

Revised

ITEM NO.9+6

COURT NO.3

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 691/2009

(Arising out of impugned final judgment and order dated 19/12/2008 in ASWP No. 6257/2006 passed by the High Court Of Bombay)

ANIMAL WELFARE BOARD OF INDIA

Petitioner(s)

VERSUS

PEOPLE FOR ELIMINATION OF STRAY TROUBLES.& ORS

Respondent(s)

(With appln.(s) for impleadment and intervention and interim relief and office report) (For Final Disposal)

WITH

SLP(C) No. 1627/2009

(With Interim Relief and Office Report)

SLP(C) No. 1740/2009

(With Interim Relief and Office Report)

SLP(C) No. 11467/2009

(With Office Report)

SLP(C) No. 13004/2009

(With appln.(s) for directions and permission to file additional documents and Office Report)

SLP(C) No. 13772/2012

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SLP(C) No. 4453/2013

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SLP(C) No. 5899/2013

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SLP(C) No. 17112/2013

(With Interim Relief and Office Report)

S.L.P.(C)...CC No. 16880/2015

(With appln.(s) for c/delay in filing SLP and impleadment as party respondent and impleadment as petitioner and Office Report)

W.P.(C) No. 805/2015

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W.P.(C) No. 808/2015

(With appln.(s) for interim directions and impleadment as party respondent and Office Report)

W.P.(C) No. 599/2015

(With appln.(s) for exemption from filing O.T. and permission to file additional documents and permission to file additional documents and directions and directions and Office Report)

S.L.P.(C)...CC No. 15931/2016

(With appln.(s) for c/delay in refiling SLP and c/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 16985/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17078/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17084/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17110/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17146/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17153/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17271/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17289/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17292/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

Date : 04/10/2016 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA

HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Ms. Anjali Sharma, Adv.
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Mr. Rohan Thawani, Adv.
Mr. Anand Daga, Adv.

Mr. B.S. Banthia, AOR
Mr. Sachin Daga, Adv.

Mr. Sudhanshu S. Choudhari, AOR

Mr. Shreekant N. Terdal, AOR

Mr. Krishnan Venugopal, Sr. Adv.
Mr. Udai Rathore, Adv.
Mr. Ajit Sharma, AOR

Mr. Kunal Verma, Adv.
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Mr. Shubham Jaiswal, Adv.

For M/s. Lex Regis Law Offices, AOR

Mr. Raj Panjwani, Sr. Adv.
Ms. Aparna Bhat, AOR
Mr. Mayank Sapra, Adv.

Mr. Rishi Kesh, AOR

Anupam Tripathi, Petitioner-in-person
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Mr. V.K. Biju, AOR

Ms. Jasmine D., Adv.

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Mr. R.K. Verma, Adv.
Mr. Gurmeet Singh Makkar, Adv.

Ms. Pinky Anand, ASG
Ms. V. Mohana, Sr. Adv.
Mr. A.K. Panda, Adv.
Mr. Sanjay Kumar Pathak, Adv.
Ms. Sadhana Sandhu, Adv.
Ms. Rashmi Malhotra, Adv.
Mr. Mohan Prasad Gupta, Adv.
Mr. R.R. Rajesh, Adv.
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Ms. Saudamini Sharma, Adv.
Mr. D.S. Mahra, Adv.
Mr. G.S. Makker, Adv.

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Mr. Naveen Kumar, AOR
Mr. Abhishek Singh, Adv.

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Mr. Sanjiv Sen, Sr. Adv.

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Mr. Sangram S. Saron, Adv.

Mr. Shree Pal Singh, AOR

Mr. V.N. Raghupathy, AOR

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Mr. Parikshit P. Angadi, Adv.

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Ms. Aruna Mathur, Adv.

Mr. Ysuf Khan, Adv.

Mr. Avneesh Arputham, Adv.

Ms. Anuradha Arputham, Adv.

M/s Arputham Aruna & Co.

Mr. K.V. Jagdishvaran, Adv.

Mr. Rajiv Ranjan, Adv.

Mr. Chand Qureshi, Adv.

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Mr. Anupam Tripathi, Adv.

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Mr. Anjali Sharma, Adv.

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Ms. Maitrayee Banerjee, Adv.

Mr. Aditya Dhawan, Adv.

Ms. Kiran Dhawan, Adv.

Mr. Varinder Kumar Sharma, Adv.

Mr. Sapam Biswajit Meitei, Adv.

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Ms. Mamta Singh, Adv.
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Ms. Surabhi Aggarwal, Adv.
Ms. Dharni Subramaniam, Adv.

Mr. Mishra Saurabh, AOR
Mr. Ankit Kumar Lal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

On 9.3.2016, after referring to the earlier order dated 18.11.2015 and various other aspects, this Court has expressed the following view :

"We will be failing in our duty if we do not make a note of the submissions of both the sides which are extreme in nature, for example, emphasis and stress have been laid that due to stray dogs, there has been threat to life, health, movement and sometimes security of the human beings. On the other hand, it has been highlighted that the stray dogs are being annihilated without any justifiable reason. As advised at present, we do not intend to say

anything on the said counts today.

