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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 22nd January, 2021

+ **W.P.(C) 6405/2018 & CM APPL. 495/2021**

PETA INDIA

..... Petitioner

Through: Dr. Aman Hingorani and Mr.
Himanshu Yadav, Advocates.

versus

ASIAD CIRCUS THROUGH: ITS PROPRIETORS AND
ORS.

..... Respondents

Through: Ms. Manisha T. Karia, Ms. Sukhda
Kalra, Mr. Adarsh Kumar and Ms.
Nidhi Nagpal, Advocates for R-4. (M:
9818002150).

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.
2. The present petition has been filed by PETA India through its Chief Executive Officer seeking immediate seizure of the male hippopotamus who is being illegally retained by Respondent No.1 i.e., the Asiad Circus (*hereinafter, "Circus"*), which is run by one Mr. Riyazuddin. The contention of the Petitioner is that despite the license of the Circus having been cancelled, Respondent No.1 continues to retain all the animals, including the hippopotamus, in a completely illegal and unlawful manner.
3. Mr. Hingorani, ld. counsel submits that repeated orders have been passed against Respondent No.1 and finally, vide order dated 24th February, 2020, Respondent No.1 was directed to be personally present in Court as well. Respondent No.1 has, however, despite repeated directions not filed an

affidavit disclosing the status and location of the hippopotamus, nor he is present in the hearing today. There is also no representation on behalf of Respondent No.1.

4. A perusal of the letter dated 12th December, 2017 which is issued by the Director, Society for the Prevention of Cruelty to Animals, Delhi (*hereinafter 'SPCA'*) shows that the license for the Circus has already been revoked and various directions have been issued. It is alleged that the Circus is still making the animals perform illegally. The SPCA has therefore been directed to register an FIR and also take action for seizure of the hippopotamus. Insofar as the temporary housing of the hippopotamus is concerned, the Ministry of Environment, Forest and Climate Change is stated to have approved temporary housing of the hippopotamus in the National Zoological Park, New Delhi.

5. Despite repeated orders of this Court and Respondent No.1 having been served, he has not taken a position and has even failed to file a counter affidavit in this matter. Only the rejoinder is on record.

6. Mr. Hingorani, Id. counsel submits that though the counter affidavit is not on record, as per the copy served upon him, exemption has been sought by Respondent No.1 on the ground that the animals are being used for educational purposes under the Prevention of Cruelty to Animals Act, 1960. Thus, he submits that there should be immediate directions issued for seizure of the hippopotamus, which is in the illegal custody of Respondent No.1.

7. Considering the above facts and the fact that none appears for Respondent No.1 till date, the following directions are issued:

- i) The SPCA, Delhi is directed to immediately take steps for seizure of the male hippopotamus from the custody of Respondent No.1

or any other person who may have custody of the said animal. Security shall be provided by the Delhi Police or any other local police, for the said purposes. Copy of this order shall act as a notice to the Commissioner concerned as also the local police of the concerned area who shall cooperate with the officials of the SPCA;

ii) Let non-bailable warrants be issued against Respondent No.1- Mr. Riyazuddin (Address: NG 2/21, ADA Colony, Jajmau, Kanpur, Uttar Pradesh and C-389, Rose Apartments, Sector-14, Prashant Vihar, Rohini, Delhi-110085) to ensure his appearance on the next date of hearing.

iii) Registry to also give court notice to the ld. counsels appearing for Respondent No.1, whose *vakalatnama* has been placed on record.

8. SPCA, Delhi to file an action taken report before this Court. The hippopotamus, if seized, shall be placed in the Delhi Zoo in terms of the office memorandum dated 7th December, 2017 passed by the Ministry of Environment, Forest and Climate Change.

9. If there is any difficulty in transportation of the hippopotamus, the animal shall be placed in the local Zoo of the area where the seizure of the animal takes place. Wherever the animal is placed, the Zoo authority concerned shall take adequate care of the animal till further orders of this Court.

10. List on 15th April, 2021.

**PRATHIBA M. SINGH
JUDGE**

JANUARY 22, 2021/Rahul/C