

Raja Ram and Another Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Sep-07-2000

Reported in : 2000(4)AWC2880

Judge : Binod Kumar Roy and ;S.K. Jain, JJ.

Acts : [Constitution of India](#) - Articles 19(1) and 21; [Code of Criminal Procedure \(CrPC\), 1973](#) - Sections 107, 116 and 144; [Code of Civil Procedure \(CPC\), 1908](#) - Order 7, Rule 8; Uttar Pradesh Municipalities Act, 1916 - Sections 237, 241 and 298; Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Sections 3 and 3(1)

Appeal No. : C.M.W.P. No. 24533 of 1998

Appellant : Raja Ram and Another

Respondent : State of U.P. and Others

Advocate for Def. : H.R. Mishra, ;Ali Hasan, ;Praveen Kumar, Advs. and ;S.C.

Advocate for Pet/Ap. : M.A. Sarwar Khan, Adv.

Judgement :

ORDER

Binod Kumar Roy and S. K. Jain, JJ.

1. The petitioners have come up with following prayers :

(i) To quash the order dated 26.3.1998 passed by the Adyaksha/President, Nagar Panchayat, Mariyahun, refusing to shift the slaughter house to any other place on the ground of non-availability of any appropriate place and permuting respondent Nos. 7 to 14 to slaughter buffaloes only with certain riders.

(ii) To restrain respondent Nos. 7 to 14 from slaughtering cattle in the slaughter house in question till making of bye-laws and shifting of that slaughter house to any other place.

(iii) To direct respondent Nos. 7 to 14 to slaughter buffaloes as usual in their localities.

(iv) To command respondent Nos. 2 to 4 to fix the slaughter house near the Bone Godown where lands are available.

The Facts :

2. The petitioner's case is to this effect : There is an unlawful slaughter house where the respondent Nos. 7 to 14, who are butchers, are slaughtering buffaloes and she-buffaloes in the vicinity of residential premises of various communities and nearby religious place without any licence and under bye-laws framed by the Nagar Panchayat/Zila Parishad Board, District Jaunpur. The said respondents are spreading the remains of slaughtered cattle in closed vicinity of the residential houses and on path way resulting in foul and offensive smell, filth and infection causing damage to human life and injuries to the health or physical comfort of the people. Birds of all kinds spread the remains of the slaughtered cattle on the top of the houses and the dogs at the doors, besides on the 'Shaheed-Ki-Majar' ; and the 'Kabristan'. Due to this tense situation, the petitioners and a large number of inhabitants moved vide Annexure-2 respondent No. 4 the Up-Ziladhikari, Mariyahun for removal of the slaughter house and to fix another place away from abadi and religious place. Respondent No. 3 the District Magistrate was also moved for a quick action, who vide his letter dated 10.8.1997 (Annexure-3) asked respondent No. 4 to look at the matter and to take necessary action for