On the last occasion, we had asked the Chief Secretary of each of the States and competent authorities of the Union Territories to act in letter and spirit of the previous order. As has been indicated earlier, responses have been filed by the State of Orissa, N.D.M.C., South Delhi Municipal Corporation and B.M.C., Mumbai. facts and circumstances in entirety, we Considering the direct the Chief Secretary of each of the States, either himself or through the Secretary of Health and the competent authorities of the Union Territories to send the report as regards the implementation of the Act and the Rules to the Board within six weeks hence. Ms. Anjali Sharma, learned counsel appearing for the Animal Welfare Board, on receipt of the report, shall apprise Mr. Gopal Subramaniam, learned senior counsel appearing for the Animal Welfare Board and the Board shall file a module keeping in view the parameters of the Act and the Rules for appropriate implementation. Needless to emphasize, the Union of India shall be at liberty to work out the module. Learned counsel appearing for the parties can also give their suggestions after the module is filed in Court. The report submitted to the Board by the States and the other competent authorities shall be filed before this Court through their Standing Counsel. Copies of the writ petition and the special leave petitions shall be supplied to all the concerned by Ms. Anjali Sharma, appearing for the Animal Welfare Board. learned counsel The order passed today along with the previous order be sent by the Registry of this Court to the Chief Secretaries of the States and the administrator of the Union Territories so that they can do the needful in the matter. At this juncture, Mr. Dushyant A. Dave, learned senior counsel has submitted that the said authorities should indicate in the report as to how many deaths have occurred due to dog bites and what steps have been taken. Additionally, it is suggested by him that the report must also indicate the number of sterilization that have taken place and the resources available on the said front. We direct all the authorities to include the same as a part of the same in the report. As we have given time for the submission of report within six weeks, we give further four weeks time to file the module by the Board.

At this juncture, Mr. Rakesh Kumar, learned counsel appearing for the South Delhi Municipal Corporation that they have a problem in dealing with the stray dogs because of certain communication received by the Delhi International Airport Private Limited (DIAL). Mr. P.S. Narasimha, learned Additional Solicitor General and Mr. Gopal Subramaniam, learned senior counsel appearing for the Board, shall see to it that the problem is sorted out.

We will be failing in our duty if we do not note the submission of Mr. Dushyant A. Dave that though the Act and Rules provide for sterilization of dogs so that safety of the human beings is not jeopardized, yet they are not being sterilized by the authorities, either for lack of funds or due to apathy. Regard being had to the provisions governing the field, we direct that the dogs which are required to be sterilized or vaccinated, the procedure shall be carried out in accordance with the Act and Rules and no organization shall create any kind of obstacle or impediment in the same. It shall be the obligation of the Board to oversee that this is being carried out and no obstructions are created in this regard from any quarter.

The copy of the module to be prepared by the Board, be given to the learned counsel for the parties."

In pursuance of the aforesaid order, the Animal Welfare Board has filed a module which takes note of various aspects. One aspect pertains to 'Implementation Framework for street dog population management, rabies eradication and reducing man-dog conflict". We think it appropriate to reproduce the same for the sake of completeness and so also to have future assistance. Therefore, it is reproduced hereunder :

"The Animal Birth Control (Dogs) Rules, 2001, prescribe the methodology for street dog population management, ensuring rabies eradication, and reduction in man-dog conflict based on scientific studies and recommendations of the World Health Organisation. However, the implementation of the Rules in most states has

been observed to be inadequate, haphazard, and poorly planned. The desired results have therefore not been achieved in such cases.

The reasons for poor implementation have been cited to be, lack of required coordination between the centre and the state governments, and between local authorities, implementation agencies, and other stake-holders within the states. Most states have not created any budget head for animal birth control of street dogs. The grant given by the central government has always been inadequate, and has reduced even further in the past few years, to become negligible. Successfully conducting a viable animal birth control programme through out the country is not possible in these circumstances. The shortage of resources has also led to huge cruelties being inflicted on the animals, and in increased conflict.

In order to implement the Animal Birth Control (Dogs) Rules in letter and spirit, a water-tight implementation framework needs to be laid down and monitored by the Central Government and the Hon'ble Supreme Court of India from time to time.

STEP I: Creation of a Central Coordination Committee It is recommended that a Central Coordination Committee for Street Dog Population control be set up to ensure seamless coordination between different stake-holders at the centre, and between the centre and the state governments. This will also help in clarifying the role that each stake-holder must play to ensure the successful conduct of the programme. Proposed structure of the Central Coordination Committee:

a) **Chairperson:** The Secretary, Ministry of Environment Forest and Climate Change, Government of India may be the Chairperson of the Central Coordination Committee.

b) **Member Secretary:** An officer of a rank equivalent to the Additional Secretary, Ministry of Health and Family Welfare, Government of India, may be the Member-Secretary as well as the nodal officer for coordinating the fund allocation to each state and union territory.

c) The following officials should be appointed as members of this committee: ^{HH} Additional Secretary, Department of Animal Husbandry

Dairying and Fisheries, Ministry of Agriculture,
Government of India

- Additional Secretary, Urban Development Ministry, Government of India
- Additional Secretary, Ministry of Rural Development, Government of India
- Chairperson, Animal Welfare Board of India
- Chairperson, Veterinary Council of India
- Representative of a prominent state animal welfare board actively engaged in animal birth control coordination in the state
- Representative of a prominent animal welfare organization duly registered with the AWBI and actively engaged in the animal birth control programme in at least three states.

The Central Coordination Committee shall meet at least once in a quarter and as often as required to execute its functions.

