

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 296 OF 2013

1. Govansh Raksha Abhiyaan-Goa,
Nanus, Valpoi, Sattari, Goa,
Through its President,
Shri Hanumant C. Parab,
Major, resident of Pissurlem,
Sattari, Goa.
 2. Akhil Vishwa Jai Sriram
Gosanvardhan Kendra,
Through its President,
Shri Hanumant C. Parab,
Major, resident of Pissurlem,
Sattari, Goa.
 3. Shri Hanumant C. Parab,
Major, resident of Pissurlem,
Sattari, Goa.
- ... Petitioners

V e r s u s

1. State of Goa,
Through Department of
Animal Husbandry
Porvorim, Goa.
2. Goa Meat Complex,
Company registered under
Indian Companies Act,
Government of Goa,
Through its Managing Director
Having its office at
St. Inez, Panaji, Goa.
3. Directorate of Animal Husbandry
And Veterinary Services
Patta, Panaji, Goa.
4. Ponda Police Station
Through Police Inspector,
Ponda – Goa.
5. State Committee for Slaughter House,
Department of Animal Husbandry
and Veterinary Services,
Patta, Panaji, Goa.

6. Shri Ramchandra Jog,
Veterinary Officer,
major in age,
c/o. Goa Meat Complex,
Marvasaddo, Usgao, Goa.
7. Shri Ramdas Naik
Manager,
Major in age,
Goa Meat Complex,
Marvasaddo, Usgao, Goa.
8. Quereshi's Meat Traders Association of Goa,
through its President,
H. No. 91 M/3, Taiba Manzil,
Mayur Colony, Marvasaddo,
Mapusa Goa.
9. Mr. Anwar Ismail Bepari,
Aged 43 years, Ruby Beef Centre,
Shop no. 10, Municipa,l Market,
Mapusa, Goa.
10. Mr. Hussain Ali Khalib,
Aged 68 years, Shop no. 1,
Municipal Market, Panaji, Goa.
11. Mr. Manna R. Bepari,
Aged 38 years, Shop no. 2,
Municipal Market, Panaji, Goa.
12. Mr. Ismail M. Bepari,
Aged 38 years, Shop no. 2/38,
Near Old Patto Bridge, Panaji, Goa.
13. Mr. Shaikh Mushtaq Ahmed Bepari,
aged 55 years, Shop no. 3 Municipal Market,
Panaji, Goa.
14. Mr. Maktuim Hussain Bepari,
Aged 80 years, Shop no. 45,.
Mumnicipal Market, Panaji, . Goa.
15. Mr. Ismail A. K. Bepari,
Aged 69 years, Shop no. 5/5 Municipal Market,
Panaji, Goa.
16. Mr. Dastagir Sab Bepari,

Aged 66 years, House no. 203/4
Meat Shop, NG 17 Road, Mollaca
Merces, Goa.

17. Mr. Abdul Aga,
Major in age, Chimbél, Panaji, Goa.
18. Mr. Mansoor Shaikh,
Major in age, Valpoi Goa.
19. Mr. Abdul Gani Imamsab Bepari,
Aged 72 years, Shop no. 9,
Mapusa Market.
20. Mrs. Farzana M. H. Bepari,
legal representative of Mr. Abdul R, Bepari,
Major in age, Al- Shamsh Beef Centre,
Shop no. 11, Municipal Market, Mapusa,
Goa.
21. Mr. Mushtaq Bepari,
Aged 40 years, Near Jama Masjid,
Curti Municipal Market,
Ponda, Goa.
22. Mr. Gaus Bepari,
Aged 36 years, Al Gauns, Shop no. 7,
Juneta Apts., Ponda – Goa.
23. Mr. Tofik Gaus Bepari,
Aged 27 years, Shop no. 21/11,
Municipal Market, Vasco da Gama, Goa.
24. Mr. Shaikh Imtiyaz Bepari,
Aged 38 years, Shop no. 1,
Municipal market, Vasco da Gama,
Goa and Shop no. G-10, Gandhi
Market, Margao, Goa.
25. Mr. Shaikh Shabir Bepari,
Aged 50 years, Shop no. 3, Municipal Market,
Vasco da Gama, Goa.
26. Mr. Sharif Hanif Bepari,
legal representative of mrs. Rashida Bepari,
Major in age, Shop no. 2,
Municipa Market, Vasco da Gama,
Goa.

27. Mr. Abdul Kadar Bepari,
Aged 54 years, Nagzari Waddo,
Bicholim, Goa.
28. Mr. Nascimento Fernandes,
Major in age, Shop no. V/16, Venor Plaza,
Naik Waddo, Calangute Market,
Calangute, Bardez, Goa.
29. Mr. Sharfuddin Baba Sab Bepari,
Aged 60 years, Shop no. 1, SGPDA Market,
Margao, Goa.
30. Mrs. Bibi Zahra Bepari,
Aged 55 years, Chandor Market,
Salcette, Goa.
31. Mr. Majid Dastagir Bepari,
Aged 44 years, Shop no. 2,
SGPDA Market, Margao, Goa.
32. Mr. Ismail Bepari,
Aged 56 years, Shop no. 5,
SGPDA Market,
Margao, Goa; and
Shop no. 1 and 2, Fish Market,
Cortalim, Goa.
33. Mr. Aslam Lala Sab Bepari,
Aged 47 years,
Shop no. 4, SGPDA Market,
Margao, Goa.
34. Mr. Salaudin Akbar Bepari,
Aged 41 years, Shop no. G-9,
Gandhi Market, Margao, Goa.
35. Mr. Nizamuddin Akbar Bepari,
Aged 35 years, Shop no. 3 SGPDA Market,
Margao, Goa.
36. Mr. Jaffar Bepari,
legal representative Mr. Hayat Mukut,
Aged 38 years, Shop no. B-7,
Gandhi Market. Margao Goa.
37. Mr. Nazir Ahmed Choudhary,
Aged 65 years, Shop no, G-7,
Gandhi Market, Margao, Goa.

