

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

FRIDAY, THE 30TH DAY OF JULY 2021 / 8TH SRAVANA, 1943

WP(C) NO. 14335 OF 2021

PETITIONERS:

- 1 PEOPLE FOR ANIMALS (PFA)
REPRESENTED BY ITS SECRETARY, KARTHIKA, ANAYARA,
THIRUVANANTHAPURAM -695029.
- 2 AHIMSA FARM ANIMAL SANCTUARY
(AFAS), REPRESENTED BY ITS PRESIDENT, KANNAN
BHAVAN, MANVIKA MUKUL, KOLIYACODE P.O,
TRIVANDRUM - 695607.

BY ADVS.
K.S.HARIHARAPUTHRAN
BHANU THILAK
SRUTHI K.
S.R.PRASANTH

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY ADDITIONAL CHIEF SECRETARY,
DEPARTMENT OF ANIMAL HUSBANDRY GOVERNMENT OF
KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM -695001.
- 2 PALAKKAD MUNICIPALITY
SANTHI NAGAR, KUNNATHURMEDU, PALAKKAD,
KERALA - 678001, REPRESENTED BY ITS SECRETARY.
- 3 STATION HOUSE OFFICER
PALAKKAD TOWN NORTH POLICE STATION - 678013.

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4 ANIMAL WELFARE BOARD OF INDIA
(MINISTRY OF FISHERIES, ANIMAL HUSBANDRY AND
DIARY, GOVERNMENT OF INDIA), REPRESENTED BY ITS
CHAIRMAN, NATIONAL INSTITUTE OF ANIMAL WELFARE
CAMPUS P.O, 42, K.M STONE, DELHI - AGRA HIGHWAY,
NH -2, SEEKRI VILLAGE, BALLAHBGARH, FARIDABAD,
HARYANA - 121004.

BY ADVS.

SHRI.ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL
BINOY VASUDEVAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30.07.2021, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Dated this the 30th day of July, 2021

J U D G M E N T

The writ petition has been filed with the following prayers;

“i. Issue a writ in the nature of mandamus or any other appropriate writ, order or direction commanding the 2nd respondent to hand over the custody of the buffaloes to the 1st petitioner.

ii. Issue an order directing the 2nd respondent to stop further auction proceedings of the buffaloes pending disposal of the above writ petition (civil).

iii. Issue a writ in the nature of mandamus or any other appropriate writ, order or direction commanding the 1st respondent to take steps to prepare schedule of cost as per Rule 4 of Prevention of Cruelty to Animals (Care and Maintenance of Case Property) Rules, 2017.

iv. Issue such other order or direction this Hon'ble Court deems fit and proper.”

2. The petitioners, who are interested in the welfare of the buffaloes which were found abandoned in a private property, have moved this writ petition complaining that the animals are in distress, that there is no proper care and several of them are dying. On 22.7.2021, this Court passed an interim direction to the Veterinary Surgeon attached to the Veterinary Hospital, Palakkad, to inspect the animals that have been kept in the building belonging to the Municipality and ensure that necessary medical assistance is given to

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the animals. It is also directed that there shall be no auction sale of the animals in question unless ordered by this Court. The case was posted thereafter to 26.7.2021 for getting a report regarding the action that was taken on the basis of the inspection by the Veterinary Surgeon. On 26.7.2021, a report dated 23.7.2021 of the District Animal Welfare Office, Palakkad, has been placed on record along with a memo. As per the report, it is stated that on 19.7.2021, an inspection was conducted and it was found that except for three calves, the rest of the calves are keeping reasonably good health. There is also certain bacterial and tick infections noticed with regard to some of the animals. It is stated that on 20.7.2021, the animals were shifted to a property near Palakkad Town hall. Thereafter, this Court had directed the petitioners to place on record the manner in which they planned to transport the animals to Thiruvananthapuram, if they are permitted to take custody of the animals. Today an affidavit has been placed on record on behalf of the petitioners wherein they have elaborated the manner in which they would transport the animals. It is stated in the affidavit that the animals will be transported from Palakkad to Ahimsa Farm Animal Sanctuary situated in Nilame in

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Kollam District belonging to the second petitioner. The petitioners have undertaken that they will take all necessary precautions for safely transporting the buffaloes, which will be done using a Bharat Benz Truck in three trips. It is also undertaken that necessary medical care will be provided for the buffaloes during the transportation and it will be ensured that no harm will be caused to the buffaloes during the transportation. In paragraph 6 of the affidavit it is specifically undertaken that all requirements for transportation of the buffaloes as per the Transportation of Animals, Rules 2021, will be complied with.

Paragraph 6 is extracted hereunder :

“6. It is humbly submitted that all requirements for transportation of the buffalo as per the Transportation of Animals, Rules 2021, will be complied with.

- 1. Certificate of fitness from a veterinary officer.*
- 2. Trucks or lorries with padding on sides and lined by non-slip material like gunny bags on flooring will be used.*
- 3. Ramps/platforms and ropes will be used for loading and unloading.*
- 4. Animals will be fed and watered before loading.*
- 5. Water and food will be made available for the whole journey.*
- 6. One attendant will accompany each truck.*
- 7. Only six cattles will be loaded in each truck.*

8. *Vehicle will be covered to protect from rain and sun.*
9. *Ventilation will be provided.*
10. *Certificate will be obtained from an Animal Welfare Organization or person authorized by Animal Welfare Board of India stating that all requirements for transportation as per rules have been complied with."*

The undertakings of the petitioners are recorded.

3. Since the accused in the criminal case which has been registered regarding the abandonment of the animals has already been identified and summoned to appear on 2.8.2021 and since he has stated that he does not own these animals, there can be no further objection regarding the handing over of these animals to the petitioners who are willing to take care of the animals, instead of retaining them in an abandoned condition and left to be maintained by the Municipality. The learned Standing Counsel for the Municipality submits that they have already incurred huge expenses for the maintenance of the animals and their rights to claim the same from the Government may be left open. They also pray that the handing over of the animals may be done by a senior Revenue Official attached to the Government so that there would be no further claim by any persons regarding the animals. The above requests are reasonable.

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In the above circumstances, there will be a direction to the Tahsildar, Palakkad, to take note of the animals which have been kept in the custody of the second respondent Municipality and to handover the animals to an authorised representative of the petitioners. The authorised representative shall produce the necessary authorisation and also a proper identification which will facilitate the Tahsildar to ensure that the animals are being handed over to the right person. The representative of the petitioners shall also submit an undertaking before the Tahsildar in the manner in which it has been placed before this Court and on receipt of such undertaking, the Tahsildar may proceed to handover the animals to the representative. The petitioners shall comply with all the undertakings that have been given before this Court and which have been made part of this order, while transporting the animals. The petitioners have also stated that the first petitioner is a registered Charitable Organisation having the recognition of the Animal Welfare Board of India and they will take care of the animals till their life time in the farm belonging to the second petitioner. The writ petition is disposed of on the basis of the above undertaking. It is made clear that the second respondent will be free to take up the

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claim regarding the expenses met by them for welfare of the animals during the time the animals were within custody, before the Government in its appropriate department. The Court places its appreciation to the petitioners for having volunteered to takeover the care of these animals which were abandoned in Palakkad even though the petitioners are located in Thiruvananthapuram and Kollam. The court is not offering any decision on the third prayer made in the writ petition which will be left open for the petitioners to raise in appropriate proceedings. The handing-over of the animals will be done on **02.08.2021 (Monday) at 11 a.m.** The Government Pleader to convey the order to the Tahsildar, Palakkad, for compliance.

All pending interlocutory applications are closed.

Sd/-

**T.R.RAVI,
JUDGE**

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APPENDIX OF WP(C) 14335/2021

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE FIR DATED 28.05.2021
HAVING CRIME NO. 0494/2021 IN THE
PALAKKAD TOWN NORTH POLICE STATION.
- Exhibit P2 TRUE COPY OF THE E-MAIL SEND BY THE 2ND
PETITIONER TO THE 2ND RESPONDENT DATED
29.05.2021.
- Exhibit P3 TRUE COPY OF THE NEWSPAPER REPORT CAME
IN MADHYAMAM DAILY DATED 05.06.2021.
- Exhibit P4 TRUE COPY OF THE LETTER SEND BY THE 1ST
PETITIONER TO THE 2ND RESPONDENT
MUNICIPALITY DATED 06.07.2021.
- Exhibit P5 TRUE COPY OF THE LETTER DATED 07.07.2021