Functions of the Central Coordination Committee:

i) To create a consolidated pooled in fund sourced from the Ministry of Environment Forest and Climate Change, Ministry of Health and Family Welfare, Ministry of Agriculture, Ministry of Urban Development, and Ministry of Rural Development.

ii) To invite proposals in the form of detailed project reports from the state governments based on state-wide high throughput ABC programmes, where infrastructure is to be created by the state governments, and the fund for implementation of the programme will thereafter be provided by the central government on a per dog basis.

iii) To ensure that each state government creates a budget head for setting up infrastructure (i.e. ABC facilities / campuses and provisioning for ambulances for transportation of dogs) in the state.

iv) To set up a protocol for disbursement of funds to state governments whereby the programme can be

implemented in a phase-wise seamless manner in each state, keeping in mind that rotating funds / buffer funds must also be provisioned for so that there is no hitch in the conduct of the programme on account of interrupted funding.

v) To determine the rate at which the ABC Implementing Agencies will be reimbursed for expenses incurred for ABC surgeries in each state, and to set mutually agreed upon targets for infrastructure creation, and the number of surgeries to be conducted in each state in a detailed phasewise manner. This rate shall be revised annually.

vi) To ensure that each state sets up a State Monitoring and Implementation Committee for animal birth control and review the performance and processes of each such committee, and give recommendations for effective implementation of the Animal Birth Control (Dogs) Rules, 2001.

vii) To submit annual progress reports to the Hon'ble Supreme Court regarding the progress of the ABC programme in each state.

STEP II: Creation of the State Monitoring and Implementation Committees

It is recommended that a State Monitoring and Implementation Committee be set up at the State / Union Territory level in all states and union territories across the country. Proposed Constitution of the State Monitoring and Implementation Committees:

a) Chairperson : The Secretary in-charge of the Urban Local Bodies (or equivalent in that state/union territory) may be the Chairperson of the State Monitoring and Implementation Committee.

b) Member Secretary : An officer holding the rank of a Director in the Department of Animal Husbandry (or equivalent) may be the Member Secretary as well as the nodal officer for implementing the program in each state and union territory.

c) The following officials should be appointed as members of this committee:

- Principal Secretary, Health Department
- Principal Secretary, Panchayat Raj
- Director, Urban Development Department (or equivalent)
- Representative of the Animal Welfare Board of India
- Representative of the State Animal Welfare Board
- Administrative heads of at least 2 municipal corporations, and representatives of at least 2 panchayats, and at least 2 municipal councils in that state or union territory
- Representative of an animal welfare organization registered with the AWBI that has conducted more than 5000 animal birth control surgeries per year and has been in existence for a minimum of 3 years
- One full time Program Manager to be deputed by the Animal Husbandry Department, not below the rank of Deputy Director, for coordination of the program between various stakeholders.

The State Monitoring and Implementation Committees shall meet at least once in a quarter and as often as required to execute their functions.

Functions of the State Monitoring and Implementation Committee:

i) The setting up of Animal Birth Control Monitoring Committees at the local authority levels as required by the Animal Birth Control (Dogs) Rules. (Please see Step III below for greater detail in this regard).

ii) Developing a comprehensive district wise plan (including but not limited to infrastructure, budget, etc, for dog population management in urban and rural areas throughout the state.)

iii) Enlisting ABC Implementing Agencies that can implement the comprehensive local authority /

district-wise plan as per the Animal Birth Control (Dogs) Rules, are possessed of the requisite training and experience, and are duly recognized by the Animal Welfare Board of India. This may include the animal husbandry department of the State working in consultation with and the under the technical guidance of the AWBI, or animal welfare organisations recognized by the AWBI

iv) Where adequate ABC Implementing Agencies are not available, the State Monitoring and Implementation Committee shall set up a Special Purpose Vehicle (SPV) within the state animal husbandry department to act as the ABC Implementing Agency. In each such case the ABC Implementing Agency will undergo training at an AWBI designated training establishment, and embark upon the program only once the training has been completed.

v) Ensuring that the requisite infrastructure is set up, and other capital costs (including but not limited to fully furnished ABC facilities/campuses with ambulances and equipment), and all other expenses for successfully running an animal birth control program, including manpower costs, are made available to the ABC Implementing Agencies from the local authorities, and reimbursed in a timely manner as required by Rule 6 of the Animal Birth Control (Dogs) Rules.

STEP III: Establishment of Animal Birth Control Monitoring Committees

The establishment of Animal Birth Control Monitoring Committees at local authority levels in accordance with Animal Birth Control (Dogs) Rules is indispensable for the success of the Animal Birth Control program. The constitution of the Monitoring Committee is provided for in Rule 4 of the Rules, and the functions that it is required to perform are provided for in Rule 5. Additionally, to implement the Rules in letter and spirit it is also necessary that the Monitoring Committees do the following:

- i) Arrive at an estimate of the number of dogs within its territorial limits by conducting a census in the manner advised by the AWBI.
- ii) Ensure development of the infrastructure

required to execute the ABC program for the estimated number of dogs. In order to do this, detailed project reports shall have to be prepared and submitted to the State Monitoring and Implementation Committee and coordination established with the state government through the said Committee.

The infrastructure shall be designed to conduct area-wise ABC, and in a phased way ensure that at least 70% dogs in the targeted area are sterilized and vaccinated against rabies before a new area is taken up. The infrastructure shall include, but not be limited to pre-operation preparation areas, Operation Theaters, post-op care, kennels, kitchen, store rooms for rations and medicines, parking area, residential rooms for veterinarians and attendants, quarantine wards, ambulances, etc.