maintenance of peace. The Adhaykshya/ President, Nagar Panchayat, Mariyahun also made his communication 21.8.1997 (Annexure-6) to respondent No. 3 that it is difficult for him to take any decision in that regard as the slaughter house is very old due to which there is great filth all-around but wherever it will be shifted filth will be there and thus appropriate action be taken at his level. After getting enquiry reports through Tehsildar and S.H.O., Kotwali as contained in Annexure-4, respondent No. 4 passed the order dated 29.8.1997 (Annexure-5) stopping slaughter of cattle in the said slaughter house after holding that respondent Nos. 7 to 14 are illegally operating the slaughter house which has got spread filth dangerously totally effecting the normal life and endangered the mohalla and thus it will be in the public interest to do so. He also directed the said respondents not to kill cattle and spread filth. Respondent Nos. 7 to 14 moved respondent No, 4 against his order dated 29.8.1997. Respondent No. 4, however, drew up a proceeding under Section 144. Cr. P.C. against him vide order dated 30.8.1997 and restrained them from slaughtering the cattle. Respondent Nos. 7 to 14 then moved this Court in Criminal Revision No. 1136 of 1997 against the order dated 30.8.1997 without impleading the petitioners. In the meantime, the Deputy Chief Medical Officer, Jaunpur, also submitted his report after inspection to the C.M.O. that it is better to keep the slaughter house closed, which is 20 metres away, and to shift from abadi to prevent spreading of infectious diseases. In the criminal revision respondent Nos.7 to 14 filed undertakings and it was disposed of vide order dated 10.9.1997 at the stage of admission holding that there is no illegality in the order but since the revisionists had undertaken to clean the area having remains of the butchered animals and that they will not spread the remains of the animals near the slaughter house or in the mohalla, where it is situated, so as to create danger to human life. The order is modified to the extent that it shall remain in operation till the remains of the butchered animals already lying at the spot are removed, and that the revisionist will not in future spread the said remains near the slaughter house so as to create nuisance and danger to human life. Pursuant to the order passed by this Court in the criminal revision, the Up-Zila Adhikari passed his order dated 18.9.1997 (Annexure-10) directing respondent Nos. 7 to 14 to run the slaughter house after obtaining licence in accordance with law without endangering the health of human beings. Despite all this without obtaining licence

in accordance with law respondent Nos. 7 to 14 forcibly tried to run the said slaughter house which was objected to by a large number of inhabitants resulting in initiation of proceedings under Sections 107/116 and 144. Cr. P.C. by the Up-Zila Adhikari stopping the slaughtering of the cattle again in the slaughter house to prevent riot between the two groups. The petitioners moved this Court by filing writ petition bearing C.M. Writ Petition No. 32309 of 1997 as Public Interest Litigation impleading respondent Nos. 7 to 14 as parties, which was disposed of by order dated 29.9.1997 holding that the petitioners may approach the Nagar Panchayat for making suitable regulation and bye-laws for the purposes of health, hygiene and sanitation or for prohibiting the slaughter of animals within a certain reasonable distance of a place of worship, educational institution, etc. and in the event such an application is made the same will be decided in accordance with law and appropriate bye-laws will be made within a month thereafter. The petitioners approached the nagar panchayat to comply with the directions issued by this Court by making bye-laws. Its President started dealing bad politics. The petitioners moved the District Magistrate, Jaunpur, for redressal of their grievances. The District Magistrate called for report from the Up-Zila Adhikari and Additional District Magistrate (Finance). The Up-Zila Adhikari called for a report from the authority concerned. Inspection was made by the Veterinary Medical Officer and ail concerned authorities and even by the Up-Zila Adhikari, etc. The District Magistrate passed an order stopping the slaughtering of the cattle till the slaughter house is not shifted to any other place and further directing respondent Nos. 7 to 14 to slaughter the cattle in their localities. Against the aforesaid order of the District Magistrate respondent Nos. 7 to 14 moved this Court by filing C.M.W.P. No. 41473 of 1997 by suppressing and misrepresenting facts which was disposed of by an order dated 27.2.1998 holding that the place of slaughter house shall be fixed by nagar panchayat after hearing the parties concerned within a month, but without taking into consideration the order of the District Magistrate. Respondent Nos. 7 to 14 are slaughtering cattle in their locality continuously for the last six months without any problem. Thereafter, the impugned order was passed wilfully ignoring the reports of the authorities which is manifestly erroneous, arbitrary, discriminatory, mala fide, unconstitutional and without framing of the bye-laws till date. Pursuant to this order respondent Nos. 7 to 14 are trying

to slaughter on disputed place without obtaining licence and without framing of bye-laws. Lands are available to the Nagar Panchayat and to respondent Nos. 7 to 14 as pointed out in paragraph 36 but a false statement has been made by respondent No. 2 in the order impugned that it is not available, who is put to proof that the slaughter house in question is 100 years old. In the absence of any bye-law and licence running of a slaughter house adjacent to a Harijan Basti is in violation of the mandatory provisions of Sections 237, 241 and 298R of the U. P. Municipalities Act, 1916, as well as the provisions of SC and ST Act.