38. Mr. Hamza Ibrahim Bepari,
Aged 46 years, Shop no. A-1,
Curtorim Market,
Curtorim-Goa. ... Respondents

AND

1. Gau Gyan Foundation
A Non Government Organization,
Having its office at Basement, Jatt House,
Village Dhool Siras Najafgarh,
New Delhi, 110 043, New Delhi.
Through its Member
Ms. Joshine Anthony
Resident of Flat no, 204, no. 10,
Meridian Residency 1, Venkataswamappa Layout,
Cholanayakanahalli, Hebbal, R. T. Nagar, Post.
2. Shri Amrutlal Shabilal Singh,
President,
Animal Rescue Squad,
Duly Registered under Societies Act,
H. No. 40, Near Water Tank, BhaliPeth,
Bicholim, Goa.
3. Shri Kashinath Jairam Shetye,
Major of age of 45 years, Indian National,
Resident of Babino Building,
Alto Fondvem, Ribandar,
Panaji, Goa.
4. Dr. Ketan S, Govekar,
Major in age of 51 years, Indian National
Wadji Building, St. Inez, Panaji, Goa. Interveners

Mr. S. S. Kantak, Senior Advocate with Mr. A. Kamat, Advocate for the Petitioners.

Mr. P. Dangui, Addl. Government Advocate for the Respondent nos. 1, 3 to 5.

Mr. Mr. Mihir Dessai, Senior Advocate with Mr. J. A. Lobo, Advocate for the Respondent no. 2.

Mr. S. N. Joshi, Advocate for the Respondent no. 6.

Mr. Rohit Bras De Sa, Advocate for the Respondent no. 7.

Mr. Ryan Menezes, Advocate for the Respondent no. 8.

Mr. Y. V. Nadkarni, Advocate for the original Respondent nos. 9 to 38.

Coram :- **F. M. REIS,**
 K. L. WADANE, JJ.

Reserved for Judgment on Date : **22nd March, 2016**
Pronouncement of Judgment on Date : **22nd July, 2016**

JUDGMENT (Per F. M. Reis, J.)

The above Writ Petition, inter alia, prays for a writ to appoint a Court Commissioner to inspect and examine the records of the Goa Meat Complex to look into its affairs and submit a report within a time bound framed. It further seeks a direction to the Respondents to stop forthwith slaughtering all animals present within the premises of the Goa Meat Complex and further to stop forthwith any cow and bull slaughter in the Goa Meat Complex. It also seeks a direction to the Goa Meat Complex to handover the animals, cows, bulls and calves presently within the premises of the Goa Meat Complex to the Petitioners. It further prays to direct the police and the said authorities to initiate proceedings against the offenders including against the Respondent nos. 6 and 7. It further seeks a direction to ensure strict compliance and any implementation of the Goa Daman and Diu Prevention of Cow Slaughter Act and The Goa Animal Preservation Act, 1995.

2. By an Order dated 22.04.2013, this Court appointed a three member Committee to inquire and report into the affairs of the Goa Meat Complex and, accordingly, a report has been submitted. It is contended by the Petitioners that

the report clearly discloses irregularities in the functioning of the Goa Meat Complex. Thereafter, by an Order dated 30.04.2013, this Court issued the following directions :

“(i) Slaughtering of animals at the Goa Meat Complex shall be carried out strictly in accordance with the provisions of The Prevention of Cruelty to Animals Act, 1960, the Goa, Daman and Diu Prevention of Cow Slaughter Act, 1978, The Goa Animal Preservation Act, 1995, and the Rules framed thereunder.

(ii) No animal shall be slaughtered without a certificate being issued from the Competent Authority in terms of sub-section (2) of Section 4 of The Goa Animal Preservation Act, 1995 and only the Competent Authority, duly notified, shall be entitled to issue the certificate for the said purpose, in terms of Section 4(2) of the Act.

(iii) The entry of animals in the premises of Goa Meat Complex for the purpose of slaughter shall be only in the presence of an Officer duly appointed by the State Government and a representative of the petitioners, whose name shall be given in writing by petitioners. No other animal shall be permitted to enter the premises of respondent No.2;

(iv) No animal shall be slaughtered, unless the Veterinary Doctor of respondent No.2 examines the animal and issues fitness certificate in terms of Rule 4(3) of the Prevention of Cruelty to Animals (Slaughter House) Rules, 2001. In case, such a

certificate is not issued, the animals brought for slaughter shall be sent back.

(v) No animal from outside the State of Goa shall be permitted to be slaughtered at the Goa Meat Complex. The competent authority shall ensure that the animal is from State of Goa.

(vi) No animal below the age of 12 years and no animal of the age above 12 years, but found to be economical, shall be slaughtered at the premises of Goa Meat Complex.

(vii) The State Government shall take immediate steps to transfer respondent No.6 and post any other Veterinary Officer at Goa Meat Complex.

(viii) The State Government shall take appropriate steps to ensure that no animal is transported in violation of the provisions of the Transport of Animals Rules, 1978.

3. Subsequently, by an Order dated 26.06.2013, passed in Misc. Civil Application no. 431 of 2013 and 466 of 2013, this Court deleted Clause (v) of the above Order by observing that no provision has been pointed out which prohibits transport of animals from other States to the State of Goa.

