State Govt
B.K. Ragada (ADN)
mob. 9938112250

IN THE HIGH COURT OF ORISSA: CUTTACK

W.P. (C) (PIL) No. 18220 / 2010

CODE No.

Smt. Jayanti Das ……………… Petitioner.

-- *VERSUS* --

State of Orissa and others ……………… Opp. Parties.

INDEX

Cuttack
Date: 25/X/10

By the Petitioner through

Advocate

IN THE HIGH COURT OF ORISSA: CUTTACK

W.P. (C) (PIL) No. 18220 / 2010

CODE No.

IN THE MATTER OF:

An application under article 226 of the Constitution of India.

And

IN THE MATTER OF:

An application under the Orissa prevention of Cow slaughter Act, 1960 read with the Orissa Prevention of Cow slaughter Rules, 1966.

And

IN THE MATTER OF:

An application under the prevention of cruelty to Animal Act 1960.

And

IN THE MATTER OF:

An application of under Goshala Act and Goshala Rules.

And

IN THE MATTER OF:

An application under Article 48 of Constitution of India.

And

IN THE MATTER OF:

An application seeking direction to protect Cows and more particularly the uneconomic/draught cattle and it's progeny.

And

IN THE MATTER OF:

Smt. Jayanti Das, aged about 46 years, W/o.Sri. Kumuda Bandhu Das, At.-Mahamadia Bazar, Dakhini Sahi, Po:-Chandinichowk, P.s:-Lalbag, Town/Dist:-Cuttack.

... ... Petitioner.

-- Versus --

1. State of Orissa, represented through its Chief Secretary, Secretariat Building, Bhubaneswar, Khurda.
2. Secretary, Home Department, Bhubaneswar, Khurda.
3. Secretary, Housing and Urban Development Department, Bhubaneswar, Khurda.
4. Director General of Police, At/P.o.-Buxi Bazar, Dist.-Cuttack.
5. Secretary, Fisheries and Animal Resources Development and Vetenary Services, At./Po.-Bhubaneswar, Dist.-Khurda.
6. Secretary Panchayatraj, Bhubaneswar, Khurda.
7. Director, Animal Husbandry and Vetenary Services, Mangalabag, Cuttack.
8. Registrar-Cum-The Goshala Development Officer of State, C/o.Director, Animal Husbandry and Vetenary Services, Mangalabag, Cuttack.
9. Chief Managing Director, OMFED, Bhubaneswar, Khurda.

... ... Opp. Parties.

The matter out of which this writ application arises was never before this Hon'ble Court in any form what so ever.

To

The Hon'ble Shri V. Gopala Gowda, B.Sc., LL.B., the Chief Justice of Orissa High Court and His Lordship's Companion Justices of the said Hon'ble Court.

The humble petition of the above named petitioner.

MOST RESPECTFULLY SHEWETH:

1. That, the present petition Under Article 226 of the constitution of India is being filed by way of Public Interest Litigation for seeking direction for protection of Cows and prohibition of slaughter of cows and its progeny in other words to stop cruel treatment to Cows and to treat them at par to others.

2. That, the petitioner is a citizen of India and resided within the territorial jurisdiction of this Hon'ble court and the cause of action arises within the jurisdiction of this Hon'ble Court.

3. That, the petitioner being a peace loving and law abiding citizen considers it as her right as well as her duty to bring the notice of this Hon'ble court by way of public interest litigation for protection of Cows and prohibition of slaughter of cows and its progeny. Since our nation has developed a culture of non-violence and tendency to treat all living creature on the footing of equality with human beings. So far as cows and her progeny are concerned they have acquired a special place. The image of cow as Vedic symbol. The petitioner has no personnel interest and the petitioner is filing the present petition on her own and not at the instance of some one else. The litigation cost, including the advocate fees and the traveling expenses of the lawyer if any are being borne by the petitioner herself. More particularly as the state is saving street dogs from killing even if they are torturing the pedestrians in the street and the captive animal from the control of their keepers/circus, why not the cows from being killed.

4. That, the petitioner respectfully submits that the provision is Article 48 of the Constitution under chapter of Directive Principles of State Policy states as follows :-

> "The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds and prohibiting

the slaughter of cows and calves and other milch and draught cattle."

