

Pdp

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 10 OF 2022

Akhil Bharat Krishi Go
Seva Sangh

.. Petitioner

Versus

State of Maharashtra & Ors.

.. Respondents

Mr. Raju Gupta a/w Ms. Neelam Yadav, Ms. Darshika Vasani
for petitioner.

Mr. A. R. Patil, APP for respondent nos.1 and 2/State.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE: 6th SEPTEMBER, 2023

P.C.:

1. Heard Mr. Gupta, learned counsel representing the petitioner and Mr. Patil, learned APP representing the respondent nos.1 and 2/State.

2. This Public Interest Litigation petition raises the issue relating to animals allegedly being illegally slaughtered at Malegaon, Nashik. The PIL petition contains various photographs which, according to the learned counsel for the petitioner, depict certain animals having been brought for being slaughtered. It has been urged by the learned counsel for the petitioner that on certain occasions, illegal slaughtering of animals takes place and goes unchecked by

the authorities concerned, though in terms of the provisions contained in the Maharashtra Animal Preservation Act, 1976 (hereinafter referred to as "the 1976 Act") there are certain prohibitions on slaughtering of cows, bulls and bullocks.

3. Further submission of the learned counsel for the petitioner is that even if such incidents are brought to the notice of the police authorities, they do not act promptly to take action in terms of the provisions contained in Section 8(3) of the 1976 Act, as a result of which slaughtering of animals, which is otherwise prohibited, remains unabated. In the wake of the aforesaid assertions, the petitioner has prayed that an appropriate direction may be issued to the respondent no.2 - Superintendent of Police, Nashik-Rural, Bhujbal Knowledge City, Adgaon, Nashik, Maharashtra, for lodging FIRs on the complaints dated 25th June, 2022, 1st July, 2022 and 4th July, 2022.

4. Another prayer made in the PIL petition is that an appropriate direction may be issued to the respondents to take immediate steps to seize all the animals brought at Malegaon, Nashik for slaughtering on a particular occasion.

5. The learned APP representing the State Government has submitted that for prevention of illegal slaughtering of animals, the State Legislature has enacted the 1976 Act and the authorities are acting in terms of the provisions of the said Act.

6. We have considered the submissions made by the learned counsel representing the respective parties.

7. With the object of providing for prohibition of slaughter and preservation of cows, bulls or bullocks useful for agricultural purposes and also for restriction on slaughter for the preservation of certain other animals, the State Legislature has enacted the 1976 Act (Maharashtra Act No.IX of 1977) which in terms of the notification issued under Section 1(3) of the said Act came into force with effect from 15th April, 1978. The 1976 Act contains a complete statutory mechanism for prohibiting slaughter of cows, bulls or bullocks and also prohibiting transport and export of these animals. It also contains a provision prohibiting sale, purchase and disposal of cows, bulls or bullocks. The prohibition on possession of flesh of cow, bull or bullock is also available in the said Act.

8. Section 5 of the 1976 Act clearly states that no person shall slaughter or cause to be slaughtered or offer for slaughter any cow, bull or bullock in any place in the State of Maharashtra. Thus, there is a complete prohibition of slaughter of these animals in the State of Maharashtra. Section 6 puts certain restrictions on slaughter of scheduled animals. The scheduled animals as per the schedule appended to the said Act are female buffalo and buffalo calf. The violation or infringement of the provisions of the 1976 Act constitutes a punishable offence as well in terms of the provisions contained in Section 9 of the said Act which unambiguously provides that whoever contravenes certain

provisions of the said Act, shall be punished with imprisonment for a term which may extend to five years or with fine which may extend to ten thousand rupees or with both. Section 10 of the 1976 Act makes the offences under the said Act cognizable and non-bailable. Even abetment and attempt to commit any offence as described in the said Act is punishable with punishment which is provided for offence described in Section 9 or Section 9A.

9. Section 8(3) of the 1976 Act empowers the police officer not below the rank of Sub-Inspector or any other person authorised in this behalf by the State Government to enter, stop and search any vehicle used or intended to be used for the export of cow, bull or bullock. With a view to ensure compliance of provisions of Section 5A, 5B, 5C or 5D, section 8(3)(b) further authorises the police officer to seize cow, bull or bullock in respect of which he has suspicion that any provision of the 1976 Act is being or is about to be contravened. Apart from the criminal action, as envisaged in Section 8(3) read with Sections 9, 9A, 10 and 11 of the 1976 Act, the said Act further constitutes a competent authority as defined in Section 3(a) of the 1976 Act, to be appointed by the State Government by issuing a notification in the official gazette under Section 4. Such competent authority or any person authorised in writing in that behalf by the competent authority under Section 8 of the 1976 Act, has been vested with power to enter and inspect any place where he has reason to believe that an offence under the said Act has been or is likely to be committed.

10. Thus, when we examine the complete scheme of the 1976 Act what we notice is that action in case of any breach or contravention of the provisions of the 1976 Act can be taken at two levels, firstly, by the police officer who can initiate the criminal action and simultaneously seize or search the vehicle or any other place where cow, bull or bullock are suspected to be kept and which are about to be slaughtered illegally and, secondly, the competent authority in terms of the provisions contained in Sections 3 and 8 is also empowered to inspect any place where he has reason to believe that an offence under the 1976 Act has been or is likely to be committed. Once the competent authority visits any such place and carries out the inspection and finds that any offence under the 1976 Act has been committed or is likely to be committed, in our opinion, it becomes his statutory duty to take further action such as initiation of the criminal action by giving intimation of such an offence to the police officer concerned.

11. Having examined the scheme of the 1976 Act, we now come to the prayers made by the petitioner in this PIL petition. The first prayer, as observed above, is for issuing a direction to the Superintendent of Police to lodge an F.I.R. on the basis of complaints said to have been made on 25th June, 2022, 1st July, 2022 and 4th July, 2022. In respect of the said prayer, it is needless to say that a complete statutory mechanism is available under Section 156 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Cr.P.C.") and in case of refusal to lodge F.I.R., the petitioner or anyone aggrieved may either take recourse to the provisions

of Section 156(3) of the Cr.P.C. by making an application to the jurisdictional magistrate or by filing a complaint case under Section 200 thereof.

12. Having regard to the availability of the said legal provisions under the Cr.P.C. and also taking into account the fact that the complaints said to have been made by the petitioner pertain to June/July, 2022, we are not inclined to grant the said prayer at this stage.

13. As regards the second prayer, whereby the direction has been sought to be issued to the respondents to take immediate steps to seize all the animals brought at Malegaon, Nashik, we may again observe that the prayer appears to have been made in respect of a particular time period of June/July, 2022 and thus, at this juncture, such prayer also cannot be granted to the petitioner.

14. However, having regard to the allegations made in the PIL petition and also having noticed the provisions contained in the 1976 Act, we hereby provide that in case any event or incident is noticed by the competent authority as defined in Sections 3 and 8(4) of the 1976 Act, where he has reason to believe that there has been or is a possibility of contravention of the provisions of the 1976 Act, the primary responsibility of administering provisions of the 1976 Act lies on him. We also provide that in any such eventuality in future if any effort by the petitioner or by anyone else fails to register F.I.R., it will be open for the petitioner or any such person to invoke the provisions of Section 156(3) and Section 200 of the Cr.P.C.

15. The PIL petition is, thus, disposed of with aforesaid observations.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)

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signed by
PRAVIN
DASHARATH
PANDIT
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