

W.P.(PIL) No. 07/2017

IN RE-MENACE OF STRAY DOGS IN GANGTOK

Date: 24/10/2019

CORAM :

HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CJ.
HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.

For Petitioner (s) : Mr. A. Moulik, Advocates as Amicus Curiae.

For Respondent No. 1,2, 4 and 7 : Dr. Doma T. Bhutia, Addl. Advocate General, Mr. S.K. Chettri Asstt. Government Advocates.

For Respondent No.3 : Ms. Panila Theengh, Advocate.

Court Commissioner : Dr. Thinlay Nedup Bhutia, Programme-Coordinator-cum-Deputy Director, SARA Division, Animal Husbandry & Veterinary Services Department, Government of Sikkim.

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Heard Mr. A. Moulik, learned Senior Advocate appearing as Amicus Curiae and Dr. Doma. T. Bhutia, learned Additional Advocate General, Sikkim.

2. The instant Public Interest Litigation was registered pursuant to a written complaint dated 04.04.2017 addressed to Hon'ble the Chief Justice, by one Mr. Bishant Niroula, stating therein that his brother was bitten by stray dogs on the road, leading to his hospitalization. Prayer was made to take necessary action and to direct the Authorities of the Gangtok Municipal Corporation to ensure that stray dogs do not create menace to the people living in the city of Gangtok.

3. Notices were issued on 22.08.2017 to the Chief Secretary, Government of Sikkim; Secretary, Animal Husbandry, Live Stock, Fisheries and Veterinary Services Department (for short, LF & VS Department) and to the Commissioner, Gangtok Municipal Corporation.



4. A report was filed on behalf of the Secretary, Animal Husbandry, LF & VS Department on 19.09.2017, wherein at paragraph 20, it was indicated that Special Leave Petition (C) 691 of 2009 (*Animal Welfare Board of India Vs. People for Elimination of Stray Troubles & Ors.*) and Writ Petition (Civil) 805 of 2015 (*Sabu Steephen Vs. Union of India*) are pending before the Hon'ble Supreme Court of India. The reliefs sought in the aforesaid Writ Petition, as indicated in paragraph 20, are extracted here in below:-

- “a. issue a writ of mandamus or direction or order or any other writ thereby directing all the Central and State Government to implement Sections 11 (3) and (c) and 38 (2) (ea) of Prevention of Cruelty to Animal Act, 1960.
 - (i) Section 11 (3) (b) states “.... The destruction of stray dogs in lethal chambers [by such other methods as may be prescribed] or
 - (ii) Section 11(c) the extermination or destruction of any animal under the authority of any law for the time being in force: or
 - (iii) 38 (2) (ea) the other methods of destruction of stray dogs referred to in clause (b) of sub-section (3) of section 11;
 - (iv) Section 11(3) (b) states”.....the destruction of stray dogs in lethal chambers “by such other methods as may be prescribed] or
 - (v) Section 11(c) extermination or destruction of any animal under the authority of any law for the time being in force: or
 - (vi) 38 (2) (ea) the other methods of destruction of stray dogs referred to in clause (b) of sub-section (3) of section 11:
- (b) issue writ of certiorari or direction or order or any other writ thereby quashing Animal Birth Control (Dogs) (2)



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- (ea) of the Prevention of Cruelty to Animals Act 1960 and vocative of Article 19 and 21 of the Constitution of India.
- (c) All State Governments and Union Territories to strictly implement the concerned provisions of the Panchayat Raj/Municipal/Municipal Corporations Act for destruction of stray dogs.
 - (d) issue writ of mandamus or any other wit, order or direction to the Central Government to enact necessary laws to introduce and implement licensing system to keep dogs specially that no stray dog is allowed to find in the Indian streets.
 - (e) Pass such other writ of order or directions which are necessary to the destruction of stray dogs and licensing of domestic or pet dogs throughout India may also be passed."

It is also stated in the said paragraph 20 that the State of Sikkim had filed its counter affidavit on 18.07.2016.

5. It is submitted by Dr. Doma. T. Bhutia that the Hon'ble Supreme Court is considering various issues relating to stray dogs and therefore, perhaps, it would not be appropriate for this Court to continue a parallel proceeding more or less on the same subject matter. She further submits that last listing of the cases was on 22.10.2019 and the cases are still pending disposal before the Hon'ble Supreme Court.

6. Mr. A. Moulik has drawn the attention of this Court to the Record of Proceedings of orders dated 23.01.2009, 24.08.2015, 18.11.2015 passed by Hon'ble Supreme Court of India in *Animal Welfare Board of India (supra)*, reported in (2016) 2 SCC 598 as well as Record of Proceedings of the order dated 26.10.2015, reported in (2016) 13 SCC 498; order dated 30.11.2015, reported in (2016) 13 SCC



499; order dated 08.01.2016, reported in (2016) 13 SCC 500(1); order dated 29.02.2016, reported in (2016) 13 SCC 500(2); order dated 09.03.2016, reported in (2016) 13 SCC 500(3) and order dated 05.04.2016, reported in (2016) 13 SCC 504.

7. A perusal of the Record of Proceedings of *Animal Welfare Board of India (supra)*, reported in (2016) 2 SCC 598, shows that Hon'ble Supreme Court was considering various issues relating to steps taken for destruction/ removal of stray dogs. In the order dated 18.11.2015, Hon'ble Supreme Court had directed as follows:-

“19. A copy of the order passed today be sent to the Chief Secretary of each of the States and the competent authority of Union Territories, so that they can follow the same in letter and spirit. We would also request all the High Courts not to pass any order relating to the 1960 Act and the 2001 Rules pertaining to dogs. Needless to say, all concerned as mentioned hereinabove, shall carry out this order and file their respective affidavits as directed. Let the matter be listed on 9-3-2016.”

8. The 1960 Act and 2001 Rules indicated above refer to the Prevention of Cruelty to Animals Act, 1960 and the Animal Birth Control (Dogs) Rules, 2001.

9. It is noticed that the Hon'ble Supreme Court of India had, in specific terms, directed the High Courts not to pass any order relating to 1960 Act and 2001 Rules.

10. In Paragraph 19 of the Record of Proceedings of the order dated 09.03.2016 of *Animal Welfare Board of India (supra)*, reported in (2016) 13 SCC 500(3), The Hon'ble Supreme Court had observed as follows:-



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“19. We will be failing in our duty if we do not make a note of the submissions of both the sides which are extreme in nature, for example, emphasis and stress have been laid that due to stray dogs, there has been threat to life, health, movement and sometimes security of the human beings. On the other hand, it has been highlighted that the stray dogs are being annihilated without any justifiable reason. As advised at present, we do not intend to say anything on the said counts today.”

11. Having regard to the submissions made and taking note of the cases cited by the learned Counsel for the parties, we are of the view that issue arising in this Public Interest Litigation is already under consideration of the Hon'ble Supreme Court of India and therefore, this Public Interest Litigation ought not to be pursued any further and accordingly, the same is closed and disposed of.

Judge

Chief Justice

Index : ~~Yes~~ / No
Internet : Yes / ~~No~~

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