5. That, the petitioner further respectfully submits that though there is a Central Law for Prevention of Cruelty to Animal Act 1960 and Wild Life Protection Act but in our State there is a law called 'The Orissa Prevention of Cow Slaughter Act, 1960' and The Orissa Prevention of Cow Slaughter Rules 1966. The punishment of violation of Laws under the acts should be more stringent because as such the punishment which is provided is inadequate.

Under the Indian Penal Code the relevant Sections are Sections 428 and 429. Section 428 lays down that mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, is punishable with imprisonment of either description for a term which may extent to two years, or with fine, or with both. The mandate of Section 429 is that, whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upward, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. There is hardly any conviction under these sections and the person is let off very leniently.

6. That, it is humbly submitted by the petitioner since there is no such law to provide protection to cows and ban of slaughtering of cows and its progeny, the petitioner has brought to the notice of the State Govt. through her registered letter dtd.22.09.2010 requesting to the Chief Minister of Orissa for making Act/Law for protection of Cow in the State of Orissa and prevention of cow slaughter by bill.

The true copy of the letter dtd.22.9.2010 is annexed herewith as **Annexure-1.**

7. That, the slaughtering the uneconomic/draught/old cows is nothing but cruelty which is prohibited under the Central act but the State act allowing slaughtering of cows (the bull or bullock) is over the age of fourteen years is violating the provision and the provisions of I.P.C and constitution, hence the exemption provision to slaughter be declared ultra virus.

8. That, Goshalas of the State when allowed revenue on business be directed to keep the uneconomic/draught/old age cows/and the Cows residing on street without care of any owner. This provision should be done as the cows served the owner and State programme.

9. That, the State Govt. is acquiring revenue and profit through OMFED by dairy products and creating brand image for the cows only and giving employment to thousands of people in auxiliary units of OMFED, like in the office management, OMFED Dairy Units, thousands of unemployed youth of Orissa as OMFED Parlor, Cow Feed units and promoting agricultural and Cow Farmers to produce milk by sheltering cows and highlighting "Only trusted Cow Milk". So when revenue is generated and the "Cow" is a partner of the progress of the state and contributing revenue to the state treasury it has become obvious that the State should shave its profit with the animals in their need (old age, ailment) by taking care of them by State Sponsored programs.

10. That, the petitioner humbly submits that the OUAT being Govt. Organization may be directed to help the Govt. in the Welfare oriented programmes of cultivating grass and other Farm related Food products for the Cows and other agricultural oriented animals who are directly related with the state revenue and state earns brand image by selling their products. It is a moral and official duty of the state to protect the cows and its progeny.

11. That, it is also respectfully submitted by the petitioner that when other states like Karnataka and Punjab have already implemented the law of protection and ban on cow slaughter. In the State of Punjab a Cow

Protection cell in the office of The D.G.P., Punjab going to be established and an I.G rank officer will be engaged as head of the cow protection cell. Therefore the State of Orissa who is a beneficiary of the Cows has not taken any step till today after more than 60 years of Independence. The State may be directed to give reply that what welfare projects have been implemented in the State of Orissa for the betterment of the Cows who are the backbone of an agricultural society like Orissa and helping hand of farmers, there is a need for the change in attitude and behaviour of the society as well as State which will be only possible by the intervention of Hon'ble court.

The copy of the news published in News paper (Oriya Dailies), The Samaj, dt.21.09.2010 is annexed herewith as **Annexure-2.**

12. That, the opp. party no.9 may be directed to insure the cows through its members of the federation for the old age and ailment related to medical benefit by way of mediclaim of the cows by contributing some percentage of the profit and some from State Treasury and OMFED should open "State Gosalas" to look after the cows and its progeny. The profit and loss of account will be analysed and will be found that "Cow" is not at all loss making proposal because when it is alive produce milk, butter, ice cream, flavored milk, ghee, cheese, rasabuli which are palatable and cherished by every Oriya and sold outside Orissa also. When it is dead its different body parts used profitably for the welfare of mankind. The cow dung is used for "Gobar Gas" for kitchen in rural areas, cow dung cakes used for eradication of mosquitoes and used as manure in the field by the farmers, so it shows "Cow" is part and parcel of a common farmer of the state and its back bone. But unfortunately when the back bone (Cows) are old and helpless by serving so many years us very cruelly and rudely we sell them to die unattended and recover some money also from the old and ailing cows without any compassion. So the people should think for a while that how can we do this and be so disloyal and ungrateful to the animals who serves its

master and above all the state dies un-noticed and unfortunate and uncompassionate death. The cow should be given a better position in the society by state first and whole responsibility will be taken by the state and gradually being aware the each and every common man will share it by raising price of milk by 0.50 paise per liter towards insurance cost.

