

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 12.12.2017
Coram

The Hon'ble Mr.Justice T.S.Sivagnanam
&
The Hon'ble Mr.Justice K.Ravichandrababu

W.P.No.29618 of 2017

Rameshh @ Video Ramesh

...Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary,
Department of Animal Husbandry
Dairying and Fisheries,
Fort St. George.
Chennai -- 600 009.
2. The Secretary,
Department of Law Government of Tamil Nadu,
Fort St. George, Chennai -- 600 009.
3. The Secretary,
Department of Home Affairs,
Fort St. George, Chennai -- 600 009.
4. The Director General of Police,
Tamil Nadu, R.K. Salai, Mylapore,
Chennai - 600 004.
5. The Animal Welfare Board of India,
rep. by its Secretary,
3rd Sea Ward Road,
Valmiki Nagar, Thiruvannamiyur,
Chennai - 600 041.
6. Mr. R. S. Thirumugam
The President,
Tamil Nadu Reckla Club,
Mariamman Koil Street,
T. Nagar, Ramanathanpuram,
Coimbatore- 641 045.
7. Mr. Mohanasamy Kumar
President Tamil Nadu Reckla Sangam,
Avaniyapuram, Madurai District.

..Respondents

Prayer:

Writ Petition , filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondents 1 to 4 from permitting any event of ''Reckla Race'' or bullock cart races involving bovine bulls inside the territory of Tamil Nadu and to take a suitable legal action against persons organizing, conducting and participating in such events in accordance with law.

For Petitioner : Mr. R. Srinivas for
Mr. G. Vijayakumar

For Respondents 1 to 4 : Mr. Vijay Narayan
Advocate General assisted by
Mr. T. N . Rajagopalan
Government Pleader,
in charge of

For Respondent-5 : Mr. Jayesh B Dolia

For Respondent-6 : Mr. Abdul Saleem

For Respondent-7 : Mr. Adithya Reddy

O R D E R

(Order of the Court was delivered by
T.S.Sivagnanam, J.,)

Heard Mr.R. Srinivas, the learned counsel for Mr.G. Vijayakumar, the learned counsel appearing for the petitioner, Mr.Vijay Narayan, learned Advocate General for the respondents 1 to 4, assisted by Mr.T.N.Rajagopalan, the learned Government Pleader, (i/c), for the respondents 1 to 4, Mr.Jayesh B Dolia, the learned counsel for the fifth respondent, Mr.Abdul Saleem, the learned counsel for the sixth respondent, and Mr. Adithya Reddy, the learned counsel for the seventh respondent.

2. The petitioner, by way of this Public Interest Litigation, seeks for a direction upon the respondents 1 to 4 from permitting any event of reckla race or bullock cart races involving bovine bulls inside the territory of Tamil Nadu, and to take a suitable action against the persons organizing, conducting and participating in such events.

3. The Writ Petition has been filed by the petitioner solely based upon the decision of the Hon'ble Supreme Court, in the case of Animal Welfare Board of India v. A.Nagaraja & others) reported in [(2014) 7 SCC 547]. The petitioner to substantiate his stand that reckla races are being conducted in

different parts of the State has referred to certain newspaper reports. The learned counsel has drawn our attention to para Nos.74 and 90 of the decision of the Hon'ble Supreme Court, in the case of Animal Welfare Board's (supra) and submits that the reckla races cannot be permitted within the State of Tamil Nadu, and if done so, it amounts to violation of the law laid down by the Hon'ble Supreme Court, in the case cited supra.

4. It is further submitted that, insofar as the event, jallikattu is concerned, the State of Tamil Nadu brought about a Bill to amend the Prevention of Cruelty to Animals Act, 1960 (hereinafter, referred to as 'PCA Act', which later became an Act, and the same has also received Presidential assent for exempting Jallikattu. As per the definition available under Section 2 (dd) of the PCA Act, the term includes, any events, involving bulls and conducted with a view to follow tradition and culture, and the State Act only exempted Jallikattu and the definition in Section 2 (dd) of the PCA Act would cover Reckla races and the same should not be permitted. Therefore, it is submitted that, Writ of Mandamus may be issued to prevent such events in the State of Tamil Nadu, and to punish those, who are organizing, conducting and participating in such events. The learned counsel placed reliance on the interim order passed by the Hon'ble High Court of Bombay, in a Public Interest Litigation, in the case of Ajay Marathe Vs. State of Maharashtra and others), and submitted that, the High Court of Bombay has directed that, till the matter is heard and disposed of on merits, the bullock cart races should not be conducted in the State of Maharashtra, and no such permission can be granted by any of the Authorities.

5. The learned Advocate General appearing for the respondent/State would submit that the Bill, which was introduced in the Legislative Assembly of the State of Tamil Nadu which subsequently became an Act, by inserting Section 2 (dd) to the PCA Act, and the said provision defines 'Jallikattu', which includes any events as well. It is his further submission that the validity of the newly enacted Act by the State of Tamil Nadu, is the subject matter of challenge before the Hon'ble Supreme Court, and a Special Bench has been constituted to test its correctness, and the case is posted today (i.e. 12.12.2017) at 3.00 p.m. Therefore, if at all, the petitioner is aggrieved, it is open to him to canvass all points before the Hon'ble Supreme Court.

