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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 7868/2018**

KAPIL MODI & ANR

..... Petitioners

Through Mr O).N. Sharma, Mr Satish Chandra
Kaul, Advocates.

versus

GOVT OF NCT OF DELHI & ANR

..... Respondents

Through Mr Gautam Narayan, ASC, Advocate
with Mr Dev. Dept. GNCTD & Ms S. Vij,
Advocate and Mr Mahamaya Chatterjee,
Advocate.
Mr Sonia A Menon, Advocate for
DSPCA.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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30.07.2018

CM 30173/2018

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

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3. On an oral request of the petitioners, Delhi Society for Prevention of Cruelty to Animals (hereafter 'DSPCA') is impleaded as respondent no.3. Amended Memo of parties be filed within a period of two days.
4. Issue notice. The learned counsel for the parties accept notice (respondent no.2 accepts notice on behalf of respondent no 3 as well).
5. The petitioners have filed the present petition, *inter alia*, praying as

under:-

“Issue an appropriate writ/ order/ direction of like nature considering the peculiar facts and circumstances thereby directing the respondents refraining from conducting any such further malicious inspections at the premises of the petitioners Horse Farm Jonapur South District New Delhi on the malafide frivolous complaints of Ameera Pasrich, Shikha Mundkur and their co-conspirators Amir Pasrich, Shivani Pasrich, Anush, Priti Agarwalla, and any other organization connected with the accused persons because the Respondents have already conducted such an inspection on 28.04.2018 on the false complaint of the abovementioned persons who are accused in a criminal complaint filed by P- 2 under SC/ST (P.A.) Act 1989.

Pass an ad-interim ex-parte order of stay of on all inspections carried out by the Respondents at the petitioner's farm in Jonapur at the direct/indirect behest of the accused persons until disposal of the present petition.”

6. Petitioner no.1 runs a horse riding institute in a farmhouse at Jonapur, Delhi. He alleges that four of his ex-students have been making complaints with a view to sully his name and to acquire the horses. He asserts that the complaints are baseless and made for ulterior purposes.
7. The petitioner no.1 further states that based on such complaints, an inspection was carried out by Delhi Society Enforcement Wing of DSPCA on 28.04.2018 and none of the allegations made against him were found to be substantiated. The petitioners now apprehend that on similar complaints further action would be taken by DSPCA.
8. This Court is not inclined to pass any blanket order granting the petitioners immunity from being subjected to any inspection by DSPCA. DSPCA is duly empowered to carry out the functions under the Prevention of Cruelty to Animals Act, 1960 by virtue of the Prevention of Cruelty to

Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001, which were notified on 26.03.2001. DSPCA cannot be interdicted from performing their statutory functions.

9. However, since the petitioners apprehend that the inspection would be carried out on the basis of false complaints, this Court considers it apposite to direct that DSPCA shall not undertake any inspection unless the Director, DSPCA (respondent no.2) is satisfied that there is a necessity to do so and has considered the averments made in the present petition. He shall also record his reasons, in brief, for granting approval, if any, prior to any such inspection. It is clarified that respondent no. 2 would not be required to give any notice or afford any hearing to petitioner no.1 before taking any such decision. The aforesaid directions are issued in the peculiar circumstances of this case.

10. Needless to mention that all contentions of the petitioners are reserved and nothing stated herein would preclude the petitioner from pursuing the same before the concerned authorities.

11. The petition is disposed of.

VIBHU BAKHRU, J

JULY 30, 2018

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