STEP IV: Identification of ABC Implementing Agencies

The practice of tendering, i.e. inviting bids from interested ABC 'contractors', and awarding ABC 'contracts' to the lowest bidder being followed by many local authorities, has more often than not led to violations of the Rules and the Act. For instance, the lowest bidder may not be an organisation recognised by the AWBI, which is a mandatory requirement under the Animal Birth Control (Dogs) Rules. Furthermore, it has been widely observed that many competitive lowest bidders disregard best practices necessary to ensure the welfare of animals in their care, and fail to adhere to other essential requirements under the Rules in order to find profit margins within the lowest price. This in turn leads to significant pain and suffering being caused to the animals, and the success of the program being adversely impacted and jeopardized.

This module prescribes that the rate of sterilization per dog shall be fixed and reviewed annually by the Central Coordination Committee, thereby ensuring uniformity. Once this is done, an expression of interest may be sought with technical bid as sole criterion for selection of ABC Implementing Agencies for execution of the animal birth control program. Needless to state, the agency short-listed for implementation, must be thoroughly trained and recognized by the AWBI.

The local authorities, whilst calling for an expression of interest, will ensure that the ABC Implementing Agencies entrusted with execution of the animal birth control program have an adequate number of trained veterinarians, para-vets, catchers and drivers. The staff of the ABC Implementing Agency should have obtained training from an AWBI recognised training establishment.

The ABC Implementing Agency must have been in existence for a minimum of 3 years. A Memorandum of Understanding shall be executed between the ABC Implementing Agency and either the local authority or the state government or both, as the State Monitoring and Implementation Committee decides.

Responsibilities of the local authorities in collaboration with ABC Implementing Agencies:

The ABC Implementing Agency shall be responsible for catching, transport, surgery, post-op care and release of the dogs. The local authority too may be involved in this process, but not without personnel deputed by the Implementing Agency to oversee the same, or participate in the concerned process. Additionally the ABC Implementing Agency shall devise a mechanism to deal with complaints received regarding man-dog conflict in a scientific, rational and humane manner. Additional expenses incurred for this purpose shall also be reimbursed by the local authority.

STEP V: Monitoring and Evaluation The process of monitoring shall include the following key aspects:

i) Keeping the estimated number of dogs as the baseline, the State Monitoring and Implementation Committee shall set targets for the required number dog sterilizations within specified periods, in each district comprised in the state. These targets shall be spelt out in the Memorandums of Understanding executed with the ABC Implementing Agencies. The State Monitoring and Implementation Committee shall then monitor the collaboration between local authorities and ABC Implementing Agencies to ensure that the targets are met, and any challenges to the same are smoothly overcome.

ii) The targets specified shall be binding on the local authority and the ABC Implementing Agency.

The Animal Birth Control Monitoring Committee of the local authority shall ensure timely release of funds, and oversee that adequate infrastructure is created by the local authority so that targets are met. The expenses incurred by the ABC Implementing Agencies must be reimbursed every fortnight.

iii) The Animal Birth Control Monitoring Committee shall, through a team comprising of at least 3 (three) persons who may be its representatives or any other person/s authorized by it, conduct a weekly organ count of the operated dogs (ovaries and testes), and shall also scrutinize the records being maintained by the ABC Implementing Agency to assess compliance with the Animal Birth Control (Dogs) Rules, 2001, and adherence with provisions contained in this module.

iv) The Animal Birth Control Monitoring Committee shall meet at least once every month, to evaluate progress of the ABC program, and assess its impact. Impediments to the smooth conduct of the ABC program shall be discussed, and steps taken to remove the same.

To assess the impact of the ABC program in each targeted area, the Animal Birth Control Monitoring Committee may either undertake such assessment by itself, or through an independent agency. The following parameters shall be the guiding factors to assess impact :

- i. Lesser number of pups seen than previous years,
- ii. Reduction in number of lactating females seen,
- iii. Decrease in number of complaint calls,
- iv. Decrease in number of dog bites cases reported,
- v. Decrease in incidence of rabies."

Ms. Pinky Anand, learned Additional Solicitor General has submitted that the competent authority of the Central Government may be granted some time to have a look at the module. Learned

counsel appearing for other parties are granted four weeks' time to file their suggestions or objections, as the case may be. The Union of India shall file its response within six weeks.

Be it noted, Dr. Abhishek Manu Singhvi, learned senior counsel for Peoples For Animals (PFA) has submitted with regard to release of funds for Animal Birth Control to the Animal Welfare Board. Ms. Pinky Anand, learned Additional Solicitor General, shall take instructions and put it in the response which she has to file.

At this juncture, we have been shown certain photographs at the Bar which carries the caption "Kerala Politicians beat street dogs to death, hang them on a pole and take out a parade". These photographs have been handed over across the Bar. A copy of the said news item has been handed over to Mr. V. Giri, learned senior counsel being assisted by Mr. Sasi, learned standing counsel for the State of Kerala. The photographs also contain a photograph where the dogs are lying dead with the caption 'Gils Periappuram posing with the culled dogs'. We do not intend to comment at the same at present. The learned counsel for the State of Kerala shall file the response within three weeks hence. Needless to say, the response shall indicate what action has been taken. The response shall be supported by the affidavit of the Chief Secretary of the State.

Needless to say, it will be an obligation of the State of Kerala to see that the orders passed by this Court are followed scrupulously and there is no public demonstration in the manner in which the photographs depict. Needless to say, we have said this without prejudice to the contentions to be raised of the State of Kerala.

Copies of other IAs shall be served on Mr. Sasi who shall also incorporate the response in the affidavit to be filed.

Mr. Anupam Tripathi, appearing in Writ Petition (C) No.599 of 2015 is at liberty to file an affidavit containing photographs and

reports.