13. That, the petitioner also respectfully submits that the State Govt. may be directed to create awareness among the people by advertisement on the OMFED product packets, hoarding, appoint NGOs etc to cultivate the quality of "Loyalty and compassion" which will spread like epidemic in due course which is a dying species now.

14. That, the opp. parties should be directed to give accounts of Gosalas, the record of management of the cows, maintenance of the Gosalas and rehabilitating the animals in shelters being the Urban local body of the state. It should give the accounts of financial transaction of the Gosalas, Kanjahodas etc to the Hon'ble court.

15. That, the opp. parties to be directed to explain their role being the state head that what they have done for the betterment of the poor cows and projects undertaken so far and implemented to eradicate the evil of cow slaughters and handled Animal Cruelty Act in the state so far.

16. That, the D.G Police, may be directed to keep a watch on the every check gate through special squad as of State of Punjab, and an I.G rank officer to be appointed for the protection of the cows and stop challan of cows to other states. Heavy corruption is going on in the check gates of touching other states by the local police. The cruelty prevention Act to be implemented under direct supervision of the D.G Police. CC T.V is to be installed in all the check gates to keep watch on cow challans.

17. That, every owner of the cow has to insure his animal and before selling it he should bring it to the notice of local authorities and the local authorities should charge minimum fees so that every thing will be recorded and computerized and illegal trading of the cows will stop. The cows should go to the hands of State not to the butchers. The state should

have a contingency fund, relief Fund and State comprehensive, insurance policy for the cows and they (Cow) should become state property in their last days and die gracefully after serving the state and us during their life time. The butchers may not be given a free hand in this profit making game of illegal trade.

18. That, it is most respectfully submitted by the petitioner that the cow owners should get license from competent authorities to keep them at home, as UID (Unique Identification) so that the number is available with state and state Govt. should make it mandatory of getting license and it has the knowledge of the total number, name of owner and accruing revenue otherwise competent authorities should declares them as illegal and stray animals and the unlicensed Cow to be come state property and responsibility of state.

19. That, the petitioner respectfully submits that she has no grudge or malice against the opp. parties but as the citizen of the country she considers is to be her duty to bring to the notice of this Hon'ble court since the opp. parties failed to give protection to the cows and prohibition of slaughter of cow and its progeny.

20. That, there being no other speedy and efficacious alternative remedy available petitioner begs to invoke the extraordinary jurisdiction of this Hon'ble court under Article 226 of the Constitution of India.

PRAYER

In this facts and circumstances the petitioner humbly prays that this Hon'ble court may kindly be pleased to issue rule NISI calling up on the opp. parties to show cause as to why the State shall not give protection to the Cows and prohibit the slaughter of cows and its progeny by proper implementation of existing law/laws and to declare the provision slaughtering aged cows (the bull and bullock) ultra virus, if the opp. parties fail to show cause or shown insufficient cause to make the rule absolute;

And may further be pleased to pass any other order(s) as deemed fit and proper;

And for this act of kindness the petitioner as in duty bound shall ever pray.

Cuttack — By the Petitioner through

Date : 25/X/10

Advocate

AFFIDAVIT

I Sri Smt. Jayanti Das, aged about 46 years, W/o.Sri. Kumuda Bandhu Das, At.-Mahamadia Bazar, Dakhini Sahi, Po:-Chandinichowk, P.s:-Lalbag, Town/Dist:-Cuttack, do hereby solemnly affirm and state as follows;

1. That, I am the petitioner in the above case.
2. That, the facts stated above are true to best of my knowledge and belief.

Identified by

Advocate — Deponent

CERTIFICATE

Due to non-availability of cartridge papers this matter typed out on white thick papers.

Place: Cuttack

Dt. : 25/X/10 — Advocate.