



W.P.No.28298 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.28298 of 2007

&

M.P.No.1 of 2007

C.Thangappan

...Petitioner

Vs.

1.Secretary to Government of India
Department of Animal Husbandry and
Dairying
Government of India
Central Secretariat
New Delhi

2.Secretary to Government of India
Department of Law and Company Affairs
Government of India
Central Secretariat
New Delhi

3.The State of Tamil Nadu
Represented by the Chief Secretary to Government
Fort, St.George
Chennai-600 009

4.The Secretary to Government
Animal Husbandry Department
Fort.St.George,



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Chennai-600 009

5.The Director General of Police
Chennai-600 0004

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of mandamus Declaration declaring the Rule 56(c) of the Transport of Animal Rules, 1978(Central Rules) as unconstitutional and null and void in so far as it has not specified the size of the 'goods vehicle' when it says no goods vehicle shall carry 'more than six cattle' and further direct the first respondent to initiate necessary proceedings to amend the Rules accordingly.

For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.J.Madhanagopal Rao, SPC for R1 and 2

Mr.S.Rajesh, Govt.Advocate for R3 to 5

ORDER

Writ Petition is filed seeking to declare the Rule 56(c) of the Transport of Animal Rules, 1978(Central Rules) as unconstitutional and null and void in so far as it has not specified the size of the 'goods vehicle' when it says no goods vehicle shall carry 'more than six cattle' and further direct the first respondent to initiate necessary proceedings to amend the Rules accordingly.

2. The challenge has been made to R.56 of the Transport of Animal Rules, 1978.



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3. The main ground on which the challenge has been made is that rules does not define the term goods vehicle nor the term vehicle. R.50 states that average space provided in a vehicle should not be less than two square meters, whereas R.56 states that no vehicle shall carry more than six cattle. According to him both rules are self contradict and hence requires amendment and therefore ultravires. Therefore, the challenge has been made to strike down the Rule.

4. It is relevant to extract the R.50 of the Transport of Animal Rules, 1978.

“ 50. The average space provided per cattle in Railway wagon or vehicle shall not be less than two square metres.”

5. On perusal of R.50 makes it clear that the average space provided per cattle in Railway wagon or vehicle shall not be less than two square metres.

6. R.56 reads as follows:



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56. When cattle are to be transported by goods vehicle, the following precautions are to be taken namely:

(a) Specially fitted goods vehicles with a special type of tail board and padding around the sides should be used.

(b) Ordinary goods vehicles shall be provided with anti-slipping material, such as coir matting or wooden board on the floor and the superstructure, if low, should be raised.

(c) No goods vehicle shall carry more than six cattle.

(d) Each goods vehicle shall be provided with one attendant.

(e) While transporting, the cattle, the goods, vehicles shall not be loaded with any other merchandise; and

(f) to prevent cattle being frightened or injured, they should preferably, face the engine.

When the cattle are to be transported by the goods vehicle Clause (c) makes it clear that no goods vehicle shall carry more than six cattle.

7. It is the contention of the petitioner that he is using 21 ½' X 8 ½' feet of 10 ton capacity lorry for transporting cattle. By using this size of lorry 21 to 24 cattle of aged three years and above can be easily transported without



giving any trouble or cruelty.

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8. It is relevant to note that the 10 ton capacity lorry, the measurement is given as 21 1/2'X 8 1/2' feet. R.50 of the Act makes it very clear that space shall not be less than 2 square metres for each cattle and this has been framed taking note of the cruelty that may be encountered by the animals while traveling particularly, when the cattle were loaded without providing any spaces which led to severe cruelty not only sometimes it result in death also. Therefore, even the space provided per each cattle as per R.50 is calculated even the lorry has a capacity of 10 ton capacity not more than six cattle has to be accommodated to prevent the cruelty.

9. In such view of the matter, this Court is of the view that the Rule does not violate any provisions of law and the Rule has been framed in order to prevent the cruelty to animal. Every cattle has a right as that of a human. They cannot be subjected to the cruelty by transporting them as a perishable items by accommodating as desired by the persons.

10. In such view of the matter, I do not find any merits in the petition. Accordingly, the Writ Petition is dismissed. There shall be no order as to



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costs. Consequently, connected miscellaneous petition is closed.

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Internet: Yes

Speaking/non-speaking order

To

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Department of Animal Husbandry and
Dairying, Government of India
Central Secretariat, New Delhi

2.The Secretary to Government of India
Department of Law and Company Affairs
Government of India,Central Secretariat
New Delhi

3.The Chief Secretary to Government
State of Tamil Nadu
Fort, St.George, Chennai-600 009

4.The Secretary to Government
Animal Husbandry Department
Fort.St.George, Chennai-600 009

5.The Director General of Police
Chennai-600 0004

6. The Regional Transport Officer
Namakkal, Namakkal District



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