Mr. Krishnan, learned senior counsel submits that he has prepared a summary of module on behalf of the Federation of Indian Animal Protection Organizations (FIAPO). A copy of the same be handed over to Ms. Pinky Anand, learned Additional Solicitor appearing for the Union of India and Ms. Anjali Sharma, learned counsel appearing for the Animal Welfare Board of India.

Let the all the special leave petitions and writ petition 599 of 2015, except writ petition Nos. 805 and 808 of 2015, be listed on 17.11.2016.

Let Writ Petition Nos.805 and 808 of 2015 be listed after six weeks.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master

ITEM NO.9+6

COURT NO.3

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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(With Interim Relief and Office Report)

S.L.P.(C)...CC No. 16880/2015

(With appln.(s) for c/delay in filing SLP and impleadment as party respondent and impleadment as petitioner and Office Report)

W.P.(C) No. 805/2015

(With appln.(s) for directions and permission to appear and argue in person and Office Report)

W.P.(C) No. 808/2015

(With appln.(s) for interim directions and impleadment as party respondent and Office Report)

W.P.(C) No. 599/2015

(With appln.(s) for exemption from filing O.T. and permission to file additional documents and permission to file additional documents and directions and directions and Office Report)

S.L.P.(C)...CC No. 15931/2016

(With appln.(s) for c/delay in refiling SLP and c/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 16985/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17078/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17084/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17110/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17146/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17153/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17271/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17289/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 17292/2016

(With appln.(s) for C/delay in filing SLP and Office Report)

Date : 04/10/2016 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA

HON'BLE MR. JUSTICE UDAY UMESH LALIT

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Mr. Rohan Thawani, Adv.
Mr. Anand Daga, Adv.

Mr. B.S. Banthia, AOR
Mr. Sachin Daga, Adv.

Mr. Sudhanshu S. Choudhari, AOR

Mr. Shreekant N. Terdal, AOR

Mr. Krishnan Venugopal, Sr. Adv.
Mr. Udai Rathore, Adv.
Mr. Ajit Sharma, AOR

Mr. Kunal Verma, Adv.
Mr. Nirnimesh Dube, Adv.
Mr. Shubham Jaiswal, Adv.

For M/s. Lex Regis Law Offices, AOR

Mr. Raj Panjwani, Sr. Adv.
Ms. Aparna Bhat, AOR
Mr. Mayank Sapra, Adv.

Mr. Rishi Kesh, AOR

Anupam Tripathi, Petitioner-in-person
Ms. Akanksha Pandit, Adv.

Mr. V.K. Biju, AOR

Ms. Jasmine D., Adv.

For Respondent(s)

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Ms. Mahima Singh, Adv.
Mr. C. Kannan, Adv.

Mr. Naveen Kumar, AOR
Mr. Abhishek Singh, Adv.

Mr. Kunal A. Chemma, AAG
Mr. Yogesh K. Ahirrao, Adv.
Mr. Nishant Ramakantrao Katneshwarkar, AOR

Mr. Pahlad Singh Sharma, AOR

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Mr. Sanjiv Sen, Sr. Adv.
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Mr. Praveen Swarup, AOR

Mr. Mukul Singh, Adv.
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Mr. Sangram S. Saron, Adv.
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Mr. V.N. Raghupathy, AOR
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Mr. Anjali Sharma, Adv.

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Mr. Aditya Dhawan, Adv.

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 Mr. Sameer Singh, Adv.
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 Mr. Muthuvel Palani, Adv.
 Mr. A. Arvind, Adv.

Mr. Rudreshwar Singh, Adv.
 Mr. Samir Ali Khan, Adv.

Ms. Hemantika Wahi, Adv.
 Ms. Aagam Kaur, Adv.
 Ms. Mamta Singh, Adv.
 Mr. Yoga Maya, Adv.

Ms. Anitha Shenoy, AOR
 Ms. Srishti Agnihotri, Adv.
 Ms. Surabhi Aggarwal, Adv.
 Ms. Dharni Subramaniam, Adv.

Mr. Mishra Saurabh, AOR
 Mr. Ankit Kumar Lal, Adv.

UPON hearing the counsel the Court made the following
 O R D E R

On 9.3.2016, after referring to the earlier order dated 18.11.2015 and various other aspects, this Court has expressed the following view :

"We will be failing in our duty if we do not make a note of the submissions of both the sides which are extreme in nature, for example, emphasis and stress have been laid that due to stray dogs, there has been threat to life, health, movement and sometimes security of the human beings. On the other hand, it has been highlighted that the stray dogs are being annihilated without any justifiable reason. As

advised at present, we do not intend to say anything on the said counts today.

On the last occasion, we had asked the Chief Secretary of each of the States and competent authorities of the Union Territories to act in letter and spirit of the previous order. As has been indicated earlier, responses have been filed by the State of Orissa, N.D.M.C., South Delhi Municipal Corporation and B.M.C., Mumbai. facts and circumstances in entirety, we Considering the direct the Chief Secretary of each of the States, either himself or through the Secretary of Health and the competent authorities of the Union Territories to send the report as regards the implementation of the Act and the Rules to the Board within six weeks hence. Ms. Anjali Sharma, learned counsel appearing for the Animal Welfare Board, on receipt of the report, shall apprise Mr. Gopal Subramaniam, learned senior counsel appearing for the Animal Welfare Board and the Board shall file a module keeping in view the parameters of the Act and the Rules for appropriate implementation. Needless to emphasize, the Union of India shall be at liberty to work out the module. Learned counsel appearing for the parties can also give their suggestions after the module is filed in Court. The report submitted to the Board by the States and the other competent authorities shall be filed before this Court through their Standing Counsel. Copies of the writ petition and the special leave petitions shall be supplied to all the concerned by Ms. Anjali Sharma, appearing for the Animal Welfare Board. learned counsel The order passed today along with the previous order be sent by the Registry of this Court to the Chief Secretaries of the States and the administrator of the Union Territories so that they can do the needful in the matter. At this juncture, Mr. Dushyant A. Dave, learned senior counsel has submitted that the said authorities should indicate in the report as to how many deaths have occurred due to dog bites and what steps have been taken. Additionally, it is suggested by him that the report must also indicate the number of sterilization that have taken place and the resources available on the said front. We direct all the authorities to include the same as a part of the same in the report. As we have given time for the submission of report within six weeks, we give further four

