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HIGH COURT OF CHHATTISGARH, BILASPUR**Order Reserved on : 11/07/2019****Order Delivered on : 23/07/2019****Writ Petition (Cr.) No. 533 of 2017**

Nanku Ram Yadav S/o Jhunai Ram Yadav, Aged About 76 Years R/o Village
Risali Bhatha, P.S. Nevai, District Durg, Chhattisgarh, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Home Department,
Mantralaya, Mahanadi Bhawan, New Raipur, District- Raipur, Chhattisgarh,
Chhattisgarh
2. Superintendent Of Police, Balod, District Balod, Chhattisgarh, District :
Balod, Chhattisgarh
3. Station House Officer, Police Station Balod, District Balod, Chhattisgarh,
District : Balod, Chhattisgarh
4. Mahabir Gousala And Research Centre, Through The President, Mahabir
Gousala And Research Centre, Balod, District Balod Chhattisgarh., District :
Balod, Chhattisgarh

---- Respondents

For the Petitioner	: Ms. Hamida Siddiqui, Advocate.
For the Respondents/State	: Shri Ghanshyam Patel, G.A.
For Respondent No.4	: Shri Manish Upadhyay, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**CAV ORDER**

Heard.

1. This petition has been brought under Article 226 of the Constitution of India praying for issuance of appropriate writ.
2. It is submitted by counsel for the petitioner that the seizure of 28 numbers of cattle were made from the possession of the petitioner on

16.4.2015 and on the basis of which, the petitioner was charged and tried for the offences under Sections 4 and 6 of the Chhattisgarh Agricultural Cattle Preservation Act, 2004 and Sections 10 and 11 of the Cruelty against Animal Act in Criminal Case No. 379 of 2015 by the Court of Chief Judicial Magistrate, Balod and vide judgment dated 25.4.2016 the petitioner was acquitted of the charges framed against him. The Court had ordered for return of the seized cattle to the petitioner in case no appeal is filed against that judgment. On the application made by the petitioner, the Court of CJM, Balod issued a written direction dated 29.11.2016 for return of the cattle to the petitioner vide Annexure-P/2 and the same was not complied with. Thereafter, a Contempt Petition was filed in which an unconditional order was passed on 9.2.2017 directing the Station House Officer, Balod to obtain 28 numbers of cattle from Mahaveer Gaushala i.e. respondent No.4 and handover to the petitioner. The petitioner was replied by SHO, Balod vide Annexure-P/7, the dues of Mahaveer Gaushala with respect to maintenance of seized cattle has to be paid before the same is released in favour of the petitioner and thereafter, the Contempt Petition was dismissed. The petitioner has inspected the Mahaveer Gaushala with permission of the Court on 7.12.2016 and he has stated in the Contempt Petition that he did not find his cattle in the said Gaushala and alleged that the same has been sold away. The worth of the cattle was about Rs.6,00,000/-. It was not the intention of the petitioner to keep his cattle in Mahaveer Gaushala. It was the action of the State in which seizure of cattle was made and for the upkeep of the same, the cattle were handover to Mahaveer Gaushala, therefore, there is no responsibility to make payment for the charges of maintenance. Hence, it is prayed that appropriate writ and directions be issued.

3. Learned State counsel opposes the petition and submits that the cattle seized from the petitioner are still available in the Mahaveer Gaushala. As the cattle have grownup by passing of time, the petitioner was unable to identify them, therefore, the claim of the petitioner that no cattle are available in Mahaveer Gaushala is baseless. The statement given by Ankesh Kumar, the employee of the Gaushala which has been recorded in the inspection very clearly demonstrates that the cattle seized from the petitioner are still available in the Gaushala which is also mentioned in the panchanama. The Contempt Petition of the petitioner has been rightly dismissed by the Court below as Gaushala has a right to charge for the upkeep of the cattle in accordance with Section 9 of the Chhattisgarh Cattle Preservation Act, 2004 therefore, the claim for maintenance charged by the Gaushala is well founded in accordance with law. Hence, the petition is not maintainable.

4. Learned counsel for respondent No.4 adopts the arguments advanced by the State counsel and submits that the petitioner is making a false statement and the cattle seized from the petitioner are still in the custody of the Gaushala which can be returned to the petitioner after he makes payment of the maintenance charges.

5. In reply, it is submitted by counsel for the petitioner that the Gaushala is getting grant from Government for maintenance of cattle. Thereafter, the petitioner in this case has been acquitted in the trial against him therefore, he is not liable to be charged for the maintenance of his cattle. The petitioner is still insisting that his cattle are not available in the Gaushala.

6. Heard counsel for both the parties and perused the documents.

7. The claim made by the petitioner that the cattle that were seized from his possession are not present in the Gaushala has been categorically denied by the respondents. On the other hand, respondent No.4 - Mahaveer Gaushala has made a clear statement that on payment of the maintenance charges the cattle can be handedover to the petitioner. There is no need to go into any enquiry as prayed by the petitioner which has been disputed by the respondents, and the same may be a subject for consideration in case the respondents are unable to return the cattle to the petitioner and that situation has not arrived.

8. Section 9 of the Chhattisgarh Cattle Preservation Act, 2004 provides that:

'Section 9 - Levy of charges: The person incharge of the institution may levy such charges as may be prescribed, for care and maintenance of Agricultural cattle whose custody was given to the institution under Section 7 from their owners.'

9. There is no condition in the provision under Section 9 of the Act or under any other provision of the Act that in case the accused for commission of offence under this Act is acquitted, he would not be liable to make payment of the charges as it is required under Section 9 of the Act, only for the reason that Gaushala get grant from the government, the entitlement of Gaushala which is clearly mentioned under Section 9 of the Act cannot be taken away, therefore, for these reasons that the provision under Section 9 of the Act, 2004 is mandatory and further the statement of the respondents is

very categoric that the cattle seized from the petitioner are still available in the Gaushala which can be returned after payment of legal dues. Therefore, I do not find any reason to entertain this petition and grant any relief to the petitioner. Hence, the petition is disposed off and the petitioner shall be at liberty to get the cattle released in his favour in accordance with the property disposal order of the trial Court after making payment of the dues under the provisions of the Chhattisgarh Cattle Preservation Act, 2004.

10. Accordingly, the petition is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge