

**Hanif and Another Vs. State of U.P. and Others**

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**Court : Allahabad**

**Decided On : Sep-07-2000**

**Reported in : 2000(4)AWC2746**

**Judge : S.K. Sen, C.J. and ;G.P. Mathur, J.**

**Acts : Uttar Pradesh Prevention of Cow Slaughter Act, 1955 - Sections 2**

**Appeal No. : C.M.W.P. No. 30732 of 2000**

**Appellant : Hanif and Another**

**Respondent : State of U.P. and Others**

**Judgement :**

S.K. Sen, C.J.

1. We have heard learned counsel for the petitioners, learned standing counsel for the State and have perused the record.

2. In the instant writ petition, the petitioners have prayed for quashing the Government Order dated 1.4.2000 being Annexure-2 to the writ petition and the consequential order dated 5.5.2000 being Annexure-3 issued by Mukhya Pashu Chikitsa Adhikari, Jyotiba Phule Nagar. The petitioners have also prayed for a writ of mandamus directing the State of U. P. and Mukhya Pashu Chikitsa Adhikari, Jyotiba Phule Nagar, not to restrain the Pashu Chikitsa Adhikari from conducting

the health examination lest or from issuing certificates of fitness for slaughter in respect of animals which are eligible for slaughter in accordance with the Act and the rules framed thereunder. The petitioners have further made a prayer for directing the Pashu Chikitsa Adhikari, Jyotiba Phule Nagar, to issue certificates in Form B when applications are made to him in respect of animals which are eligible for slaughter in accordance with the Act and rules framed thereunder.

3. The contention of the petitioners is that they are licensees of Nagar Panchayat, Ujharl and have thus been authorised to slaughter and sell the meat of non-prohibited animals such as buffaloes and old bulls and bullocks over 15 years in age or unfit for the purpose of breeding (in the case of bull) or unfit for draught (in the case of bullocks) which have been certified fit for slaughter by the competent authority who is appointed under Section 2(cc) of the U. P. Prevention of Cow Slaughter Act, 1955. Under Notification dated 1.9.1962 (Published in U. P. Gazette Part-I. Page 3405), the Veterinary Officer who has later been designated as Pashu Chikitsa Adhikari has been empowered to exercise the powers and functions of the competent authority under the aforesaid Act and the rules madethereunder for the district in which the said Officer was posted as a Veterinary Officer. By a letter dated 1.4.2000 being No. 852/12-P-1-2000 issued by Secretary, U. P. Government, addressed to Director, Animal Husbandry Department, it has been pointed out that the slaughter houses in the State are presently being managed by local bodies and Zila Panchayats. However, in rural and urban areas, work of issuing health certificates, etc. after conducting the health examination of the animals in the slaughter houses is being carried out by Veterinary Officer of the Animal Husbandry Department. This work is being done by the Veterinary Officer in addition to his normal work in Veterinary Hospital. The working hours of the Veterinary Hospitals in winter are from 8 a.m. to 2 p.m. and in summer from 7.30 a.m. to 1 p.m. The said letter points out that as a result the Veterinary Officers performing such duties are unable to give sufficient time for their basic duties and responsibility of treating animals and this causes dislocation in performance of their work. Accordingly, the Government after a detailed consideration has taken a decision that the Veterinary Officers of the Animal Husbandry Department shall cease to function as health examiner in the slaughter houses and the Municipal Corporation/Local Bodies shall themselves be responsible for the said work

relating to examination of the animals to be slaughtered and they will make alternative arrangement for this work in place of Veterinary Officer belonging to the Animal Husbandry Department. It has also been mentioned in the said letter that in future the Veterinary Officers of the Animal Husbandry Department shall not do the work of health examination, etc. of the animals in the slaughter houses in the rural and urban areas nor they will issue health certificates in that connection. The contention of Mr. Amar Saran for the writ petitioners is that proposals mentioned in the letter, if given effect to, will amount to complete ban of issuance of certificate and there will be no competent officer available to perform the work under the Act.

4. At one stage of hearing, we asked the Secretary, Animal Husbandry Department to be present here to clarify the stand of the State Government as we did not get any proper clarification in the matter. A counter-affidavit has been filed by the State Government, which has been affirmed by one C. B. Paliwal, Secretary, Animal Husbandry and Fisheries, Government of U. P. Paragraphs 9 and 10 of the said counter-affidavit may be set out herein below :

'9. That the ban which was put by the April 1, 2000, circular was in fact on the working of the Veterinary Officer as Meat Inspector of the local authorities.

10. That the deponent hereby clarifies that the Veterinary Officers notified as competent authority by the notification dated August 24, 1962, continues to act and exercise the powers and functions of the competent authority under U. P. Prevention of Cow Slaughter Act and should perform the same function except for their time of working the hospital.'

5. It appears from the averments made in the aforesaid paragraphs that it is the contention of the deponent of the said counter-affidavit that there was no prohibition on the working of the Veterinary Officer as Meat Inspector in the slaughter houses of the local authorities. It was also clarified in the said affidavit that the Veterinary Officer who has been notified as competent authority by the notification dated 21.8.1962 continues to act and exercise the powers and functions of the competent authority under the said Act. The letter dated 1.4.2000 of the Secretary, Animal Husbandry Department, Government of U. P. to the

Director of the department, however, in our view. Imposes a complete ban since it specifically mentions that the Veterinary Officers shall cease to function and discharge their powers of health examiners in slaughter houses in rural and urban areas. In our view, it is not permissible to impose such a ban on the authority of the competent officers who have been empowered by the statute to discharge specific functions except by a legislative function. The process adopted in the instant case appears to us to be quite peculiar. The letter refers to a direction of the State Government which has neither been produced before us nor has been referred to in the counter-affidavit. It has also not been annexed to the counter-affidavit. Apart from the fact, that the direction contained in the letter imposes a ban to the extent that it declares that the Veterinary Officers shall cease to discharge their function which is not permissible in law in the manner it has been done, we are also of the view that such internal correspondence cannot have any binding effect on any authority or public at large. In that view of the matter, it is directed that the said letter dated 1.4.2000 which is impugned in the writ petition shall not have any effect at all and the consequential directions issued on 5.5.2000 by respondent will also not have any effect. The writ petition accordingly succeeds and is allowed. Such Veterinary Officers who are competent authority under the Act shall continue to discharge their function as provided under the U. P. Prevention of Cow Slaughter Act and the bar Imposed by the letter dated 1.4.2000 of the Secretary, Animal Husbandry Department in their discharging the said function will not be operative.

6. With these observations, the writ petition is allowed.

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