weeks time to file the module by the Board. At this juncture, Mr. Rakesh Kumar, learned counsel appearing for the South Delhi Municipal Corporation that they have a problem in dealing with the stray dogs because of certain communication received by the Delhi International Airport Private Limited (DIAL). Mr. P.S. Narasimha, learned Additional Solicitor General and Mr. Gopal Subramaniam, learned senior counsel appearing for the Board, shall see to it that the problem is sorted out. We will be failing in our duty if we do not note the submission of Mr. Dushyant A. Dave that though the Act and Rules provide for sterilization of dogs so that safety of the human beings is not jeopardized, yet they are not being sterilized by the authorities, either for lack of funds or due to apathy. Regard being had to the provisions governing the field, we direct that the dogs which are required to be sterilized or vaccinated, the procedure shall be carried out in accordance with the Act and Rules and no organization shall create any kind of obstacle or impediment in the same. It shall be the obligation of the Board to oversee that this is being carried out and no obstructions are created in this regard from any quarter.

The copy of the module to be prepared by the Board, be given to the learned counsel for the parties."

In pursuance of the aforesaid order, the Animal Welfare Board has filed a module which takes note of various aspects. One aspect pertains to 'Implementation Framework for street dog population management, rabies eradication and reducing man-dog conflict". We think it appropriate to reproduce the same for the sake of completeness and so also to have future assistance. Therefore, it is reproduced hereunder :

"The Animal Birth Control (Dogs) Rules, 2001, prescribe the methodology for street dog population management, ensuring rabies eradication, and reduction in man-dog conflict based on scientific studies and recommendations of the World Health Organisation. However, the

implementation of the Rules in most states has been observed to be inadequate, haphazard, and poorly planned. The desired results have therefore not been achieved in such cases.

The reasons for poor implementation have been cited to be, lack of required coordination between the centre and the state governments, and between local authorities, implementation agencies, and other stake-holders within the states. Most states have not created any budget head for animal birth control of street dogs. The grant given by the central government has always been inadequate, and has reduced even further in the past few years, to become negligible. Successfully conducting a viable animal birth control programme through out the country is not possible in these circumstances. The shortage of resources has also led to huge cruelties being inflicted on the animals, and in increased conflict.

In order to implement the Animal Birth Control (Dogs) Rules in letter and spirit, a water-tight implementation framework needs to be laid down and monitored by the Central Government and the Hon'ble Supreme Court of India from time to time.

STEP I: Creation of a Central Coordination Committee It is recommended that a Central Coordination Committee for Street Dog Population control be set up to ensure seamless coordination between different stake-holders at the centre, and between the centre and the state governments. This will also help in clarifying the role that each stake-holder must play to ensure the successful conduct of the programme. Proposed structure of the Central Coordination Committee:

a) Chairperson: The Secretary, Ministry of Environment Forest and Climate Change, Government of India may be the Chairperson of the Central Coordination Committee.

b) Member Secretary: An officer of a rank equivalent to the Additional Secretary, Ministry of Health and Family Welfare, Government of India, may be the Member-Secretary as well as the nodal officer for coordinating the fund allocation to each state and union territory.

c) The following officials should be appointed as members of this committee: ^{HH} Additional

Secretary, Department of Animal Husbandry
Dairying and Fisheries, Ministry of Agriculture,
Government of India

- Additional Secretary, Urban Development
Ministry, Government of India
- Additional Secretary, Ministry of Rural
Development, Government of India
- Chairperson, Animal Welfare Board of India
- Chairperson, Veterinary Council of India
- Representative of a prominent state animal
welfare board actively engaged in animal
birth control coordination in the state
- Representative of a prominent animal welfare
organization duly registered with the AWBI
and actively engaged in the animal birth
control programme in at least three states.

The Central Coordination Committee shall meet at
least once in a quarter and as often as required
to execute its functions.

Functions of the Central Coordination Committee:

i) To create a consolidated pooled in fund
sourced from the Ministry of Environment Forest
and Climate Change, Ministry of Health and Family
Welfare, Ministry of Agriculture, Ministry of
Urban Development, and Ministry of Rural
Development.

ii) To invite proposals in the form of detailed
project reports from the state governments based
on state-wide high throughput ABC programmes,
where infrastructure is to be created by the
state governments, and the fund for
implementation of the programme will thereafter
be provided by the central government on a per
dog basis.

iii) To ensure that each state government creates
a budget head for setting up infrastructure (i.e.
ABC facilities / campuses and provisioning for
ambulances for transportation of dogs) in the
state.

iv) To set up a protocol for disbursal of funds

to state governments whereby the programme can be implemented in a phase-wise seamless manner in each state, keeping in mind that rotating funds / buffer funds must also be provisioned for so that there is no hitch in the conduct of the programme on account of interrupted funding.

v) To determine the rate at which the ABC Implementing Agencies will be reimbursed for expenses incurred for ABC surgeries in each state, and to set mutually agreed upon targets for infrastructure creation, and the number of surgeries to be conducted in each state in a detailed phasewise manner. This rate shall be revised annually.

vi) To ensure that each state sets up a State Monitoring and Implementation Committee for animal birth control and review the performance and processes of each such committee, and give recommendations for effective implementation of the Animal Birth Control (Dogs) Rules, 2001.

vii) To submit annual progress reports to the Hon'ble Supreme Court regarding the progress of the ABC programme in each state.