3. On 17.8.1998 the following order was passed by the Court :

'The main thrust of the submission of Sri M. Sarwar Khan, learned counsel appearing on behalf of the 2 petitioners is that the plight of the petitioners and other residents of mohalla Garhi, Nagar Panchayat Mariyahun, Post Office Mariyahun, district Jaunpur to have a meaningful life, which stands guaranteed under Article 21 of the [Constitution of India](#), has been breached by respondent No. 2. Adhakshya/President, Nagar Panchayat Mariyahun, district Jaunpur by allowing respondent Nos. 7 to 14 to run a slaughter-house where they are slaughtering buffaloes and she-buffaloes without any licence and under any bye-laws framed by the Nagar Panchayat, Mariyahun, district Jaunpur, despite orders passed by this Court earlier in Civil Misc. Writ Petition Nos. 32309 of 1997 and 41473 of 1997. In the second writ petition the Court especially directed respondent No. 2 to fix the place of slaughter-house, but without applying his mind and formulating any bye-laws he has permitted respondent Nos. 7 to 14 to continue the slaughter-house at the old site.

Sri Ali Hasan, learned counsel appearing on behalf of respondent Nos. 7 to 14 contended that this slaughterhouse is coming on its place for about last 100 years and that in a suit filed by them, they have also obtained an Injunction order against these petitioners which is binding on them and, accordingly, this writ petition is not maintainable.

Sri Praveen Kumar, learned counsel appearing on behalf of respondent No. 2, contended that respondent Nos. 7 to 14 have been allowed to continue the slaughter-house on the same spot in consonance of the bye-laws.

The learned counsel for the petitioner, in reply contended that no bye-laws have been framed till today and that the stand of the learned counsel for respondent No. 2 is incorrect.

Put up this matter under the same heading on 14th September, 1998.

We direct the District Magistrate, Jaunpur, respondent No. 3, to file an affidavit before this Court after visiting the place in question as to whether, it will be desirable to shift the slaughter-house at its old locality keeping in his mind the fundamental right guaranteed to the citizens of India under Article 21 of the [Constitution of India](#), which guarantees a decent and meaningful life to its citizens and obviously it includes environmental protection as laid down by Supreme Court in its several decisions.

The affidavit is required to be filed by 11th September, 1998. The other questions raised will also be considered on the next date when a counter-affidavit is filed by respondent No. 2 as well as respondent Nos. 7 to 14.

Respondent No. 3 is further directed to state in his affidavit as to whether respondent No. 2 has framed bye-laws or not and whether it has been approved by the competent authority or not.

The office is directed to hand over a copy of this order to Sri H. R. Mishra, learned counsel, by tomorrow for its communication to and follow up action by respondent No. 3.'

4. Pursuant to the aforementioned order, the District Magistrate filed his own affidavit dated 11.9.1988 on 16.9.1998 stating inter alia, that he visited the locality on 5.9.1998 and found that slaughtering of animals is being done on Plot No. 188 which is causing nuisance and is hazardous to the residents of the locality, apart from the fact that the maintenance of the slaughter house is in a very bad condition ; that Nagar Panchayat Adhikari has not framed any bye-laws ; and that he had also taken statements of a large number of residents who had pointed out various difficulties on account of the slaughter house.

