



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P. (MD) .Nos.10128 and 10129 of 2017

&

W.M.P. (MD) .Nos.7769 to 7771 of 2017

W.P. (MD) .No.10128 of 2017

S.Selvagomathy

: Petitioner

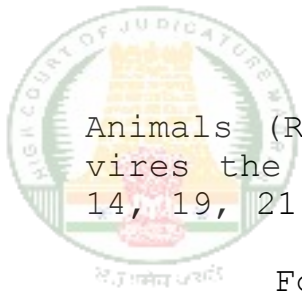
Vs.

1. The Union of India,
Rep. by its Joint Secretary,
Ministry of Environment, Forest and Climate Change,
Indira Paryavaran Bhawan
Jorbagh Road,
New Delhi-110 003.
2. The State of Tamil Nadu,
Rep. by its Chief Secretary,
Government of Tamil Nadu
Fort St. George,
Chennai.
3. People for Cattle in India,
Represented by its Secretary and Managing Trustee,
G.Arun Prasanna,
8/22, Raghaviah Road,
T.Nagar, Chennai-600 017.
4. Joshine Antony
5. R.Sathiamoorthy

: Respondents

(R3 is impleaded vide Court Order dated 03.08.2017 in WMP(MD). No.11262 of 2017, R4 is impleaded vide Court Order dated 05.09.2017 in WMP(MD).No.9910 of 2017 and R5 is impleaded vide Court Order dated 05.09.2017 in WMP.(MD).No.12905 of 2017)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Declaration to declare Rule 22(b)(iii) and Rule 22(e) of the Prevention of Cruelty to



Animals (Regulations of Live Stock Markets) Rules, 2017 as ultra vires the Prevention of Cruelty to Animals Act, 1960 and Article 14, 19, 21, 25 and 29 of the Constitution of India.

WEB COPY

For Petitioner : Mr.Mahaboob Athiff for
M/s.Ajmal Associates

For Respondents : Ms.S.Srimathy for R1
Central Government Standing Counsel
Mr.M.Murugan for R2
Government Advocate
Mr.T.Antony Arul Raj for R4
No appearance for R3
Mr.K.P.Ramesh for R5

W.P. (MD) .No.10129 of 2017

B.Asik Ilagi Bava : Petitioner

Vs.

1. The Union of India,
Represented by its Home Secretary,
New Delhi.
2. The Secretary,
Ministry of Environment, Forest and Climate Change,
Prithvi Block, First Floor,
Indira Paryavaran Bhawan
Jor Bagh Road, Aliganj,
New Delhi -110 003.
3. The State of Tamil Nadu,
Rep. by its Home Secretary,
Fort St. George,
Chennai-600 009.

4.R.Sathiamoorthy : Respondents

(R4 is impleaded vide Court Order dated 05.09.2017 in WMP(MD).
No.12904 of 2017)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017, dated 23.05.2017 notified by the 2nd respondent and to declare the same as unconstitutional and illegal.



For Petitioner : No appearance

For Respondents : Ms.L.Victoria Gowri for R1 and R2
Central Government Standing Counsel
Mr.M.Murugan for R3
Government Advocate
Mr.K.P.Ramesh for R4

COMMON ORDER

[Common Order of the Court was made by **M.M. SUNDRESH, J**]

W.P.(MD).No.10128 of 2017 has been filed to issue a Writ of Declaration to declare Rule 22(b)(iii) and Rule 22(e) of the Prevention of Cruelty to Animals (Regulations of Live Stock Markets) Rules, 2017 as ultra vires the Prevention of Cruelty to Animals Act, 1960 and Articles 14, 19, 21, 25 and 29 of the Constitution of India.

2. W.P.(MD).No.10129 of 2017 has been filed to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017, dated 23.05.2017 notified by the 2nd respondent and to declare the same as unconstitutional and illegal.

3. This Court at the time of entertaining the writ petitions was pleased to grant interim orders on 30.05.2017, which is still in force. Thereafter a challenge has been made before the Hon'ble Supreme Court by some other party, wherein it is clarified that the interim order granted by this Court would apply to the entire country. The Writ Petition (C)No.000422 of 2017 was disposed of by the Hon'ble Apex Court on 11.07.2017, wherein the following order has been passed:-

"1.The challenge through the bunch of writ petitions, which are the subject matter of consideration, is to the validity of the Prevention of Cruelty to Animal (Regulation of Live Stocks, Markets) Rules, 2017, and the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017. Both above Rules, we are informed, were challenged before the Madurai Bench of the Madras High Court, which has stayed the operation of the said Rules. Mr.P.S.Narasimha, learned Additional Solicitor General, informs this Court, that the Union of India is not seeking modification of the aforesaid interim order. We accordingly record the statement of the learned Additional Solicitor General. We understand the point to be that the interim order shall apply across the whole country.



