; and
    - (v) Poultry = 40 cm sq.
  - (3) No motor vehicles meant for carrying animals shall be permitted to carry any other goods.
  - (4) The Regional Transport Officer shall issue special licences for the motor vehicles meant for carrying animals on the basis of vehicles modified in accordance with the provisions of sub-rule (2).".

[F. No. RT-11036/24/2014-MVL]

SANJAY BANDOPADHYAYA, Jt. Secy.

Note:- The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, sub-section (i) vide notification number G.S.R. 590(E), dated the 2nd June, 1989 and lastly amended vide notification number 498(E), dated 16-06-2015.

### List of animals permitted to be slaughtered for food

File No. No. 1-988/FSSAI/Imports/2014
Food Safety and Standards Authority of India
(Ministry of Health and Family Welfare)

FDA Bhavan, Kotla Rogo New Delhi-110002 Date: 06 August, 2014

Subject: Slaughtering of animals not permissible under the FSS Act and Regulations.

Your kind attention is invited towards Regulation 2.5 of the FSS (Food Product Standards and Food Additives) Regulations, 2011, wherein definitions of animals, carcass and meat are given.

As per sub-regulation 2.5.1 (a) "animal" means an animal belonging to any of the species specified below;-

- (i) Ovines;
- (ii) Caprines;
- (iii) Suillines;
- (iv) Bovines; and includes poultry and fish

The slaughtering of animals of any other species other than the one listed above is not permissible under the FSS Act and Regulations.

In view of the above, you are requested to kindly strengthen the vigil and ensure the compliance of the provisions of FSS Act, 2006.

Yours sinserely,

(Bimal Kumar Dubey)

Director (Enforcement)

To:

All the Food Safety Commissioners

### Thank you

### Gauri Maulekhi

Member, Uttarakhand Cattle Protection Commission
Executive Secretary, SPCA Dehradun
Member Uttarakhand Animal Birth Control Monitoring Committee
Member, Delhi Slaughterhouse Monitoring Committee
Member, Kerala Slaughterhouse Monitoring Committee
Member, Kerala Captive Elephant Task Force

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