
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

- (1) **CWP No.8548 of 2012**
Date of decision:04.07.2012
Gauraksha Dal ...Petitioner
Vs.
Union of India and others ...Respondents
- (2) **CWP No.8793 of 2012**
Date of decision:04.07.2012
Malwa Doaba Bulls Welfare Association (Registered) ...Petitioner
Vs.
Union of India and others ...Respondents
- (3) **CWP No.11088 of 2012**
Date of decision:04.07.2012
Rural Hult Race and Welfare Association (Registered) ...Petitioner
Vs.
State of Punjab and others ...Respondents

**CORAM: HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE RAKESH KUMAR JAIN**

Present: Mr. L.M.Gulati, Advocate,
for the petitioner in CWP Nos.8548 & 8793 of 2012.

Mr. Kanwaljit Singh, Senior Advocate, with
Mr. IPS Mangat, Advocate, for the petitioner
in CWP No.11088 of 2012.

Ms. Puneeta Sethi, Advocate,
for Union of India.

Ms. Sudeepti Sharma, DAG, Punjab.

RAKESH KUMAR JAIN, J.

Three writ petitions bearing CWP No.8548 of 2012 titled as “Gauraksha Dal Vs. Union of India and others” [for short “first petition”], CWP No.8793 of 2012 titled as “Malwa Doaba Bulls Welfare Association (Registered) Vs. Union of India and others” [for short “second petition”] and CWP No.11088 of 2012 titled as “Rural Hult Race and Welfare Association (Registered) Vs. State of Punjab and others” [for short “third petition”] are being disposed of together as they involve adjudication of similar question of law and facts. However, the facts are being extracted from the first petition.

In all the three writ petitions, challenge is laid to the notification dated 11.07.2011 (Annexure P-3) issued by the Ministry of Environment and Forests, order dated 02.02.2012 (Annexure P-5) passed by the Deputy Director, Department of Animal Husbandry, Ludhiana and also to the order dated 10.02.2012 (Annexure P-6) passed by the Deputy Commissioner, Ludhiana. The petitioners have also sought mandamus seeking direction to the State of Punjab to allow Bullock Cart Race in the Rural Olympics which is held every year in the State as it does not amount to exhibition or training the bulls as performing animal.

The first petition is filed by the Society for protection of cows/bulls under the Punjab Prevention of Cow Slaughter Act, 1955 and claims to have 414 Gaushalas in all over the State of Punjab.

Petitioners in the second and third petitions are the registered societies indulged in promotion of rural sports, which holds rural Olympics at village Kila Raipur, District Ludhiana, in which Bullock Cart Race is also regularly held.

Before filing all the aforesaid writ petitions, CWP No.2540 of 2012 titled as “Grewal Sports Association (Regd.) through its Secretary Paramjit Singh vs. The State of Punjab and others” was filed with a prayer to hold Bullock Cart Race in the Kila Raipur Sports Festival, which was scheduled to be held from 09.02.2012 to 12.02.2012, and to quash letter dated 08.02.2012 issued by Station House Office, Police Station Delon, Ludhiana and letter dated 02.02.2012 issued by Deputy Commissioner, Ludhiana, who had not granted permission to hold Bullock Cart Race in Kila Raipur Sports Festival on the basis of notification dated 11.07.2011 issued by the Government of India. The said writ petition was disposed of in limine on 10.02.2012 by a learned Single Bench of this Court, with the following order:

“The petitioner-Association is registered vide Registration No.22 of 1964-65 by the Registrar of Firms and Societies, Punjab. The petitioner has approached this Court under Articles 226/227 of the Constitution of India seeking a writ of mandamus for directions to the respondents to allow the petitioner-

Association to conduct Bull Cart Race in the ongoing Kila Raipur Sports Festival from 09.02.2012 to 12.02.2012.

2. As per the averments made in the petition, respondent No.6 is not allowing the aforesaid Bull Cart Race to be carried on during this festival as according to him the provisions of The Prevention of Cruelty to Animals Act, 1960 are involved therein. Learned counsel for the petitioner states that the said race has been taking place for last several decades.