4. It is contented by Mr. S. S. Kantak, learned Senior Advocate appearing for the Petitioners, that the same person cannot exercise the functions of the competent authority under The Goa Animal Preservation Act, 1995 (for short,

said Preservation Act) and the Veterinary Doctor under The Prevention of Cruelty to Animals Act, (for short, said Preservation of Cruelty Act) and that a proper application of mind by the competent authority is a must while issuing a fitness certificate in respect of each animal and the certificate must disclose as to why the competent authority feels the animal is fit for slaughter in terms of the provisions of Section 4 of the said Preservation Act, read with the decision of the Apex Court in the case of ***State of Gujarat vs. Mirzapur Moti Kureshi Kassab Jamat & Ors.*** reported in ***(2005) 8 SCC 534***. It is further his contention that slaughter of animals from outside the State of Goa i.e. from the States wherein transport of cattle outside that State is prohibited by virtue of Animal Preservation Laws of that State more particularly of the State of Karnataka and the State of Maharashtra cannot be permitted in the State of Goa. It is further his contention that the Respondents are to be directed to comply with all the laws including The Transport of Animals Rules, 1978 and The Prevention of Cruelty to Animals (Slaughter House) Rules, 2001. Learned Senior Advocate as such points out that directions are required to be issued to the Respondent nos. 1 and 2 to ensure that all the provisions of law are duly complied with as well as that no cattle brought from the neighbouring States namely Maharashtra and Karnataka or from any other State where there is a ban on slaughter of such animals be allowed to be slaughtered at the premises of the Respondent no. 2. It is further pointed out that the directions issued by the Apex Court for maintaining the slaughter house have to be strictly complied with and, as such, according to him, unless all such facilities are provided, the question of allowing of any slaughter of animals at the premises of Respondent no. 2 would not at all be justified. It is further submitted that the Transport of Animals Rules clearly provide the manner in which the animals can be transported from one place to

another and unless and until all such restrictions and conditions are clearly followed, the animals cannot be transported to the premises of Respondent no. 2 to be slaughtered. Learned Senior Advocate further pointed out that the same Officer/Veterinary Officer cannot perform dual functions as a competent authority and a certifying authority and, as such, the two incumbent officers should be different as, according to him, the field of issuing certificates for such purpose are totally different. It is further submitted that necessary directions be issued to ensure that all the provisions of law dealing with slaughter and transportation of animals are strictly complied with.

5. On the other hand, Shri Mihir Dessai, learned Senior Advocate and Mr. J. A. Lobo, learned Counsel appearing for the Respondent no. 2, have submitted that there is no ban in law that the same Officer who has been duly notified to perform the functions of a competent authority can also issue a fitness certificate in terms of Rule 4(3) of The Prevention of Cruelty to Animals (Slaughter House) Rules, 2001. Learned Senior Advocate further pointed out that issuing any such directions would amount to legislating which is not permissible in law. The learned Senior Advocate further pointed out that the Respondent no. 2 shall not permit any slaughter in the premises of the Respondent no. 2 without complying with all the provisions of law nor allow any illegality to be performed therein. It is further submitted that the premises of the Respondent no. 2 are presently in renovation and no slaughtering is going on for the last more than two years, to comply with the directions issued by the Apex Court. Learned Senior Advocate further pointed out that such renovation work is expected to be completed shortly and that the actual slaughtering is expected to be started after April, 2016. Learned

Senior Advocate further pointed out that as no animals are slaughtered at the Goa Meat Complex, the question of issuing any directions would not arise at all. The learned Senior Advocate further submits that the Respondent no. 2 shall abide with any directions issued by this Court.

6. Shri Y. V. Nadkarni, learned Counsel appearing for the Respondent nos., 9 to 38, has pointed out that the above Petition is not a PIL and the Petitioner has not shown any prejudice to be entitled for any directions as prayed for. Learned Counsel further pointed out that the arguments advanced by the Petitioners are beyond the pleadings as, according to him, there is no averment in the Petition to the effect that any animals were slaughtered at the Goa Meat Complex which were brought for slaughter from the State of Maharashtra. Learned Counsel further pointed out that the provisions of law in force in Karnataka State relied upon by the Petitioner do not in any way disclose that there is a ban on slaughter of cattle but only imposes some restrictions to obtain requisite certificates from the competent authority before slaughtering of such animals. Learned Counsel further pointed out that there is no ban on transportation of animals from State of Karnataka to any other State and, as such, the contention of the Petitioners that the animals brought from the State of Karnataka cannot be slaughtered at Goa Meat Complex despite of complying with all the provisions of law is totally misplaced. Learned Counsel further pointed out that the written synopsis would be filed in support of his submissions and, as such submits, that the Petition be rejected.

7. We have considered the submissions of the learned Counsel and we

have also gone through the records. On going through the contentions of the Petitioners and the written synopsis filed by the Petitioners, the issues which arise for consideration in the present Petition are :

(I) Whether one person can be permitted to exercise the functions of a competent Authority under The Goa Animal Preservation Act, 1995, (hereinafter referred to as *the said Preservation Act of 1995*) and the Veterinary Doctor under The Prevention of Cruelty to Animals (Slaughter House) Rules, 2001 (hereinafter referred to as *the said Slaughter House Rules of 2001*);

(II) Whether any directions are to be issued to the manner in which the competent authority and the Veterinary Doctor should perform their functions in terms of Law;

(III) Whether slaughter of animals from outside the State of Goa i.e. from the States where transportation of cattle outside that State is prohibited animals more particularly the State of Maharashtra and the State of Karnataka can be permitted to be slaughtered in the State of Goa; and

(IV) Whether any direction are to be issued for the purpose of complying with the provisions of Animals Preservation Act 1995 and the Slaughter House Rules of 2001.

