

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

ORIGINAL SIDE

GA 2325 of 2018
WP 328 of 2018

RAJYASHREE CHAUDHURI

Versus

THE STATE OF WEST BENGAL & ORS.

BEFORE:

The Hon'ble CHIEF JUSTICE JYOTIRMAY BHATTACHARYA

The Hon'ble JUSTICE ARIJIT BANERJEE

Date : 21st August, 2018.

*Mr. Joy Saha, Sr. Adv.
Mr. Bishwarambhar Jha, Adv.
Mr. Meghnad Dutta, Adv. with
Mr. J. D. Roy, Adv.
..for the petitioner
Mr. Kishore Dutta, Id. Adv. General with
Mr. Abhrotosh Majumdar, Addl. Adv. General
Mr. Amitesh Banerjee, Sr. Standing Counsel
Mr. S. Bandopadhyay, Jr. Standing Counsel.
..for State*

The Court : By our order dated 16th August, 2018 we had disposed of WP 328 of 2018 as also WP 24315 (W) of 2015. The present application has been made on behalf of the State of West Bengal, the prayer wherein is for recall of the order dated 16th August, 2018 (as corrected by order dated August 17, 2018).

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At the very outset, Mr. Joy Saha, learned senior counsel appearing for the writ petitioner, takes the point of maintainability of the present application. He submitted that this is neither an application for review nor for modification.

On the prayer of the learned Advocate General, we treat this application as one for modification of the aforesaid order.

By our aforesaid order, we had essentially directed the State to ensure implementation of the provisions of the West Bengal Animal Slaughter Control Act, 1950. We had directed public notices to be issued making the members of the public aware of the restrictions placed on slaughter of animals including cows and buffalos by the said Statute and the consequences that one may face for breach of the provisions of the said Statute.

In the present application in paragraphs 8 and 9 it is stated as follows:

"8. That it is humbly submitted that upon publication of the public notice in the manner and form as directed by this Hon'ble Court in the order dated August 16, 2018. (as corrected by order dated August 17, 2018) it may not be possible for the State Administration to adhere to such directions for the following reasons -

A. Eid-ud-Zoha is observed everywhere in the State, including all blocks within every Sub-division;

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B. Necessary infrastructure to strictly adhere to the provisions of the Act was/is not available with the State Administration;

C. Inadequate number of Veterinary Surgeons and Veterinary Officers in the State;

D. Inadequate number of slaughter houses in the State.

9. That the State Administration would take necessary steps to ensure compliance with the relevant law by the end of next calendar year. Periodically, necessary directions are issued to District Administration for compliance with the provisions contained in the Act. However, it would not be possible to gear up the State Administration to ensure strict compliance with the Provisions of the Act within such a short period. It is also relevant to state that the State Administration has substantially complied with the Provisions of the Act. As and when any complaint is registered the State Administration is committed to investigate into the allegations and prosecute the offenders."

In other words, it is contended on behalf of the State that it does not have the machinery to implement the provisions of the 1950 Act. We are extremely surprised. It is not a new Act. It is an Act which is 68 years old. One could have definitely expected

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that by this time the State would have its machinery in place to implement the provisions of the said Act of 1950, which is a creature of the legislature itself.

However, since the State pleads its inability to immediately implement the provisions of the 1950 Act because of lack of machinery, as stated in the paragraphs extracted above, on the *assurance* given to us by the learned Advocate General on instruction from Sri Swapan Paul, Additional Secretary to the Government of West Bengal, Home Department who is present in Court *to the effect that the State will be in a position to strictly implement the provisions of the 1950 Act before observance of ID-UZ-ZOHA next year*, we modify our aforesaid order by permitting the State to issue public notice in the manner it was done last year. However, two additional things must be mentioned in the said notice. Firstly, slaughter of animals including cows and buffalos in any open public place is strictly prohibited. Secondly, sacrifice of a cow is no part of the festival of ID-UZ-ZOHA and is not a religious requirement under Islam as held by the Supreme Court in the case of Mohd. Hanif Quareshi & Ors. Vs. The State of Bihar.

So far as issuance of public notice for the next year before observance of ID-UZ-ZOHA is concerned, such notice must be in line with the order that we had passed on 16th August, 2018 and must be published at least one month before the observance of the festival of ID-UZ-ZOHA.

The State authorities shall take all necessary steps to ensure that the provisions of 1950 Act are implemented prior to observance of the festival of ID-UZ-ZOHA next year. The State should also ensure that there is no slaughter of animals in any open public place.

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G.A.2325 of 2018 is disposed of.

The order dated 16th August, 2018 (as corrected by order dated August 17, 2018) is recalled to the extent by the said order we had disposed of WP 24315 (W) of 2015. The said application stands resurrected.

All parties concerned are to act on a photostat signed copy of this order on the usual undertakings.

Exd
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Sd/- Jyotirmay Bhattacharya
(JYOTIRMAY BHATTACHARYA, C.J.) (CS)

Sd/- Arijit Banerjee (J)
(ARIJIT BANERJEE, J.)

Shelvi 21/08/2018
Assistant Registrar
High Court, Original Side
Calcutta

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