3. After hearing learned counsel for the petitioner and perusing the petition, without expressing any opinion on the merits of the case, the writ petition is disposed of with a direction that, in case, the petitioner approaches respondent No.4-Deputy Commissioner, Ludhiana, by way of a representation, the Deputy Commissioner, Ludhiana, shall take a decision thereon today itself in accordance with law.”

In pursuance to the aforesaid order, a representation was made to the Deputy Commissioner, Ludhiana, which did not find favour with him as the same was declined on 10.02.2012 in view of the notification dated 11.07.2011.

Since second and third petitions were ordered to be heard

along with the first petition vide order dated 10.05.2012 and 31.05.2012, therefore, reply has been filed by respondent Nos.3 to 5 in the first petition.

Counsel for the petitioner has urged that though writ in the nature of certiorari has been prayed for quashing of the notification dated 11.07.2011 (Annexure P-3) and the orders Annexures P-5 & P-6, but after a close perusal, it has been found that the notification Annexure P-3 is not, at all, applicable to the facts and circumstances of the case and has been erroneously relied upon by the State functionaries much-less the Deputy Director, Animal Husbandry, Government of Punjab, Ludhiana, while declining permission to include Bullock Cart Race in the Kila Raipur Sports Festival.

Before demonstrating the aforesaid error on the part of respondents, it is urged that Kila Raipur Sports Festival was visualized by Philanthropist Inder Singh Grewal in the year 1933 as an annual rural recreational meet, where farmers from surrounding areas of Kila Raipur could assemble and test their endurance. With the passage of time, when the 77th Kila Raipur Sports Festival was held in the year 2012, it had turned into the venue of rural Olympics in which events like Kabaddi (Academy Competition), Bullock Cart Race, Athletics (100 Meter Open:Boys, 100 Meter open:Girls, 200 Meter Open:Boys, 200 Meter open:Girls, 400 Meter Open:Boys, 400 Meter open:Girls, 800 Meter Open:Boys, 800 Meter open:Girls, 1500 Meter Open:Boys,

Long Jump:Boys, Long Jump:Girls, 100 Meter open:Girls), Gymnastics, Tractor Race, Dog Race, Martial Arts, Horse Race, Hockey, Cycling, Tent Pegging, Tug-of-war, Tractor Trolley Loading-unloading are held besides various Baazigar feats and cultural shows. It is also stated that the bulls, which are engaged in the race, are of the known pedigree and reared on a rich diet of Grams, Desi Ghee, mustered oil and seeds, which entail an expenditure of ₹500/- to ₹600/- per day for each bull. The jockeys, who can drive the bullock carts, are hired @ ₹5000/- to ₹6000/- per competition. The distance of the race is just 300 meters in the stadium, which takes only 1 or 1-½ minutes.

It is also urged that no animal much-less bull used in the Bullock Cart Race are treated with any cruelty, rather they are treated as their own sons by the farmers/owners. The training and exhibition of the bull in the said performance race is without any sale of tickets and it is an event of tradition and culture of the State of Punjab.

Counsel for the petitioner has also referred to similar sports of Jalli Kattu, Rekla Race (Bullock Cart Race) and Oxen Race, which are being held from time immemorial during Pongal Festival, i.e. at the end of harvest season, and during Village Temple Festivals in the State of Tamil Nadu, where a ban was imposed in the year 2006 on Manju Viratu, Jalli Kattu and Rekla Race. The State of Tamilnadu had alleged that for making the bull run faster, they are subjected to cruelty

by whipping, beating or by way of twisting their tails etc. However, the said ban was held to be illegal by the Division Bench of the Madras High Court in the case of **K. Muniasamythevar v. The Deputy Superintendent of Police, Keelakkarai Ramanathapuram District and another**, decided on 09.03.2007.

The last argument is that even though the respondents have relied upon notification dated 11.07.2011 (Annexure P-3) and all the petitioners have challenged it, prima facie, being invalid, yet the said notification is not applicable to the facts and circumstances of this case and could not have been relied upon by the respondents in declining permission to hold Bullock Cart Race in Kila Raipur Sports Festival or any other similar kind of festival in the State of Punjab.

