



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 333 OF 2024

Dhyan Foundation Govardhan Govansh Seva Va Anusandhan Kendra

Vs.

The State of Maharashtra, thr. Deori Police Station, Dist. Gondia & Anr.

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. Raju Gupta, Advocate for the Petitioner.

Ms. S.V. Kolhe, APP for Respondent No.1.

CORAM : G. A. SANAP, J.

DATED : 24th SEPTEMBER, 2024.

1. Heard the learned advocates for the parties. Perused the record and proceedings.

2. In this petition, the petitioner has challenged the order dated 10th April, 2024, passed below Exh.1 by the learned Judicial Magistrate First Class, Deori, whereby the learned Magistrate allowed the application made by respondent No.2 for handing over the custody of the cattle to him.

3. It is the principal grievance of the petitioner -Dhyan Foundation that, after registration of the crime, the custody of the cattle was handed over to the Dhyan Foundation. The learned Magistrate, without granting an opportunity of hearing to the petitioner - Dhyan Foundation, passed the order. It is submitted that the learned Magistrate has not taken into consideration the mandatory provisions of law, particularly Section 8 of the Maharashtra Animal Preservation Act, 1976 (for short, "the Act of 1976"). It is submitted that it is a specific case of the police that the cattle were being transported for the purpose of slaughtering. It is pointed out that as per the proviso

to sub-section (3) of Section 8 of the Act of 1976, in such a crime during pendency of the trial, the seized cow, bull or bullock shall be handed over to the nearest Gosadan, Goshala, etc. Since, it is the case of the prosecution that the cattle were being transported for the purpose of slaughtering, the learned Magistrate was bound to consider the provisions of Section 8 of the Act of 1976.

4. The learned Magistrate did not grant an opportunity of hearing to the petitioner - Dhyan Foundation. In the facts and circumstances, without going into further details, the order is required to be set aside.

5. Accordingly, the petition is **allowed**.

i] The order dated 10th April, 2024, passed by the learned Judicial Magistrate First Class, Deori, in Cri. Misc. Application No.19/2024, is set aside.

ii] The matter is remitted back to the learned Magistrate.

iii] The learned Magistrate shall decide the application at Exh.1 made by respondent No.2 afresh by granting an opportunity of hearing to the petitioner - Dhyan Foundation.

iv] The matter be decided afresh within two months from the date of receipt of this order.

6. The petition stands disposed of accordingly.

(G. A. SANAP, J.)