8. Before we proceed to examine the rival contentions in connection with the above aspects, it is material to note that the contentions raised revolved around

the implementation of the provisions of Prevention of Cruelty of Animals Act, 1960, the Goa Daman and Diu Prevention of Cow slaughter Act, 1978 and the Goa Animal Preservation Act and the Rules framed thereunder. Section 2 of the said Goa Animal Preservation Act of 1995 defines competent Authority thus :

“Competent authority” means a person or body of persons appointed by the Government under Section 3 to perform the functions of competent authority under this Act.”

A Competent Authority is appointed in terms of Section 3 of the said Preservation Act of 1995 which reads thus :

”Appointment of competent authority- The Government may, by notification in the Official Gazette, appoint one or more persons or more bodies of persons to perform the functions of a competent authority under this Act and specify the areas within which they shall perform such functions.”

Section 4 of the said Animal Preservation Act which deals with the restrictions on slaughter on schedule animals reads thus :

4. Restrictions on slaughter of scheduled animals.—

(1) Notwithstanding anything contained in any law for the time being in force or any usage or custom to the contrary, no person shall slaughter or cause to be slaughtered any scheduled animal in any place in the State of Goa, unless he has obtained in respect of such animal, a certificate in writing from the competent authority that the animal is fit for slaughter.

(2) No certificate shall be granted under sub-

section (1), if in the opinion of the competent authority.–

(a) the scheduled animal, whether male or female, is or is likely to become economical for the purpose of draught or any kind of agricultural operations;

(b) the scheduled animal, if male, is or is likely to become economical for the purpose of breeding;

(c) the scheduled animal, if female, is or is likely to become economical for the purpose of giving milk or bearing offspring.

9. On going through the said provisions, it clearly reveals that notwithstanding anything contained in law for the time being in force or any other provisions, no person shall slaughter or cause to slaughter any scheduled animal in any place or in the State of Goa unless he has obtained in respect of such animals a certificate in writing of the competent authority. Sub-section (2) of Section 4 further provides in what circumstances such certificate cannot be issued. As such, the Preservation Act recognises that before slaughtering of a scheduled animal, a certificate would have to be obtained from the competent authority. Section 5 of the Preservation Act further provides that no scheduled animal in respect of which a certificate has been issued under Section 4 shall be slaughtered in any place other than the place specified by such authority or Officer as the Government may appoint on that behalf. It is not disputed by the learned Counsel that the premises of the Goa Meat Complex of the Respondent no. 2 is a specified place to carry out the slaughter of the schedule animals in terms of the said Act. The animals specified in the schedule of the said Preservation Act of 1995 in terms of Section 2(f) reads thus :

“2(f) “Scheduled animal” means any animal specified in the Schedule and the Government may, by notification in the Official Gazette, add to the Schedule any species of animals, after considering the necessity for preservation of that species of animals, and the provisions of section 3 of the Goa, Daman and Diu Laying of Rules before Legislature Act, 1980 (Act 5 of 1980) in so far as they relate to laying before, and modification by, the Legislature, shall apply in relation to such notification, as they apply to any rule referred to in that section.”

The Schedule reads thus :

[Section 2(f)]

Bovine (bulls, bullocks, male calves, male and female buffaloes and buffalo calves).

10. Even on going through the provisions of Section 13 of the said Animal Preservation Act of 1995, it clearly specifically restricts the power to grant exemption under the Act to any animal (other than the cow) subject to what is stated therein. This clearly shows that there are enough safe guards in law to prevent the slaughter of cows as specified in the said Act. Even the Goa Daman & Diu Preservation of Cows Slaughter Act of 1978 in terms of Section 3, inter alia, provides that no person shall slaughter or cause to be slaughtered or offer or cause to be offered for slaughter any cow in any place in the Union Territory of Goa Daman and Diu.

11. In exercise of powers conferred under sub-section (1) and (2) of

Section 38 of The Prevention of Cruelty to Animals Act of 1960, the Central Government has made Rules. In exercise of powers by sub-section (1) and (2) of Section 38 of the Prevention of Cruelty to Animals Act, 1960, the Central Government has made Rules known as The Prevention of Cruelty to Animals (Slaughter House) Rules, 2001. Rule 3 and 4 imposes a restriction not to slaughter except in recognised and licensed houses which reads thus :

“3. Animals not to be slaughtered except in recognised or licensed houses.-

(1) No person shall slaughter any animal within a municipal area except in a slaughter house recognised or licensed by the concerned authority empowered under the law for the time being in force to do so.

(2) No animal which,-

(i) is pregnant, or

(ii) has an offspring less than three months old, or

(iii) is under the age of three months, or

(iv) has not been certified by a veterinary doctor that it is in a fit condition to be slaughtered.

(3) The municipal or other local authority specified by the Central Government for this purpose shall, having regard to the capacity of the slaughter house and the requirement of the local population of the area in which a slaughter house is situated, determine the maximum number of animals that may be slaughtered in a day.

“4. Reception area or resting grounds -

(1) The slaughter house shall have a reception area of adequate size sufficient for livestock subject to

veterinary inspection.

(2) The veterinary doctor shall examine thoroughly not more than 12 animals in an hour and not more than 96 animals in a day.

(3) The veterinary doctor after examining the animal shall issue a fitness certificate in the form specified by the Central Government for this purpose.

(4) The reception area of slaughter house shall have proper ramps for direct unloading of animals from vehicles or railway wagons and the said reception area shall have adequate facility sufficient for feeding and watering of animals.

(5) Separate isolation pens shall be provided in slaughter house with watering and feeding arrangements for animals suspected to be suffering from contagious and infectious diseases, and fractious animals, in order to segregate them from the remaining animals.