It is submitted that a ban has been imposed by the Central Government that besides other 5 animals, bulls shall not be exhibited or trained as performing animal. It is urged that the notification has been issued under Section 22 of the Prevention of Cruelty to Animals Act, 1960 [for short "the Act"], which debar a person from such exhibition or training of animals mentioned in the gazette as a performing animal. Words "exhibit" and "train" are defined in Section 21 of the Act, which mean exhibit at any entertainment, to which the public are admitted through sale of tickets and train for the purpose of any such exhibition. Word "performing animal" is defined in Rule 2(h) of the Performing Animals (Registration) Rules, 2001 [for short

“the Rules”] which means an animal used at or for the purpose of any entertainment including a film or an equine event to which the public are admitted.

The case set up by the petitioners in all the cases is that Bullock Cart Race is though held in a public view where large number of people are gathered in a stadium, but it is always free of costs as no price is charged to witness and being a part of the said event. Hence, it is submitted that this notification would apply in a different situation where the animals are being exhibited or trained for performance for a price.

In reply, it is submitted that though Bullock Cart Race in Kila Raipur Sports Festival is a traditional sports event, but the bulls are subjected to cruelty by beating, twisting their tails and giving injurious drugs, which cause unnecessary pain to the participating bulls and amounts to treating the animal with cruelty in terms of Section 11 of the Act. The Government has banned the Bullock Cart Race as it is considered in violation of Section 11 of the Act and in view of the notification dated 11.07.2011 (Annexure P-3) by which ban has been imposed on the use of bull as performing animal.

We have heard counsel for the parties and perused the record with their able assistance.

Admittedly, animals have been and are being used in various fields, specially agriculture, transportation and amusement etc.

In order to save them from exhibition by using coercive methods, the Prevention of Cruelty to Animals Act, 1960 was enacted, which was found to be deficient in many ways, resulting into enactment of the present Act with various Rules. Animal has been defined in the Act as a living creature other than a human being. It has been divided into two categories of captive animal and domestic animal. For the purpose of promotion of animal welfare and for protecting them from being subjected to unnecessary pain and suffering, the Central Government has established the Animal Welfare Board under the Act, which is to perform various functions with the approval of the Central Government and to make regulations for the administration of its affairs and to carry out its functions.

In the present case, we are concerned with the Bullock Cart Race and the notification dated 11.07.2011 (Annexure P-3) by which exhibition or training of bull as performing animal has been barred.

In order to understand the controversy at hand, it would be relevant to refer to the notification Annexure P-3, which reads as under:-

“The Gazette of India

EXTRAORDINARY

PART-II, Section-3-Sub-Section(i)

PUBLISHED BY AUTHORITY

=====
 No.384 NEW DELHI, MONDAY, JULY 11, 2011
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MINISTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

New Delhi the 11th July, 2011

G.S.R. 528(E)- In exercise of the powers conferred by Section 22 of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960) and in expression of the notification of the Government of India to the erstwhile Ministry of Social Justice and empowerment No.G.S.R.619(E) dated 04.10.1998, excepts as respect things or omitted to be done before such supersession, the Central Government, hereby specifies that the following animals shall not be exhibited or trained as performing animals, with effect from the date of publication of this notification, namely:-

1. Bears
2. Monkeys
3. Tigers
4. Panthers
5. Lions
6. Bulls

Sd/-
Anjani Kumar
Director”

The aforesaid notification is in supersession of the earlier notification dated 14.10.1998, which reads as under:

“THE GAZETTE OF INDIA: EXTRAORDINARY
MINISTRY OF SOCIAL JUSTICE AND
EMPOWERMENT

NOTIFICATION

New Delhi, the 14th October, 1998

G.S.R.619(E)-- Whereas the High Court of Delhi in C.W.P. No.890/91 by its order dated 21st August, 1997 directed that “the Central Government may take up the notification dated 02.03.1991 for consideration afresh” and “take into consideration such material as may be available with it or it may choose to collect through any of the authentic agencies or such other agency or committee of experts as it may choose to appoint”;