STEP II: Creation of the State Monitoring and Implementation Committees

It is recommended that a State Monitoring and Implementation Committee be set up at the State / Union Territory level in all states and union territories across the country. Proposed Constitution of the State Monitoring and Implementation Committees:

a) Chairperson : The Secretary in-charge of the Urban Local Bodies (or equivalent in that state/union territory) may be the Chairperson of the State Monitoring and Implementation Committee.

b) Member Secretary : An officer holding the rank of a Director in the Department of Animal Husbandry (or equivalent) may be the Member Secretary as well as the nodal officer for implementing the program in each state and union territory.

c) The following officials should be appointed as members of this committee:

- Principal Secretary, Health Department
- Principal Secretary, Panchayat Raj
- Director, Urban Development Department (or equivalent)
- Representative of the Animal Welfare Board of India
- Representative of the State Animal Welfare Board
- Administrative heads of at least 2 municipal corporations, and representatives of at least 2 panchayats, and at least 2 municipal councils in that state or union territory
- Representative of an animal welfare organization registered with the AWBI that has conducted more than 5000 animal birth control surgeries per year and has been in existence for a minimum of 3 years
- One full time Program Manager to be deputed by the Animal Husbandry Department, not below the rank of Deputy Director, for coordination of the program between various stakeholders.

The State Monitoring and Implementation Committees shall meet at least once in a quarter and as often as required to execute their functions.

Functions of the State Monitoring and Implementation Committee:

i) The setting up of Animal Birth Control Monitoring Committees at the local authority levels as required by the Animal Birth Control (Dogs) Rules. (Please see Step III below for greater detail in this regard).

ii) Developing a comprehensive district wise plan (including but not limited to infrastructure, budget, etc, for dog population management in urban and rural areas throughout the state.)

iii) Enlisting ABC Implementing Agencies that can implement the comprehensive local authority /

district-wise plan as per the Animal Birth Control (Dogs) Rules, are possessed of the requisite training and experience, and are duly recognized by the Animal Welfare Board of India. This may include the animal husbandry department of the State working in consultation with and the under the technical guidance of the AWBI, or animal welfare organisations recognized by the AWBI

iv) Where adequate ABC Implementing Agencies are not available, the State Monitoring and Implementation Committee shall set up a Special Purpose Vehicle (SPV) within the state animal husbandry department to act as the ABC Implementing Agency. In each such case the ABC Implementing Agency will undergo training at an AWBI designated training establishment, and embark upon the program only once the training has been completed.

v) Ensuring that the requisite infrastructure is set up, and other capital costs (including but not limited to fully furnished ABC facilities/campuses with ambulances and equipment), and all other expenses for successfully running an animal birth control program, including manpower costs, are made available to the ABC Implementing Agencies from the local authorities, and reimbursed in a timely manner as required by Rule 6 of the Animal Birth Control (Dogs) Rules.

STEP III: Establishment of Animal Birth Control Monitoring Committees

The establishment of Animal Birth Control Monitoring Committees at local authority levels in accordance with Animal Birth Control (Dogs) Rules is indispensable for the success of the Animal Birth Control program. The constitution of the Monitoring Committee is provided for in Rule 4 of the Rules, and the functions that it is required to perform are provided for in Rule 5. Additionally, to implement the Rules in letter and spirit it is also necessary that the Monitoring Committees do the following:

- i) Arrive at an estimate of the number of dogs within its territorial limits by conducting a census in the manner advised by the AWBI.
- ii) Ensure development of the infrastructure

required to execute the ABC program for the estimated number of dogs. In order to do this, detailed project reports shall have to be prepared and submitted to the State Monitoring and Implementation Committee and coordination established with the state government through the said Committee.

The infrastructure shall be designed to conduct area-wise ABC, and in a phased way ensure that at least 70% dogs in the targeted area are sterilized and vaccinated against rabies before a new area is taken up. The infrastructure shall include, but not be limited to pre-operation preparation areas, Operation Theaters, post-op care, kennels, kitchen, store rooms for rations and medicines, parking area, residential rooms for veterinarians and attendants, quarantine wards, ambulances, etc.

STEP IV: Identification of ABC Implementing Agencies

The practice of tendering, i.e. inviting bids from interested ABC 'contractors', and awarding ABC 'contracts' to the lowest bidder being followed by many local authorities, has more often than not led to violations of the Rules and the Act. For instance, the lowest bidder may not be an organisation recognised by the AWBI, which is a mandatory requirement under the Animal Birth Control (Dogs) Rules. Furthermore, it has been widely observed that many competitive lowest bidders disregard best practices necessary to ensure the welfare of animals in their care, and fail to adhere to other essential requirements under the Rules in order to find profit margins within the lowest price. This in turn leads to significant pain and suffering being caused to the animals, and the success of the program being adversely impacted and jeopardized.