5. No counter-affidavit has been filed by respondent Nos. 7 to 14 to the writ petition.

6. Counter-affidavit, however, has been filed by respondent Nos. 2 and 6 (wrongly stating on behalf of respondent No. 3) on 8.10.1999 asserting, inter alia, that Civil Suit No. 1181 of 1997 has been filed by the father of the petitioner No. 2 for restraining the respondents from slaughtering cattle before the Civil Judge, Jaunpur, denying the existence of the slaughter house and thereby petitioners have not come with clean hands ; vide his order dated 21.9.1997 licence was granted along with site plan ; it has been wrongly stated that the slaughter house is in the vicinity of the residential premises, rather it is on open land and about hundred metres away from the Shaheed-Ki-Mazar and Kabristan and far away from residential premises ; inspection was made by the Sub-Divisional Magistrate, Mariyahun on 18.9.1997, but nothing injurious to human life and health was found : the District Magistrate has been informed that the respondents are ready to remove the slaughter house. If land is provided by the administration ; slaughter house was to start its work after issuance of licence : proceedings have been initiated for framing of bye-laws ; the impugned order was passed correctly ; the statements made in paragraph 36 are not correct hence denied though the bone godown is being shifted, as it is situated near the office of the Forest department, Degree College and the Intermediate College, and the place, which is being worshipped : the slaughter house is about 100 years old, which being a question of fact and can it be shifted to some other place, can only be decided by the civil court ; and that under the facts and circumstances the writ petition is devoid of any merit and is liable to be dismissed with cost.

7. To the aforementioned counter-affidavit the petitioners filed their rejoinder on 12.5.2000 asserting therein, inter alia, to the effect that in order to linger the matter Suit No. 919 of 1997 was filed by respondent Nos. 7 to 14 impleading their own men as defendant Nos. 10 and 11 in which with consent of the plaintiffs and defendant Nos. 10 and 11, who are own men of the plaintiffs, an order was passed on 4.8.1997 by the civil court directing the parties not to make any new construction or destroy the existing ones till the date fixed ; Suit No. 1181 of 1997 was filed by the father of petitioner No. 2 on the basis that he is owner and in

possession of the suit property and for restraining the defendants from interfering with his possession and thereby the relief sought for therein is different from the reliefs sought for in this writ petition, which is for the benefit of the public and thereby maintainable ; licence was not granted in accordance with law rather the Chairman in collusion with respondent Nos. 7 to 14 had only issued a receipt for running the slaughter house, without approval of the District Magistrate : it is respondent No. 6 who has not come to this Court with clean hands, who is in collusion with respondent Nos. 7 to 14, and is earning huge money from them and for his own benefit had wilfully ignored the demand of people of various communities and religion and had wilfully neglected the orders passed by this Court.

The Submissions :

8. Sri M. A. Sarwar Khan, learned counsel for the petitioners, contended as follows : From the facts and circumstances of the case. It is apparent that respondent Nos. 2/6 had no regard to the orders passed and the directions issued by this Court in not framing bye-laws ; that numerous materials on the record including their undertaking given to this Court in the criminal revision speak for themselves as to what extent respondent Nos. 7 to 14 can go, breaching the fundamental right guaranteed under Article 21 of the Constitution to the people of the locality to lead a meaningful life and environmental protection ; the stand of respondent Nos. 2 to 6 that there is a slaughter house in existence for more than 100 years and dubbing it to be a question of fact, which can be decided only by the civil court and not by this Court is not relevant inasmuch as there cannot be any question of waiver of Article 21 of the Constitution nor such plea has been taken either by respondent Nos. 2 and 6 in their counter-affidavit and consequently, it is a fit case in which respondent Nos. 7 to 14 be restrained from slaughtering cattle in the alleged slaughter house which was also directed to be closed by respondent No. 4 vide his order dated 29.8.1997 which was not set aside.

9. Sri H. R. Mishra, learned standing counsel appearing on behalf of respondent Nos. 1 and 3 to 5, contended that nothing has been brought on the record by respondent Nos. 2 and 6 that in terms of the directions Issued by this Court, bye-

laws have been framed and that the materials on the record justifies shifting of the slaughter house and passing of an order restraining respondent Nos. 7 to 14 from slaughtering cattle from the slaughter house in question.