6. After elaborately hearing the learned counsel for the parties and carefully perusing the materials placed on records, we find that the prayer, sought for in this Writ Petition is in the nature of an Execution Petition, to execute and enforce the direction issued by the Hon'ble Supreme Court. In other words, the petitioner complains that there is violation of the order

passed by the Hon'ble Supreme Court, in the case of Animal Welfare Board of India (supra) in certain parts of the State of Tamil Nadu. If, according to the petitioner, the order of the Hon'ble Supreme Court's in the case (referred to supra) has been violated, it is for the petitioner to move the Hon'ble Supreme Court no writ of mandamus could not be issued, directing the State Government to implement the order passed by the Hon'ble Supreme Court. This is more so, because, the Hon'ble Supreme Court is seized of the matter, testing the correctness of the newly enacted legislation by the State of Tamil Nadu, and it would not be proper for this Court to entertain any petition pertaining to the said issue. Therefore, we do not wish to express any opinion at this stage of the matter. The reliance placed on the interim order passed by the Hon'ble High Court of Bombay, in the case of Ajay Marathe (supra), is of little avail as in the said case, the State of Maharashtra proposed to bring a Rule, termed as 'Maharashtra Prevention of Cruelty of Animals (Conduct of Bullock Race) Rules, 2017, and while testing the correctness of the draft Rules, the Hon'ble High Court of Bombay, has passed such interim order. Thus, we find that the situation, which was the subject matter of the Public Interest Litigation before the Hon'ble High Court of Bombay is wholly different from what is projected by the petitioner, in this Writ Petition.

7. Thus, for the reasons assigned, no Writ of Mandamus, as sought for by the petitioner could be issued in this Writ Petition. Accordingly, this Writ Petition is disposed of, leaving it open to the petitioner to work out his remedies in accordance with law, if so advised. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sd/msm

To

1. The State of Tamil Nadu,
rep. by its Secretary,
Department of Animal Husbandry
Dairying and Fisheries,
Fort St. George.
Chennai -- 600 009.

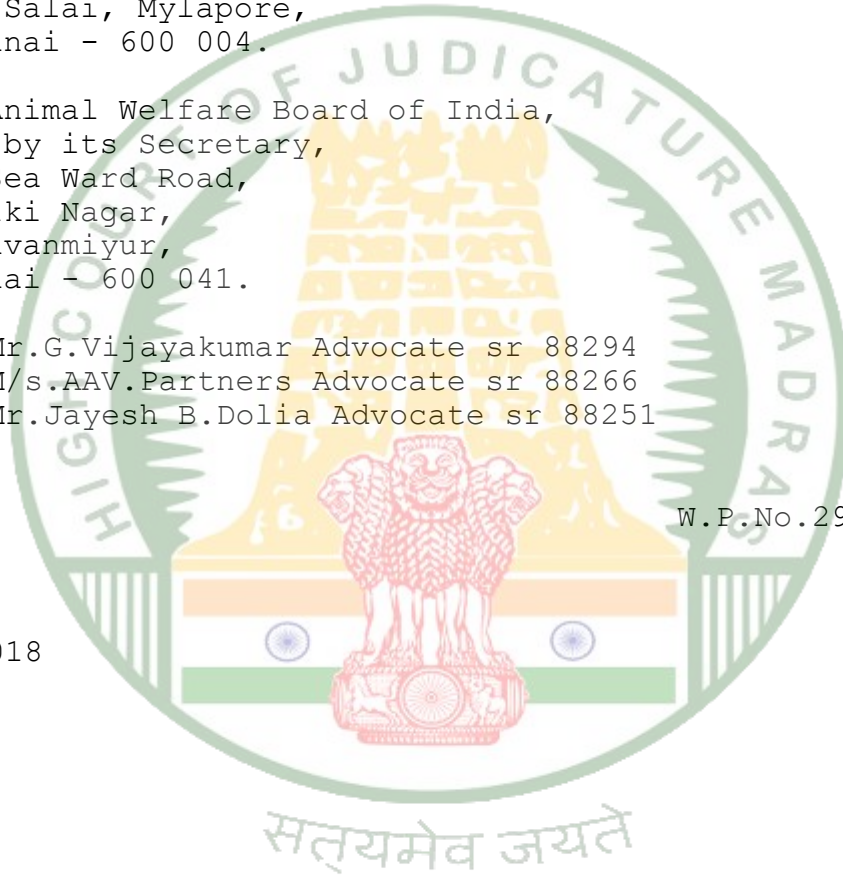
WEB COPY

2. The Secretary,
Department of Law Government of Tamil Nadu,
Fort St. George, Chennai -- 600 009.
3. The Secretary,
Department of Home Affairs,
Fort St. George.
Chennai -- 600 009.
4. The Director General of Police,
Tamil Nadu,
R.K. Salai, Mylapore,
Chennai - 600 004.
5. The Animal Welfare Board of India,
rep. by its Secretary,
3rd Sea Ward Road,
Valmiki Nagar,
Thiruvanmiyur,
Chennai - 600 041.

+1 cc to Mr.G.Vijayakumar Advocate sr 88294
+1 cc to M/s.AAV.Partners Advocate sr 88266
+1 cc to Mr.Jayesh B.Dolia Advocate sr 88251

W.P.No.29618 of 2017

aa04/01/2018



WEB COPY