

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. WRIT PETITION NO. 221 OF 2003

Bhartiya Govansha Rakshan Savardhan ... Petitioner.
Parishad, through its authorized officer :
Mr. Rajendra Patil

V/s.

State of Maharashtra & Anr. ... Respondents.

WITH

CRI. WRIT PETITION NO. 218 OF 2003

Bhartiya Govansha Rakshan Savardhan ... Petitioner.
Parishad.

V/s.

State of Maharashtra & Anr. ... Respondents.

WITH

CRI. WRIT PETITION NO. 220 OF 2003

Bhartiya Govansha Rakshan Savardhan ... Petitioner.
Parishad, through its authorized officer :
Mr. Rajendra Patil

V/s.

State of Maharashtra & Anr. ... Respondents.

WITH

CRI. WRIT PETITION NO. 222 OF 2003

Bhartiya Govansha Rakshan Savardhan ... Petitioner.
Parishad, through its authorized officer :
Mr. Rajendra Patil

V/s.

State of Maharashtra & Anr.

... Respondents.

WITH

CRI. WRIT PETITION NO. 1074 OF 2003

Shri Ashok Chimanlal Shah

... Petitioner.

V/s.

State of Maharashtra & Ors.

... Respondents.

Mrs. Sunanda R.Kumbhat & Matesha Jain, Advocate for the
Petitioner in all the petitions.

Mr. A. R. Patil, APP for the State in all petitions.

CORAM : M.L.TAHALIYANI,J.
DATE : 31st MARCH, 2015

P.C. :

1 Admit all the above petitions. By consent, these
petitions are heard finally at the admission stage.

2 These writ petitions arise out of common order passed
by the learned Judicial Magistrate, First Class, Thane in various
Miscellaneous Applications. These petitions pertain to the
order passed in Criminal Misc. Application Nos. 49/2003,
32/2003, 41/2003, 39/2003 and 50/2003 respectively.

3 The brief facts of the cases are that some animals
were seized by the Police from the persons who were allegedly

involved in slaughtering of the animals. The offence under the provisions of Prevention of Cruelty to Animals Act, 1960, was registered against them. The learned Magistrate was moved for return of the animals by the persons from whose possession the animals were seized. The learned Magistrate by his common order passed in the applications mentioned herein-above and other similar applications decided to return the animals to the owners / the persons from whom they were seized.

4 The learned Advocate for petitioner is heard on behalf of the petitioner in all the petitions. None appeared for the Respondents/owners. The learned additional public prosecutor is heard on behalf of the State.

5 Learned counsel Mrs. Sunanda Kumbhat for the petitioners has submitted that the order of the learned Magistrate was wrong inasmuch as the animals would have been slaughtered immediately within hours of the release of the animals. This apprehension is based on the past incident which had taken place in the area. In my opinion, the learned Magistrate while passing the orders of interim custody should have seriously examined whether animals could be safe in the hands of the owners till conclusion of the trial. In my opinion, the learned Magistrate has failed to examine this issue seriously. The orders, therefore, need to be set aside.

6 The orders impugned in the petitions are set aside.

7 The animals are at present in the custody of Bhartiya Govansha Rakshan Savardhan Prashad. Said custody shall be maintained till the disposal of the cases, pending in the court of learned Magistrate against the accused/owners of the animals, under the provisions of Prevention of Cruelty to Animals Act. Hearing of the said cases is expedited. They shall be decided within a period of six months from the date of the receipt of this order. Final custody of the animals will be subject of the orders of the Magistrate at the conclusion of the trial.

8 All the petitions stand disposed of in the above terms.

(JUDGE)

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