10. Sri Ali Hasan, learned counsel appearing on behalf of respondent Nos. 7 to 14, contended that it was the duty of respondent Nos. 2 and 3 to shift the slaughter house and that the said respondents are not responsible for not shifting the slaughter house in question ; that they should be allowed to continue slaughtering of the cattle in the slaughter house in question, because it is their only source of livelihood, besides Article 19(1)(g) of the [Constitution of India](#) confers fundamental rights in them to carry on their profession of slaughtering, which cannot be denied by invoking Article 21 of the [Constitution of India](#).

Our Findings

11. Sections 237. 241 and 298 of the U. P. Municipalities Act, 1916, which controls places for slaughter of animals for sale, and issuance of licence for sale of animals, meat or fish intended to human food subject to bye-laws, read thus :

'237. Places for slaughter of animals for sale.--(1) The municipality may, with the approval of the District Magistrate, fix premises, either within or without the limits of the (municipal area), for the slaughter of animals, or animals of any specified description for sale, and may, with the like approval, grant and withdraw licences for the use of such premises.

(2) When such premises have been fixed by the municipality beyond (the limits of municipal area), it shall have the same power to make bye-laws for the inspection and proper regulation of the same as If they were within those limits.

(3) When such premises have been fixed, no person shall slaughter any such animal for sale at any other place within the (municipal area).

(4) Should anyone slaughter for sale any such animals at any other place within the (municipal area), he shall be liable on conviction to a fine which may extend to twenty rupees for every animal so slaughtered.'

x x x '241. Licensing of markets and shops for sale of certain articles. --(1) The right of any person to use any place, within the limits of a (municipal area), other than a municipal market, as a market or shop for the sale of animals, meat or fish intended for human food, or as a market for the sale of fruit or vegetable, shall be subject to bye-laws (if any) made under heading F of Section 298.

(2) Provided that, where any bye-law is in force requiring a licence for the establishment or maintenance of a market or shop for the sale of any article mentioned in sub-section (1), the municipality shall not :

(a) refuse a licence for the maintenance of a market or shop lawfully established at the date of such bye-law coming into force, if application be made within six months from such date, except on the ground that the place where market or shop is established fails to comply with any conditions prescribed by, or under this Act, or

(b) cancel, suspend or refuse to renew any licence granted under such bye-law for any cause other than the failure of the licensee to comply with the conditions of licence or with any provision of or made under, this Act.

x x x '298. Power of municipality to make bye-laws. -- (1) A municipality by special resolution may, and where required by the State Government shall, make bye-laws applicable to the whole or any part of the (municipal area), consistent with this Act and with any rule, for the purpose of promoting or maintaining the health, safety and convenience of the inhabitants of the (municipal area) and for the furtherance of municipal administration under this Act.

LIST I

BYE-LAWS FOR ANY [MUNICIPAL AREA]

F. -- Markets, Slaughterhouses, sale of food, etc.

(a) Prohibiting, subject to the provision of Section 241, the use of any place as a slaughter house, or as a market or shop for the sale of animals intended for human food or of meat or of fish, or as a market for the sale of fruit or vegetables. In default of a licence granted by the municipality or otherwise than in accordance

with the conditions of a licence so granted ;

(b) prescribing the conditions subject to which and the circumstances in which, and the areas or localities in respect of which, licences for such use may be granted, refused, suspended or withdrawn : and

(c) providing for the inspection of and regulation of the conduct of business in, a place used as aforesaid, so as to secure cleanliness therein or to minimise any injurious offensive or dangerous effect arising or likely to arise therefrom ;

(d) providing for the establishment, and [except so far as provision may be made by bye-laws under sub-head (c) for the regulation and inspection of markets and slaughter houses, of livery stables, of encamping grounds of sarais, of flour mills, of bakeries, of places for the manufacture preparation or sale of specified articles of food or drink, or for keeping or exhibiting animals for sale or hire or animals of which the produce is sold, and of places of public entertainment or resort, and for the proper and cleanly conduct of business therein ;

