

SECTION PIL (WRIT)

MATTER FOR : 25.10.2024

COURT No. : 08

ITEM NO. : 35

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
MISCELLANEOUS APPLICATION NO. 2191 OF 2024

WITH

INTERLOCUTORY APPLICATION NO. 237082 OF 2024

(AN APPLICATION FOR CLARIFICATION OF THE ORDER DATED 9.5.2024
PASSED BY THIS HONBLE COURT IN THE ABOVE WRIT PETITION NO.599
OF 2015)

WITH

INTERLOCUTORY APPLICATION NO. 237092 OF 2024

(APPLICATION FOR EXEMPTION FROM FILING OFFICIAL TRANSLATION)
IN

WRIT PETITION (CIVIL) NO. 599 OF 2015

(Under Article 32 of the Constitution of India)

ANUPAM TRIPATHI

PETITIONER

Versus

UNION OF INDIA & ORS.

RESPONDENTS

OFFICE REPORT

It is submitted that Writ Petition (C) No. 599 of 2015 above-mentioned alongwith connected matters was disposed of vide Hon'ble Court's Order dated 09.05.2024, passing the following Order:-

1. The point raised for consideration in the present batch of petitions is as to whether the Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as '1960 Act' for short), and the rules framed thereunder i.e. the Animal Birth Control Rules, 2001 (hereinafter referred to as '2001 Rules' for brevity), would prevail over the local/Municipal Laws of the concerned States in the management of stray dogs or not?
2. Looking at the first petition, that in specific, the Animal Welfare Board of India preferred Civil Appeal No. 5988 of 2019 assailing the final judgment and order dated 19.12.2008 passed by the three-Judge Bench of the High Court of Judicature at Bombay in appellate side Writ Petition No. 6257 of 2006. The inter play between the provisions of the 1960 Act and the Mumbai Municipal Corporation Act, 1888 and the respective rules/regulations framed/ issued in terms thereof, was the subject matter for consideration before the Court.
3. The said appeal, being the first in the point of time, was preferred as a special leave petition in the year 2009, wherein notice was issued on 23.01.2009 and the operation of the Judgment of the Bombay High Court was stayed and subsequently, leave to appeal granted.

4. Since then, we find much water has flown down. We notice that in the said appeal, several parties have filed different applications (about 30 in number) seeking certain directions. Also, several independent petitions (06 in number) stand filed which, over a period of time stand tagged and heard together along with the said appeal, as revealed from the proceedings.

5. We notice that in terms of our order dated 18.11.2015, it stands observed that all the municipal corporation(s), municipal committee(s), district board(s) and local bodies shall be guided by the provisions of the 1960 Act and the 2001 Rules and that it would be the duty and obligation of the Animal Welfare Board, ensuring compliance and follow up action with all earnestness.

6. Subsequently, as is evident from certain orders, several issues were raised by the stakeholders, inter alia, ensuring proper and complete implementation framework for the street dogs population management, rabies eradication and reducing man-dog conflict causing hardship as per various divergent pleas taken by them.

7. We also notice that covering the very same issue, while dealing with the similar statutes, different High Courts have taken divergent views. Whereas the Kerala High Court has upheld the 2001 Rules, further holding that the municipal laws for dealing with the stray dogs should be in compliance with the 2001 Rules and discretionary powers cannot be granted to the municipal authorities for killing the stray dogs. The High Courts of Bombay, Karnataka and Himachal Pradesh have held that the local authorities have discretionary powers to kill the stray dogs for them not to be subjected by the 2001 Rules, notified by the Central Government. The minority judgment of the Bombay High Court is in line with the opinion rendered by the Kerala High Court.

8. Different appeals/special leave petitions (23 in number) arising out of the said orders/judgments also stand filed and as such clubbed with the main appeal. It is also noticed that certain contempt petitions, two in number, were filed and heard along with the main appeal.

9. Well, all this was prior to 10.03.2023, on which date, the Annual Birth Control Rules, 2023, stand notified by the Central Government, Ministry of Fisheries, Animal husbandry and Dairying, and now in force.

10. Considering all the intervening developments and more specifically the enactment of the new Rules putting in place mechanism for preventing the infliction of unnecessary pains and sufferings on animals, more specifically the canines, we intend to close the instant proceedings leaving it open for each one of the parties to pursue their remedies on occasion so arises, if so advised, before the Constitutional Courts, other Forums having respective jurisdiction, in accordance with law.

11. We only hasten to add, that under all circumstances, there cannot be any indiscriminate killings of canines and

the authorities have to take action in terms of the mandate and spirit of the prevalent legislation(s) in place. There is no gainsaying in the fact that exhibiting compassion to all living beings, is the enshrined Constitutional value and mandate, and cast obligation on the authorities to maintain.

12. We clarify that all issues, raised in the instant lis are kept open to be adjudicated in an appropriate proceedings, before the appropriate forum, in accordance with law. Whether be it may the mechanism in terms of the new Rules deficient/insufficient or repugnant to the Constitution or the parent statute(s); in our considered view, which can be best considered by the Constitutional Courts or other Forums accounting for all factors and circumstances, local in nature, being germane for adjudication for them and to decide it independently. We are hopeful that as and when any such issue is raised, the same shall be considered expeditiously, in accordance with law, uninfluenced of any one of the observations made in the impugned orders/judgments and the proceedings of these batch of petitions/appeals.

13. With the aforesaid observations, the appeals/petitions stand disposed of. All the applications shall also stand closed

It is further submitted that Mr. V. K. Biju, Advocate has on 15.10.2024 filed Miscellaneous Application along with application for clarification of Court's order dated 09.05.2024 on behalf of the applicant viz. Fr. Geevarghese Thomas. The said Miscellaneous Application is registered as M.A. No. 2191/2024 and application for clarification is registered as I.A. No. 237082/2024 and are placed along with the paper books.

The Miscellaneous Application above-mentioned along with the applications is listed before the Hon'ble Court with this Office Report for Orders.

Dated this the 24th day of October, 2024.

Sd/-
Assistant Registrar