(6) Adequate holding area shall be provided in slaughter house according to the class of animals to be slaughtered and the said holding area shall have water and feeding facilities.

(7) The resting grounds in slaughter house shall have overhead protective shelters.

(8) Ante-mortem and pen area in slaughter house shall be paved with impervious material such as concrete non-slippery herring-bone type suitable to stand wear and tear by hooves, or brick, and pitched to suitable drainage facilities and the curbs of said impervious material 150 to 300 mm high shall be provided around the borders of livestock pen area,

except at the entrances and such pen shall preferably be covered.

The said Rules clearly specify that the Veterinary Doctor would have to give a fitness certificate in terms of the said Rules before the Slaughter of Animals. The Veterinary Doctor is also defined in terms of the said Rules.

12. On going through the definition of competent authority, in terms of the Preservation Act of 1995 and the Veterinary Doctor, in terms of the said Slaughter House Rules of 2001, the manner of appointment is duly specified therein. Though the functions to be performed may overlap to a limited extent, nevertheless, the field of examining of the relevant aspects to grant a certificate by the Competent Authority in terms of the Preservation Act of 1995 is totally different. Thus, as long as such person is qualified and competent to act as a Competent Authority under the said 1995 Act and a Veterinary Doctor under the said 2001 Rules, there is no impediment for such person discharging both the functions. As such, merely because in some cases a Veterinary Doctor may also be a Competent Authority in terms of the said Preservation Act of 1995, it does not necessarily mean that two different persons have to perform the functions specified in the Preservation Act of 1995 and the Slaughter Rules of 2001. But, however, in case it is so feasible, the Respondent no. 2 may obtain a certificate from the Competent Authority in terms of the Preservation Act of 1995 and a certificate under the Slaughter Rules of 2001 by two different persons, but there is no bar in law for a person notified to perform the dual functions provided that all the parameters expected of him in terms of the Preservation Act of 1995 and the Slaughter Rules of 2001 are duly complied with

by such person. Section 4(2) of the Preservation Act 1995, clearly specifies the considerations to be examined by the Competent Authority before granting such certificate and, consequently, the Competent Authority has to strictly follow the conditions stipulated therein. There is no doubt raised that there is any lack of sufficient expertise on the part of the Competent Authority in such field to form an opinion as provided therein. In such circumstances, we find that the Respondent nos. 1 and 2 be directed that in cases in which two different Officers are readily available to perform the functions of a Competent Authority under the Preservation Act of 1995 and a Veterinary Doctor in terms of the Slaughter Rules of 2001, the same Officer may not carry out both the functions. But, however, if such Officers are not so available, there is no bar that both the functions are performed by the same Officer provided all the requisite considerations in terms of the Preservation Act of 1995 and the Slaughter Rules of 2001 are duly and strictly followed.

13. With regard to the contention of Mr. Kantak, learned Senior Advocate appearing for the Petitioners, that the slaughter house so specified would have to provide the facilities as stipulated in the Prevention of Cruelty to Animals Act of 1960, we find that Shri Nadkarni, learned Counsel appearing for the Respondent nos. 9 to 38, has brought to our notice different directions issued by the Apex Court to oversee the functioning of the slaughter house. There are also guidelines issued by the Pollution Control Board stipulating how such slaughter houses are required to be apparently operational.

14. The Apex Court in the Judgment reported in **2014(2) SCC 417** in the case of **Laxmi Narain Modi v. Union of India**, has observed at paras 7 and 8

thus :

“7. After examining the matter in depth by the Committee, they found the necessity of constituting the State Committees for slaughterhouses to fulfill the mandatory requirements under the various legislations dealing with the functioning of the slaughterhouses in the country.

8. The decision dated 26-4-2012 [of MoEF] is extracted hereunder for easy reference:

“1. CPCB will write to all States informing about its guidelines for slaughterhouses.
(Action: CPCB)

2. CPCB will also initiate action against all slaughterhouses which are not meeting the norms and implement the abattoir rules through SPCB. It was discussed that SPCB even has powers to close slaughterhouses under these rules.
(Action: CPCB)

3. The States to be requested to constitute the State Committees for slaughterhouses as follows:

(i) Secretary of the Department of Urban Development of the State — Chairman.

(ii) Representative Department of Health.

(iii) Representative Department of Animal Husbandry.

(iv) Representative Department of Labour.

(v) Food Safety Commissioner representing Central Food Safety and Standard Authority of India.

(vi) Representative State Pollution Control Board.

(vii) Representative State Animal Welfare Board.

(viii) Representative of State Police.

(ix) Two prominent persons nominated by the State Government.

(x) Such other officers and experts as the members may choose to co-opt.

4. The functions of the State Committee for slaughterhouses so constituted may be as following:

(i) To identify and prepare a list of all the slaughterhouses (SHs) located within the Local Self-Government (Municipal Corporations, Panchayats, etc.)

(ii) To call for reports from the District Magistrate or the Deputy Commissioner and District Food Safety Inspector as the case may be on the condition/functioning of SHs and also on the compliance with the relevant applicable laws.

(iii) To recommend modernisation of old slaughterhouses (SHs) and to relocate SHs which are located within or in close proximity of a residential area.

(iv) To recommend appropriate measures for dealing with solid waste, water/air pollution and for preventing cruelty to the animals meant for slaughter.

(v) To carry out surprise and random inspections of SHs regularly

and to issue directions for compliance with the recommendations that may be made by it.

(vi) To send biannual reports on the State SHs to the Central Committee and to refer issues that may require the Central Committee recommendations or Central Government assistance.

(vii) To accord final approval for licensing of SHs to Local Self-Government.