(dd) prescribing the conditions subject to which, and the circumstances in which, and the areas or locality in respect of which, licences for the purposes of sub-head (d) may be granted, refused, suspended, or withdrawn, and fixing the fees payable for such licences, and prohibiting the establishment of business places mentioned in sub-head (a) in default of licence granted by the municipality or otherwise than in accordance with the conditions of licences so granted ;

(e) in a [municipal area] where a reasonable number of slaughterhouses have been provided or licenced by the municipality, controlling and regulating the admission within [limits of the municipal area], for purposes of sale of the flesh (other than cured or preserved meat) of any cattle, sheep, goats or swine slaughtered, at a slaughter house or place not maintained or licenced under this Act.'

11.1. Section 3 and its sub-section (ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. 1989, reads thus :

'3. Punishment for offences of atrocities.--(i) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,---

(ii) acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping, etc., waste matter, carcasses or any other obnoxious substances in his premises or neighbourhood.'

The aforesaid provision restrains any one of non-annoyance to any member of a Scheduled Caste by dumping etc., waste matter, carcasses or any other obnoxious substances in his neighbourhood.

11.2. Article 21 of the [Constitution of India](#) reads thus :

'21. Protection of life and personal liberty.--No person shall be deprived of his life or personal liberty except according to procedure established by law.'

12. Having refreshed the aforesaid provisions, now let us have a look firstly of the location of the slaughter house in question. The plaint of Suit No. 919 of 1997 filed by respondent Nos. 7 to 10, (Annexure-II to the petitioners' rejoinder) describes it bounded as follows North and South--Fields of Jamal Akhtar, East--Mazar then Field of Htra Lal (whose son is petitioner No. 1 and West Kabristan. The plaint does not show that the suit was under Order VIII, Rule 8, C.P.C. It was filed for injunction restraining the defendants from taking possession of the slaughter house.

In their application filed before respondent No. 4, as contained in Annexure-2, the petitioners describe their house situated at the distance of 10 yards from the slaughter house. The District Magistrate in his communication dated 10.8.1997, as contained in Annexure-3, describes its location as situated between the Harijans and other Hindu abadi.

The S.H.O., Mariyahun, reported to respondent No. 4 (as contained in Annexure-4) that it is situated at a distance of about 100-150 metres from the Harijan basti, Maurya basti and Muslim basti.

The Deputy C.M.O. IV, Jaunpur, reported to C.M.O., Jaunpur, vide Annexure-9 that it is at a distance of 20 metres away from the abadi.

The Health Inspector, Community Centre, Kariyahu reported to the Medical Superintendent (vide Annexure-11) that the house of Hira Lal and others is situated towards East at a distance of about 51 metres, on its West is Kabristan, towards North house of Pyari Devi and towards South at a distance of about 60 metres, there is Carpet Weaving Factory, in which about 100 people work.

As per the report dated 2.10.1997 of respondent No. 4 submitted to respondent No. 3, it stands on plot No. 188 which in the revenue records stand recorded in the name of Mohammed Shafi son of Arman as Sankramaniya Bhumidhar who was one of the objectors and not of Noor Mohammad and others.

13. The aforesaid reports also demonstrate the horrors of health hazard which has not been considered by respondent No. 2.

Respondent No. 2 in his communication dated 21.8.1997 (Annexure-6) made to respondent No. 3 had himself stated that a prayer has been made by the residents of mohalla Garhahi that due to the slaughter house, there is great filth in the entire region, but wherever the slaughter house will be, there will be great filth and it is difficult for him to take a decision in regard to removal of the slaughter house and thus appropriate action be taken by respondent No. 3.

14. However, we are not required to consider the title and ownership of the land on which the slaughter house is allegedly standing since 100 years as alleged by respondent Nos. 2 and 6 nor can it be decided conclusively in the civil suit filed by respondent Nos. 7 to 10 for grant of injunction.