2. It is also the contention of the Union of India, that a large number of representations depicting the allegedly unworkable and unacceptable provisions of the Rules have been received and a number of writ petitions have been filed in different High Courts, besides those which have been filed before this Court. It is pointed out, that the issues of challenge raised in the representations and writ petitions are the subject matter of a fresh consideration by the Government of India. It is pointed out, that the Ministry of Environment and Forests, is presently seized of the matter, and after an appropriate determination, change if any, as may be considered appropriate will be introduced after which the amended Rules, shall be re-notified. We record the above statement made to this Court on behalf of the Government of India.

3. We are of the view and accordingly direct that as and when the amended Rules are notified, sufficient time be granted to all stake holders before they are implemented, so that they have a sufficient opportunity, if aggrieved, to assail them in consonance with law.

4. In the above view of the matter, as of now, we find no justification to retain these writ petitions on our board. The same are accordingly disposed of. As a sequel to the above, pending interlocutory application also stand disposed of."

4. Writ Petition (C) No.419 of 2017, has been filed challenging the two sets of Rulings. The said writ petition was disposed of by the Hon'ble Apex Court on 11.08.2017 clarifying that the direction issued earlier on 11.07.2017 in W.P.(C). No.000422 of 2017 is limited only to Rules 22(b)(iii), 22(d)(ii) & (v) and 22(e)(i) & (iii) of the Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017. The following order is passed by the Hon'ble Apex Court:-

"1. Having heard learned counsel for the rival parties, we are of the view, that paragraph 1 of the order passed by this Court on 11.07.2017, needs to be modified. When the aforesaid order was passed, it was based on the submissions and contentions made by Mr.P.S.Narsimha, learned Additional Solicitor General. During the course of hearing today, we have heard submissions in objection to the injunction granted by this Court on 11.07.2017.

<https://hcservices.ecourts.gov.in/hcser/Mcs/> Having heard learned counsel for the rival parties we are satisfied, that the directions passed by this Court on 11.07.2017 should be limited to Rules 22(b)



(iii), 22(d)(ii) & (v) and 22(e)(i) & (iii) of the Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017.

3. We are also satisfied, that the the direction contained with reference to the Prevention of Cruelty to Animals (Care and maintenance of Case Property Animals) Rules, 2017, deserves to be vacated. Ordered accordingly."

5. In the light of the above, no further adjudication is required. The learned counsel for the petitioner in W.P.(MD). No.10128 of 2017 would submit that it may be made clear that till new Rulings are brought forth, the interim order granted on a challenge made to the present Rules will have to continue.

6. The learned Central Government Standing Counsel appearing for the first respondent in W.P.(MD).No.10128 of 2017 would submit that it goes without saying that till the process of re-notification is completed, Rules 22(b)(iii), 22(d)(ii) & (v) and 22(e)(i) & (iii) of the Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017 existing as on today shall not be given effect to.

7. In such view of the matter the writ petitions stand disposed of recording the submissions made by the learned Central Government Standing Counsel. However, it is made clear that this order will not stand in the way of the petitioner making any challenge to the amended/notified Rules, if so aggrieved. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(co)

/True Copy/

Sub Assistant Registrar

To

1. The Joint Secretary
Union of India,
Ministry of Environment, Forest and Climate Change,
Indira Paryavaran Bhawan
Jorbagh Road,
New Delhi-110 003.

2. The Chief Secretary,
State of Tamil Nadu,
Government of Tamil Nadu

<https://hcservices.ecourtts.gov.in/hcservices/>
George,
Chennai.



3. The Home Secretary,
Union of India, New Delhi.

4. The Secretary,
Ministry of Environment, Forest and Climate Change,
Prithvi Block, First Floor,
Indira Paryavaran Bhawan
Jor Bagh Road, Aliganj,
New Delhi -110 003.

5. The Home Secretary,
State of Tamil Nadu,
Fort St. George,
Chennai-600 009.

+1cc to Mr.T.Antony Arul Raj, Advocate Sr.No.77186
+1cc to M/s.Ajmal Associates, Advocate Sr.No.76911
+1cc to Ms.S.Srimathy, Advocate Sr.No.76699
+1cc to Ms.L.Victoria Gowri, Advocate Sr.No.76739
+1cc to Mr.K.P.Ramesh, Advocate Sr.No.77231

JIKR

VB/SV/MMS/SAR4/22/09/2017/6P/11C

**COMMON ORDER MADE IN
W.P. (MD) .Nos.10128 and 10129 of 2017 &
W.M.P. (MD) .Nos.7769 to 7771 of 2017
05.09.2017**