(viii) To identify on an ongoing basis, the unlicensed slaughterhouses in the region, and other unlicensed, unlawful establishments where animals are being slaughtered, on howsoever a small scale, and take the help of the District Magistrate and other law enforcement agencies to crack down on the same.

(ix) To check for child labour.”

15. Thereafter, in the Judgment reported in **2014(1) SCC 241** in the case of **Laxmi Narain Modi v. Union of India**, it has been observed at Paras 2 and 3 thus :

“2. We are informed that all the State Governments and Union Territories have already constituted their respective Committees, as directed by this Court on 23-8-2012. We are now concerned with the question as to whether these Committees are effectively and properly functioning and taking steps for proper implementation of the provisions of the various legislations, referred to in the previous order.

3. It is pointed out that though the Committees have been constituted but they are not effectively and properly discharging their functions referred to in para 4 of the order [dated 26-4-2012 of MoEF as extracted in para 8 of the order of the Supreme Court] dated 23-8-2012. We reproduce the said para 4, for ready reference:

16. In this connection, the learned Counsel for the Respondent no. 2 has pointed out that all such directions are being complied with and the requisite infrastructure in terms of the said direction as well as the compliance with the provisions of Cruelty To Animals Rules of 2001 are duly taken care of. It is further pointed out that presently, the premises of Goa Meat Complex of the Respondent no. 2 are not functional as the work of renovation is in progress and such work was expected to be completed on or before 31.12.2015 but now delayed and that the said premises would be available for slaughter of animals in compliance with the due provisions of law expeditiously. We fail to comprehend why such a long delay is taken to complete with the renovation work. During this interregnum, it appears that the staff and officials of the Government Corporation are maintained though without carrying out any activities there. Though it was pointed out by the learned Counsel appearing for the Respondent no. 2 that the Goa Meat Complex would be operational from April 2016, we find that there is no information submitted upto this date when the Goa Meat Complex would start functioning. As such, we find that appropriate directions have to be issued to ensure that the premises of the Respondent no. 2 are made operational after complying with all the directions issued by the Apex Court as well as by the relevant provisions of law expeditiously.

Delay in making the Goa Meat Complex operational would otherwise severely affect the business activities of the Respondent nos. 9 to 38 of practicing their trade by complying with the provisions of law. Further delay in starting the Meat Complex would severely affect the rights of the citizens who are deprived of availing the benefits of such business. In this connection, we would also like to note the observations of the Division Bench of this Court in the case of ***Shaikh Zahid Mukhtar & Ors. vs. The State of Maharashtra & Ors.*** passed in Writ Petition no. 5731 of 2015 and several other connected matters decided on 06.05.2016, at paras 176 and 214 thus :

“176. As far as the choice of eating food of the citizens is concerned, the citizens are required to be let alone especially when the food of their choice is not injurious to health. As observed earlier, even a right to sleep is held as a part of right to privacy which is guaranteed under Article 21 of the Constitution of India. In fact the State cannot control what a citizen does in his house which is his own castle, provided he is not doing something which is contrary to law. The State cannot make an intrusion into his home and prevent a citizen from possessing and eating food of his choice. A citizen has a right to lead a meaningful life within the four corners of his house as well as outside his house. This intrusion on the personal life of an individual is prohibited by the right to privacy which is part of personal liberty guaranteed by Article 21. The State cannot prevent a citizen from possessing and consuming a particular type of food which is not injurious to health (or obnoxious). In the decision in the case of *Hinsa Virodhak Sangh*, the Apex Court has specifically

held that what one eats is one's personal affair and it is a part of privacy included in Article 21 of the Constitution of India. Thus, if the State tells the citizens not to eat a particular type of food or prevents the citizens from possessing and consuming a particular type of food, it will certainly be an infringement of a right to privacy as it violates the right to be let alone. If a particular food is injurious to health or a particular food is illegally manufactured, it will be a case of compelling public interest which will enable the State to deprive citizens of the right to privacy by following the procedure established by law. In the present case, Section 5D prevents a citizen from possessing and from consuming flesh of a cow, bull or bullock even if it is flesh of a cow, bull or bullock slaughtered in territories where such slaughter is legal. Hence, Section 5D is certainly an infringement of right to privacy which is implicit in the personal liberty guaranteed by Article 21."

...

...

214. Merely because a person is found in possession of bovine flesh does not make his knowledge of slaughter within the State in any way probable. There are many countries where slaughter of a cow, bull or bullock is not illegal. Even within India, there are States where such slaughter is perfectly legal. In fact, the only slaughter which is in contravention of the Act is the slaughter within Maharashtra. Now if a person were to obtain beef from these other Countries or States in India, can it be said that his mere possession must lead to a

presumption of the place of slaughter being within Maharashtra? Or for that matter, to a presumption of his knowledge of such slaughter within Maharashtra? If bovine flesh from different sources, i.e. from slaughters outside the State as well as within the State, is available in the market, there is practically no way of distinguishing one flesh from the other. There is absolutely no question of fastening any presumed knowledge of slaughter within the State on the accused.”

The observations of this Court are very significantly applicable to the facts of the present case in the context of what has been stated herein above.

17. We, accordingly, direct the Respondent nos. 1 and 2 to provide facilities for slaughter of animals in terms of the relevant provisions of law and make the Goa Meat Complex functional on or before 30.09.2016 and submit a compliance report thereof.