This module prescribes that the rate of sterilization per dog shall be fixed and reviewed annually by the Central Coordination Committee, thereby ensuring uniformity. Once this is done, an expression of interest may be sought with technical bid as sole criterion for selection of ABC Implementing Agencies for execution of the animal birth control program. Needless to state, the agency short-listed for implementation, must be thoroughly trained and recognized by the AWBI.

The local authorities, whilst calling for an expression of interest, will ensure that the ABC Implementing Agencies entrusted with execution of the animal birth control program have an adequate number of trained veterinarians, para-vets, catchers and drivers. The staff of the ABC Implementing Agency should have obtained training from an AWBI recognised training establishment.

The ABC Implementing Agency must have been in existence for a minimum of 3 years. A Memorandum of Understanding shall be executed between the ABC Implementing Agency and either the local authority or the state government or both, as the State Monitoring and Implementation Committee decides.

Responsibilities of the local authorities in collaboration with ABC Implementing Agencies:

The ABC Implementing Agency shall be responsible for catching, transport, surgery, post-op care and release of the dogs. The local authority too may be involved in this process, but not without personnel deputed by the Implementing Agency to oversee the same, or participate in the concerned process. Additionally the ABC Implementing Agency shall devise a mechanism to deal with complaints received regarding man-dog conflict in a scientific, rational and humane manner. Additional expenses incurred for this purpose shall also be reimbursed by the local authority.

STEP V: Monitoring and Evaluation The process of monitoring shall include the following key aspects:

i) Keeping the estimated number of dogs as the baseline, the State Monitoring and Implementation Committee shall set targets for the required number dog sterilizations within specified periods, in each district comprised in the state. These targets shall be spelt out in the Memorandums of Understanding executed with the ABC Implementing Agencies. The State Monitoring and Implementation Committee shall then monitor the collaboration between local authorities and ABC Implementing Agencies to ensure that the targets are met, and any challenges to the same are smoothly overcome.

ii) The targets specified shall be binding on the local authority and the ABC Implementing Agency.

The Animal Birth Control Monitoring Committee of the local authority shall ensure timely release of funds, and oversee that adequate infrastructure is created by the local authority so that targets are met. The expenses incurred by the ABC Implementing Agencies must be reimbursed every fortnight.

iii) The Animal Birth Control Monitoring Committee shall, through a team comprising of at least 3 (three) persons who may be its representatives or any other person/s authorized by it, conduct a weekly organ count of the operated dogs (ovaries and testes), and shall also scrutinize the records being maintained by the ABC Implementing Agency to assess compliance with the Animal Birth Control (Dogs) Rules, 2001, and adherence with provisions contained in this module.

iv) The Animal Birth Control Monitoring Committee shall meet at least once every month, to evaluate progress of the ABC program, and assess its impact. Impediments to the smooth conduct of the ABC program shall be discussed, and steps taken to remove the same.

To assess the impact of the ABC program in each targeted area, the Animal Birth Control Monitoring Committee may either undertake such assessment by itself, or through an independent agency. The following parameters shall be the guiding factors to assess impact :

- i. Lesser number of pups seen than previous years,
- ii. Reduction in number of lactating females seen,
- iii. Decrease in number of complaint calls,
- iv. Decrease in number of dog bites cases reported,
- v. Decrease in incidence of rabies."

Ms. Pinky Anand, learned Additional Solicitor General has submitted that the competent authority of the Central Government may be granted some time to have a look at the module. Learned

counsel appearing for other parties are granted four weeks' time to file their suggestions or objections, as the case may be. The Union of India shall file its response within six weeks.

Be it noted, Dr. Abhishek Manu Singhvi, learned senior counsel for Peoples For Animals (PFA) has submitted with regard to release of funds for Animal Birth Control to the Animal Welfare Board. Ms. Pinky Anand, learned Additional Solicitor General, shall take instructions and put it in the response which she has to file.

At this juncture, we have been shown certain photographs at the Bar which carries the caption "Kerala Politicians beat street dogs to death, hang them on a pole and take out a parade". These photographs have been handed over across the Bar. A copy of the said news item has been handed over to Mr. V. Giri, learned senior counsel being assisted by Mr. Sasi, learned standing counsel for the State of Kerala. The photographs also contain a photograph where the dogs are lying dead with the caption 'Gils Periappuram posing with the culled dogs'. We do not intend to comment at the same at present. The learned counsel for the State of Kerala shall file the response within three weeks hence. Needless to say, the response shall indicate what action has been taken. The response shall be supported by the affidavit of the Chief Secretary of the State.

Needless to say, it will be an obligation of the State of Kerala to see that the orders passed by this Court are followed scrupulously and there is no public demonstration in the manner in which the photographs depict. Needless to say, we have said this without prejudice to the contentions to be raised of the State of Kerala.

Copies of other IAs shall be served on Mr. Sasi who shall also incorporate the response in the affidavit to be filed.

Mr. Anupam Tripathi, appearing in Writ Petition (C) No.599 of 2015 is at liberty to file an affidavit containing photographs and

reports.

Mr. Krishnan, learned senior counsel submits that he has prepared a summary of module on behalf of the Federation of Indian Animal Protection Organizations (FIAPO). A copy of the same be handed over to Ms. Pinky Anand, learned Additional Solicitor appearing for the Union of India and Ms. Anjali Sharma, learned counsel appearing for the Animal Welfare Board of India.

Let the all the special leave petitions and writ petition 599 of 2015, except writ petition Nos. 805 and 808 of 2015, be listed on 17.11.2016.

Let Writ Petition Nos.805 and 808 of 2015 be listed after six weeks.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master