15. The materials on the record. In the form of various reports submitted from time to time unequivocally show that the slaughter house in question is located near the residences and place of worship. The statement of respondent No. 6, that it is wrong to say that it is in the vicinity of residential houses and that the 'Shaheed-Ki-Mazar' and 'Kabristan' are far away are incorrect. The fact that the dogs and birds spray the meat, etc., of the slaughtered cattle, has not been denied by respondent Nos. 7 to 14. These respondents have also not denied the relevant facts stated by the petitioners. They have also not produced the final injunction order passed by the civil court which in any view cannot restrain this Court to pass order 'Ex Debitio

Justitiae'.

16. Environmental protection and the guarantee by the State to lead a decent and meaningful life under Article 21 of the [Constitution of India](#) is of recent origin. In fact in *Buffalo Traders Welfare Association v. Maneka*, (1994) Supp (3) SCC 448, this Article was invoked even for providing hygienic condition in Idgah Slaughter House at Delhi. Safeguards are also available in the U.P. Municipalities Act and SC and ST Act. Under the Code of Criminal Procedure there is, however, a temporary safeguard.

17. Utter callousness and negligence has been shown by respondent Nos. 2 and 6 in not framing the bye-laws till today. Even their learned counsel has not appeared to contest. Thus, there was/Is apparent oblique motive to help respondent Nos. 7 to 14 in carrying out the slaughter house. On the statements made in the counter-affidavit the alleged licence was issued to respondent Nos. 7 to 14 only on 21.9.1997 and not earlier which the petitioners assert to be merely a receipt. The licence has also not been produced. Allowing respondent Nos. 7 to 14 to continue slaughtering in the alleged slaughter house is bound to cause serious infectious diseases endangering health and hygiene of the persons of the locality which is evident from various documents appended. Respondent Nos. 7 to 14 had not honoured their own undertaking given to this Court in the criminal revision. Thus, the Imposition of terms on respondent Nos. 7 to 14 were merely an eye wash.

18. In fact, when the Constitution safeguards protection from health hazards. It will be in the fitness of things to restrain these persons whose fundamental right under Article 19(1)(g) must yield to the fundamental right under Article 21 of the Constitution of the locality, who had also breached their own undertaking given to this Court in the criminal revision. This Court cannot wait indefinitely on account of non-framing of bye-laws by respondent No. 2 and must act in furtherance of achieving the avowed object enshrined under Article 21 of the [Constitution of India](#).

19. The fact asserted by the petitioners in paragraph 26 that respondent Nos. 7 to 14 are slaughtering cattle in their locality continuously for six months without any problem has not been countered by respondent Nos. 2 and 6. Respondent No. 2

has erred in thinking in his counter that the report of the S.D.M. has stated nothing injurious whereas the materials show to the contrary, besides the impugned order does not even refer to that alleged report.

20. In the counter respondent Nos. 2 and 6 have pointed out that the bone godown has already been shifted.

21. It is unbelievable that the nagar panchayat has no land to which the slaughter house can be shifted. At least shifting of the bone godown shows the availability of such a land.

22. For the reasons aforementioned, we quash the Impugned order and restrain respondent Nos. 7 to 14 from slaughtering any cattle in the slaughter house and command the District Magistrate, Jaunpur, to close it at once without any hitch and murmur. If respondent Nos. 7 to 14 so like, they may continue slaughtering in their locality though subject to health safeguards of others. Respondent Nos. 2 and 3 are also directed to search out a suitable slaughter place expeditiously latest within three months where respondent Nos. 7 to 14 may carry their trade in accordance with law.

23. This writ petition is allowed to the extent Indicated as above, but in the peculiar facts and circumstances we make no order as to cost.

24. The office is directed to hand over a copy of this order, if possible by tomorrow or latest within one week to Sri H. R. Mishra, learned standing counsel, for its communication to and follow up action by the District Magistrate, Jaunpur.

25. Mr. Mishra is also directed to inform the substance of this order by Fax and/or otherwise to the District Magistrate, Jaunpur.