18. The only contention which remains to be considered is whether the animals which have been transported from the neighbouring States can be slaughtered at the Goa Meat Complex. Shri Kantak, learned Senior Advocate appearing for the Petitioners, has brought to our notice the amendment to the Maharashtra Animal Preservation Act of 1976, to point out that there is, inter alia, a complete ban on slaughter of cows, bulls and bullocks in the State of Maharashtra and in terms of Section 5(A) of the said Maharashtra Act, no person shall transport or offer for transport or cause to be transported cow, bull or bullock from any place

within the State to any place outside the State for the purpose of its slaughter in contravention of the provisions of this Act or with the knowledge that it will be or is likely to be, so slaughtered. The said Amendment Act came to be challenged before this Court in different Writ Petitions including Writ Petition no. 5731 of 2015 which came to be disposed of by the learned Division Bench of this Court by a Judgment dated 06.05.2016. Whilst dealing with the amended provisions of Section 5(A) of the said Maharashtra Act this Court has observed at Para 137 and 138 thus :

“137. Subsection (1) of Section 5A incorporates a prohibition on any person transporting or offering to transport or cause to be transported a cow, bull or bullock from any place within the State to any place outside the State for the purposes of its slaughter in contravention of the provisions of the Animal Preservation Act or with the knowledge that it will be or it is likely to be so slaughtered. The ban imposed by the amendment to Section 5 on slaughter of cows, bulls or bullocks is applicable only within the State of Maharashtra as the law is made by the State Legislature. Therefore, there is no question of anyone slaughtering a cow, bull or bullock at any place outside the State of Maharashtra in contravention of the provisions of section 5 the Animal Preservation Act as the prohibition on slaughter imposed by said Act will not apply outside the State. If anyone transports cow, bull or bullock to any place outside the State and slaughters it at that place, such slaughter cannot be in breach of the Animal Preservation Act as the State Act cannot and does not declare a slaughter made

outside the State as illegal. The legislature of the State has no legislative competence to do that. Hence, the Section, as worded, makes little practical sense. It may, though cover a hypothetical case of such transport of animals outside the State so as to slaughter it within the State, of course, after it is brought back to the State possibly by the slaughterer himself, the transporter and slaughterer being different persons.

138. However, the object of the amendment to Section 5 is to preserve cows, bulls or bullocks inside the State. It can be said that this provision has a direct and proximate nexus with the object sought to be achieved by making amendment to Section 5 for imposing prohibition on slaughter of cows, bulls and bullocks in the State. This provision can be said to have been made for the effective implementation of Section 5. Therefore, subject to what we have observed above, there is no merit in the challenge to Sub Section (1) of Section 5A.

Taking note of the said observations, the slaughter of such animals in the State of Goa could not by itself be in breach of the provisions of the said Maharashtra Act. The said provisions cannot be made applicable to the State of Goa subject to the observations in the said Judgment of this Court. In any event, any person who commits a breach of said Maharashtra Act would naturally meet the consequences and liable to the penalties and punishments provided therein.

19. With regard to the contention of Mr. Kantak, learned Senior Advocate

appearing for the Petitioners, that there is a bar in transporting animals from the State of Karnataka, as according to him, the certificate issued by the Competent Authority would only permit the slaughter of animals in designated slaughter houses in the State of Karnataka, we find that there is no provision pointed out by the Petitioners which shows that there is any bar in transporting animals outside the State of Karnataka. Section 8 of the Karnataka Animal Preservation Act, inter alia, provides that no person shall transport or offer for transport or cause to be transporting any animal or cows, from any place within the State to any place outside the State for the purpose of slaughter in contravention of the provisions of the said Act or with the knowledge that it will be or is likely to be so slaughtered. Section 7 provides that no animal in respect of which a certificate has been granted under Section 5, shall be slaughtered in any place other than the place specified by such authority or Officer as the State Government may appoint in its behalf. Thus, in terms of Section 7, a certificate would have to be obtained to slaughter the animals at places specified by the authorities. There is no provision in the Karnataka Act which prohibits the transportation of animals for slaughter to the other States. Section 8 only provides that the transportation is forbidden when it is being slaughtered in contravention of the provisions of such Act. When there is no ban to slaughter animals in Karnataka State, merely because they are transported from Karnataka to other States would not by itself mean that the transportation is in contravention of the relevant provisions of law provided all the requisite provisions of law for transportation of animals in terms of the guidelines issued for transportation of animals and the other relevant provisions of law are duly complied. As we find no restrictions in transporting animals from the State of Karnataka to the neighbouring State provided the provisions of the Act are not

contravened, we find that the contention of Mr. Kantak, learned Senior Advocate appearing for the Petitioners, that the animals from Karnataka cannot be slaughtered in the State of Goa, cannot be accepted. No doubt, the relevant provisions of law for carrying out such transportation would have to be complied with before any such slaughter takes place in the premises of the Respondent no. 2 or any other specified places in terms of the said Act of 1995 and the Slaughter Rules of 2001.

20. With regard to the contention of Mr. Kantak, learned Senior Advocate, that the Competent Authority should be directed the manner in which the certificates have to be issued, we find that the Preservation Act of 1995 clearly provides the aspects to be examined before granting of such certificate. The Competent Authorities are experts in the field who can evolve their own mechanism to arrive at such conclusions before issuing or otherwise a certificate. The observations of the Apex Court in the Judgment reported in ***State of Gujarat vs. Mirzapur Moti Kureshi Kassab Jamat & Ors.*** (supra), were in the context of the provisions of the Bombay Animals Preservation (Gujarat Amendment) Act, 1994. As can be seen from the said Judgment, the provisions of the said Bombay Animals Preservation Act of 1994 are not in para materia to The Preservation Act 1995. In such circumstances, it is for the Competent Authority to consider the local situation and to what extent the observations therein would apply to the provisions of the Goa Animals Preservation Act of 1995. Hence, the contention of Mr. Kantak, learned Senior Advocate, that all the aspects referred to therein would have to be examined by the competent authority whilst issuing such certificate, cannot be accepted. But, however, the observations therein can be taken note of to the

extent applicable in the context of the Goa Preservation Act of 1995 and the Rules made thereunder. It is after all the subject satisfaction of the Competent Authority to issue such certificate in accordance with law. It is also to note that any person aggrieved with such decision of the Competent Authority, has a right to challenge such decision before the Government or the Government can even suo motu consider the correctness or otherwise of such decision.