Whereas in pursuance of the order of the Hon'ble High Court of Delhi, the Central Government constituted a Committee under the Chairmanship of Additional Inspector General of Forests (Wildlife) to have a fresh look at the notification G.S.R. No.252 dated 02.03.1991 in the light of the additional material available with any authenticated agencies or such other agency/persons;

Whereas the said Committee submitted its

report to the Central Government;

Whereas the Central Government has taken into consideration the report of the said Committee;

Now, therefore, in exercise of the powers conferred by section 22 of the prevention of Cruelty to Animals Act, 1960 (59 of 1960), and in supersession of the Notification of the government of India in the erstwhile Ministry of Environment and Forests G.S.R. No.252 dated 02.03.1991 and G.S.R. No.485 dated 07.08.1991, except as respects things done or omitted to be done before such supersession, the Central Government hereby specifies that the following animals shall not be exhibited or trained as a performing animals, with effect from the date of publication of this notification, namely:-

1. Bears
2. Monkeys
3. Tigers
4. Panthers
5. Lions”

According to the aforesaid, Bulls have been added in the notification dated 11.07.2011 for the first time. The notification dated 11.07.2011 talks of exhibition or training of the animals mentioned therein as performing animals. In this regard, the following provisions of the Act and the Rules require special mention in order to understand the meaning of “exhibit”, “train” and “performing animal”:-

Sections 21 & 22 of the Act

“21. “Exhibit” and “train” defined.-- In this Chapter, “exhibit” means exhibit or any entertainment to which the public are admitted through sale of tickets, and “train” means train for the purpose of any such exhibition, and the expressions “exhibitor” and “trainer” have respectively the corresponding meanings.”

“22. Restriction on exhibition and training of performing animals.-- No person shall exhibit or train-

(i) any performing animal unless he is registered in accordance with the provisions of this Chapter;

(ii) as a performing animal, any animal which the Central Government may, by notification in the Official Gazette, specify as an animal which shall not be exhibited or trained as a performing animal.”

Rule 2(h) of the Rules

“2. Definitions.-- In this rules, unless the context otherwise requires, --

(a) to (g) xxx xxx xxx

(h) “performing animal” means an animal which is used at or for the purpose of any entertainment including a film or an equine event to which the public are admitted;”

According to Rule 2(h) of the Rules, “performing animal” means an animal which is being used at or for the purpose of any entertainment including a film or an equine event to which the public are admitted, whereas Section 21 says that “exhibit” would mean exhibit at any entertainment to which the public are admitted through sale of tickets and “train” would mean train for the purpose of any such exhibition. Section 22 imposes a restriction on exhibition and training of performing animal and empowers the Central Government to specify any such animal, by way of notification, who shall not be exhibited or trained as a performing animal. According to the aforesaid provisions of law, we are sanguine in our consideration that the restriction imposed under Section 22 of the Act would apply in respect of performing animal who has been exhibited or trained for a public view through sale of tickets and not otherwise.

Hence, we do not find any illegality in the notification dated 11.07.2011 (Annexure P-3) by which restriction has been imposed by the Central Government through notification on exhibition or training of Bull as a performing animal, which means any

performance where public is admitted, through on sale of tickets.

Notification dated 11.07.2011 (Annexure P-3) is not applicable to the facts and circumstances of the present case because Kila Raipur Sports Festival, where various events are being held, is for public entertainment without any sale of ticket in which people from rural India much-less Punjab show their strength, endurance and skills in various events including Dog race and Bullock Cart Race as bullock cart is an integral part of rural India and is still a major means of transportation and Bull/Ox are regularly used for the purpose of ploughing and other subservient agriculture purposes.

Insofar as violation of Section 11 of the Act is concerned, at the cost of repetition, it is observed that the Bulls, which are being used for the sports, are well looked after, well nourished and are not treated with any cruelty.

In view of the aforesaid discussion, all the writ petitions are hereby allowed and orders dated 02.02.2012 (Annexure P-5) and dated 10.02.2012 (Annexure P-6) are hereby quashed.

[RAKESH KUMAR JAIN]
JUDGE

04.07.2012
vinod*

[JASBIR SINGH]
ACTING CHIEF JUSTICE