

A.K.JAYASANKARAN NAMBIAR & GOPINATH P., JJ.

W.P(C).No.13204 of 2021

Dated this the 2nd day of July, 2021

O R D E R

A.K.Jayasankaran Nambiar, J.

Sri.Jaishankar V. Nair, the learned Central Government Counsel takes notice for the 1st respondent. Smt.M.U. Vijayalakshmi, the learned Standing Counsel takes notice for the 2nd respondent. Sri.Asok M. Cherian, the learned Additional Advocate General takes notice on behalf of the different departments of the State Government listed as respondents 3, 4, 5 and 6. Smt.Aysha Youseff, the learned counsel takes notice for the 7th respondent. Sri.Shaji T.A., the learned Senior Counsel and Director General of Prosecution takes notice for the 8th respondent.

2. This Writ Petition has been initiated suo motu, *inter alia*, to monitor State action in reported instances of cruelty to animals, as also to take stock of the measures adopted by the State Executive to effectuate the rights and freedom recognised as inherent in all animals under the Prevention of Cruelty to Animals Act. Frighteningly frequent have been the instances of cruelty to animals reported in the media in the last couple of years that we believe that the State must now resort to affirmative action to alleviate their misery. While such action is warranted in myriad situations, only some have been highlighted in this Writ Petition, and it is our belief that we will be able to identify other

issues of concern and address them during the course of these proceedings.

3. By way of a caveat we might point out that this Court does not intend to embark upon an exercise of laying down policies that should govern State Action in regard to protection of animal rights. Our sole endeavor will be to alert the State Executive to the circumstances in which, and the extent to which, it will be required to act in discharge of its constitutional and statutory obligations. We believe that a meaningful effectuation of rights can be achieved only when the different branches of Government work in concert, and it is this co-operation that we expect in the course of these proceedings.

4. Based on the discussions in court, with the learned counsel appearing on behalf of the respondents, we deem it appropriate to issue the following directions:

(i) To begin with, we direct the Registry to rename this writ petition as ***"In Re: Bruno (Suo Moto Public Interest Litigation Proceedings initiated by the High Court in the matter of executive and legislative inaction of the State Government in the matter of Protection of Animal Rights)"***. We feel that this would be a fitting tribute to the hapless dog that succumbed to acts of human

cruelty, and disturbed by which incident we had initiated these proceedings.

(ii) We also direct the 6th respondent to file a report before this Court as regards the action taken till date on the complaint received from the owner of the dog, Bruno, that was killed in the inhuman and gruesome incident on Adimalathura beach on the outskirts of Trivandrum. While the report shall be filed before this Court by the next date of posting, we would request Sri.T.A.Shaji, the Director General of Prosecution, to bestow his personal attention in the matter and ensure that the wheels of the criminal justice system are set in motion to bring the perpetrators of the crime to justice.

(iii) The 2nd respondent, which is an advisory body constituted under the Prevention of Cruelty to Animals Act,1960 shall immediately draw up a feasible action plan towards implementing an awareness campaign to educate and sensitize our citizenry to the rights of animals and the corresponding duties and obligations required of the citizenry. We believe that immediate steps in this regard are required to initiate a change in the attitude of our citizenry to the welfare of animals so that gruesome incidents, such as those reported in the media in recent times, do not recur in future. The 2nd respondent shall file a report in this regard before this Court within a month from today.

5. Sri.M.R.Hariraj, the learned counsel, who represents an erstwhile Board member of the Kerala State Animal Welfare Board, Thiruvananthapuram, informs us that, although the Animal Welfare Board for the State was constituted by the Kerala Government through a Government Order, pursuant to the directions of the Supreme Court in an order dated 06.08.2008 in W.P.(C).No.440/2000, the Board so constituted had a tenure of only three years that was not extended thereafter. It is also pointed out that the said Board, although entrusted with the task of regulating the activities of various institutions/establishments like pet shops, aquariums, etc., as also overseeing breeding activities of animals, was not able to effectively function during its initial tenure. We therefore request the Additional Advocate General Sri.Asok M. Cherian to inform this Court of the steps taken by the State Government to reconstitute, and render functional, the State Animal Welfare Board, by the next date of posting.

6. We are of the view that the veterinary hospitals and allied infrastructural facilities available within the State are in dire need of much needed up-gradation, and the State Government must take steps to improve these facilities. The State Government must also issue directions to the local self government Institutions ie. the Corporations, Municipalities and Panchayats in the State, to comply with their

respective statutory obligations as regards provision of animal shelters, dog pounds, cattle sheds etc., and further ensure that there is no delay occasioned in such compliance on account of insufficiency of funds. Inasmuch as the Supreme Court in the case of **Animal Welfare Board of India v. A.Nagaraja & Others ((2014) 7 SCC 547)**, has recognised five freedoms as inherent in all animals, and treated the said freedoms as akin to the rights guaranteed to the citizens of our country under Part III of our Constitution, the State cannot cite insufficiency of funds to shirk away from a discharge of its constitutional obligations.

7. The State Government shall explore the possibility of promoting and holding animal adoption camps throughout the State, at periodic intervals of not less than thrice a year, where persons can be encouraged to adopt animals that have been abandoned by their owners, and are left to wander in the streets in search of food and shelter. Care has to be taken to ensure that adoption in such camps is always in the best interests of the animal concerned.

8. The State Government shall also explore the possibility of entrusting the District Administrations across the State, with the power to enquire into complaints of infringement of animal rights and cruelty to animals, as also instances where persons are prevented from keeping pets of their choice in their residential apartments. As regards the

latter, we are given to understand that the Animal Welfare Board of India has already issued instructions recognising the right of individuals to keep pets in residential apartments, and discouraging the insertion of clauses in the bye-laws of residential apartment associations that prohibit that keeping of pets by the residents of such apartment complexes. The learned counsel for the 2nd respondent shall place on record the instructions issued in this regard.

In order to get timely assistance with regard to identifying other issues of concern that can be addressed in these proceedings, we deem it appropriate to appoint Senior Advocate Sri.S.Ramesh Babu and Adv.Sri.T.C. Suresh Menon, as *Amici Curiae* in this matter. Registry shall issue copies of the Writ Petition and this order to the learned *Amici Curiae*.

Post this Writ Petition on 13.07.2021.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
GOPINATH P.
JUDGE