21. Even otherwise, in the Judgment reported in **(2006) 4 SCC 162** in the case of ***Akhil Bharat Goseva Sangh vs. State of A. P.***, it has been observed at para 67 thus :

“67. Apart from that, from the discussion made herein above, we find that it is also the consistent policy of the Government of India to encourage export of meat and meat products. The current foreign trade policy also encourages export of meat provided that a designated veterinary authority certifies that it is not obtained from buffaloes used for breeding and milching purposes. It is true that in the Constitution Bench decision of this Court in *State of Gujarat v. Mirzapur* it has been held that the protection envisaged under Article 48 extended even to cattle that had ceased to be milch or draught, provided they fall within the category of milch and draught cattle. In *State of Gujarat v. Mirzapur* it has also been held that cattle forms the backbone of Indian agriculture and they remain useful throughout their lives. While dealing with Articles 48 and 48-A of the Constitution read with the fundamental rights, the Constitution Bench further held that both the directive

principles and fundamental duties must be kept in mind while assessing the reasonableness of legal restrictions placed upon fundamental rights. However, striking down a law or policy on the ground that it violates a directive principle or fundamental duty was not an issue before the Constitution Bench of this Court in *State of Gujarat v. Mirzapur*. It is true that in the aforesaid Constitution Bench decision it has been held that total prohibition of cow and cow progeny slaughter may be justified. However, it has not been held in that decision that laws and policies which permit such slaughter are unconstitutional. Therefore, the position of law remains that the directive principles and fundamental duties cannot in themselves serve to invalidate a legislation or a policy. Moreover, the export policy itself permits only export of meat from buffaloes that are certified as not useful for milking, breeding or draught purposes. Therefore, if properly implemented, it cannot be said that the policy will necessarily have adverse consequences, especially in view of the foreign exchange obtained through it. Accordingly, we are unable to accede to the argument of the learned counsel for the appellant that the meat export policy, as made by the Central Government must be struck down.”

22. In such circumstances, we find that no further directions are required to be specified as to how the Competent Authority has to arrive at such satisfaction. No doubt, whilst issuing such certificate the requirements of law in terms of the said Preservation Act of 1995 and the Rules of 2001 have to be strictly complied with.

23. With regard to the contention of Mr., Kantak, learned Senior Advocate, that the provisions for transportation of animals have to be duly complied with, we find that there are directions already issued by the Apex Court for such transportation of animals. Apart from that, the Prevention of Cruelty of Animals Act and the Rules clearly provide the manner in which the animals can be transported. Even the waiting space for the animals which are to be slaughtered have been clearly specified in the said Act and the Slaughter Rules of 2001. In such circumstances, we direct the concerned authorities, Respondent nos. 1 and 2, to ensure that all the provisions of the Prevention of Cruelty of Animals Act of 1960 and the Slaughter Rules of 2001 are duly complied while transporting of such animals in accordance with law.

24. What emerges from the above discussions is that the primary responsibility of maintaining the slaughter houses and regulating them is cast on the respondent nos.1 to 5 by the relevant provisions of different Acts and Rules referred to herein above. In view of the Prevention of Cruelty to Animals Act, 1960, the Slaughter House Rules of 2001 and other cognate legislation, the need to improve the facility for slaughtering of the permissible animals in accordance with law is very much necessary. These are otherwise matters which have to be considered by the concerned authorities keeping in mind all the said Acts and Rules referred to herein above. The concern of the petitioners to enforce the relevant provisions of law has to be considered in the context of laws in force to ensure that permissible slaughtering of animals is carried out by eliminating unnecessary pain and suffering at a pre-slaughtering stage as far as possible to the

animals. It is for the concerned respondent to ensure that an adequate number of veterinary doctors and Competent Authorities are available to ensure that the requirements of law are duly taken care of for maintaining public health and hygiene which relates to the welfare of all the communities so that slaughtering of animals does not take place otherwise than at lawful specified place earmarked for this purpose since this would affect the sensibility of other citizens.

25. In view of the above, we pass the following :

ORDER

(I) The Respondent nos. 1 and 2 are accordingly directed to make the Goa Meat Complex operational as expeditiously as possible after complying with all the guidelines and the relevant provisions of law in the light of the observations made herein above on or before 30.09.2016 and file a compliance report thereof.

(II) Slaughtering of Animals at the Goa Meat Complex shall be carried out strictly in accordance with the provisions of the Preservation of Cruelty to Animals Act, 1960, The Goa Daman and Diu Prevention of Cow Slaughter Act 1978, the Goa Animal Preservation Act, 1995 and the Rules framed thereunder.

(III) Needless to say, that no animal shall be slaughtered without obtaining the certificate from the Competent Authority in terms of Sub-section (2) of

Section 4 of the Goa Animal Preservation Act, 1995 as well as Slaughter House Rules, 2001 in the light of the observations made herein.

(IV) The Competent Authority and the Veterinary Doctor in terms of the Preservation Act of 1995 and the Slaughter Rules of 2001 respectively shall issue certificates in the light of the observations made herein above in accordance with law.

(V) Rule is made absolute in the above terms.

K. L. WADANE, J.

F. M. REIS, J.

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