

MAHARASHTRA ANIMAL PRESERVATION ACT, 1976

Preamble - THE MAHARASHTRA ANIMAL PRESERVATION ACT, 1976

THE MAHARASHTRA ANIMAL PRESERVATION ACT, 1976

[Act No. 9 of 1977]¹

[Ist March, 1997]

PREAMBLE

An Act to provide for the prohibition of slaughter of cows and for the preservation of certain other animals suitable for milch, breeding, draught or agricultural purposes.

PREAMBLE.--

WHEREAS it is expedient to provide for the prohibition of slaughter of cows and for the preservation of certain other animals suitable for milch, breeding, draught or agricultural purposes and to provide for matters connected therewith; It is hereby enacted in the Twenty-seventh Year of the Republic of India as follows :-

NOTES

There were three Acts in the State regulating the slaughter of animals and preservation of useful animals and it was necessary to have one uniform law in the State.

The complete prohibition of the slaughter of cows was in existence in the Vidarbha Region only. With introducing of this Act the complete prohibition of slaughter of cows is covered in the entire State.

- (1) To organize animal husbandry on modern and scientific way,
- (2) To preserve and improve the breeds,
- (3) To prohibit the slaughter of milch, draught, useful and economical animals are the other objects of the Act.--Statement of Objects and Reasons.

1. For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1976, Part V, Extraordinary, dated 6th

December, 1976, p. 679.

Section 1 - Short title, extent, commencement and application

- (1) This Act may be called the Maharashtra Animal Preservation Act, 1976.
- (2) It extends to the whole of the State of Maharashtra.
- (3) It shall come into force on such date ¹ as the State Government may, by notification in the Official Gazette, appoint.
- (4) It shall apply to cows and to scheduled animals.

1. 15th day of April, 1978, vide G. N., A. & C. D., No. SIT-1076/28233/3-ADF, dated 13th April, 1978.

Section 2 - Declaration of State policy

It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in article 48 of the Constitution of India.

Section 3 - Definitions

In this Act, unless the context otherwise requires,-

- (a) "competent authority" means a person or body of persons appointed by the State Government under section 4 to perform the functions of a competent authority under this Act;
- (b) "cow" includes a heifer or male or female calf of a cow;
- (c) "prescribed" means prescribed by rules made under this Act;
- (d) "Schedule" means the Schedule appended to this Act;
- (e) "scheduled animal" means any animal specified in the Schedule; and the State Government may, by notification in the Official Gazette, add to the Schedule any species of animals, after considering the necessity for preservation of that species of animals; and the provisions of sub-section (3) of section 16, in so far as they relate to laying before, and modification by, the State Legislature, shall apply in relation to such notification as they apply to any rule made under that section.

Section 4 - Appointment of competent authority

The State Government may, by notification in the Official Gazette, appoint one or more persons or one or more bodies of persons to perform the function of a competent authority under this Act and specify the areas within which they shall perform such functions.

Section 5 - Prohibition of slaughter of cows

Notwithstanding anything contained in any other law for the time being in force or any usage or custom to the contrary, no person shall slaughter or cause to be slaughtered or offer for slaughter any cow, in any place in the State of Maharashtra.

NOTES

The ban put on slaughter of bulls and bullocks below 16 years (in Gujarat) under clauses (c) and (b) of the Act is not violative of the Constitution.--AIR 1986 Guj. 40.

In Gujarat slaughter of bulls and bullocks below 16 years is banned but no restriction of age in respect of bullocks and other animals. The only restriction is the test whether the animal, male or female is useful or likely to be useful for the purposes of milch or draught or any kind of agricultural operations; if male, where for breeding purposes, if female whether useful for milch or bearing off springs; male buffaloes are seldom used for any other purpose other than breeding or rearing progeny. Therefore, provision is not discriminatory. Haji Usmanbhai Hasanbhai Qureshi v. State of Gujarat, AIR 1986 SC 1213 : 1986 (3) SCC 12 : 1986 Cr. L. R. (SC) 370. (Act amended by Gujarat Animal Preservation Act, 1979.) -

The Maharashtra Animal Preservation Act, 1976 has been brought into force in the State from the 15th of April, 1978. Although the Act is intended to make provision for preservation of certain animals suitable for milch, breeding, draught or agricultural purposes, it does not contain any provisions for maintenance and upkeep of such animals having become or being rendered in course of time not useful for the aforesaid purposes. The animals which are not useful for agricultural purposes become a liability on the farmers who find it difficult to maintain such animals along with other animals which are essential and useful for agricultural purposes. It has, therefore, become necessary to make suitable provisions in the Act itself for aiding and assisting the farmers by Government in maintenance and upkeep of animals that are not useful and suitable for agricultural and other allied purposes.--Statement of Objects and Reasons.

The Maharashtra Animal Preservation Act, 1976 (Mah. IX of 1977), has been brought into force in the State from the 15th April, 1978. The Act totally prohibits in any place in the State, slaughter of cows which also include heifer and male or female calf of cow and provides for preservation of certain other animals specified in the Schedule to the Act, like bulls, bullocks, female buffaloes and buffalo calves. Section 6 of the Act empowers the persons appointed as competent authority under this Act to issue

certificate for slaughter of the scheduled animals, but such certificate is not to be granted if in the opinion of that competent authority, the animal is or is likely to become useful for draught, agricultural operations, breeding, giving milk or bearing offspring.

The economy of the State of Maharashtra is still predominantly agricultural. In the agricultural sector, use of cattle for milch, draught, breeding or agricultural purposes always has great importance. It has, therefore, become necessary to emphasis preservation and protection of agricultural animals like bulls and bullocks. With the growing adoption of non-conventional energy sources like bio-gas plants, even waste material have come to assume considerable value. After the cattle cease to be useful for the purpose of breeding or are too old to do work, they still continue to give dung for fuel, manure and bio-gas and, therefore, they cannot, at any time, be said to be useless. It is well accepted that the backbone of Indian agriculture is, in a manner of speaking, the cow and her progeny and they have, on their back, the whole structure of the Indian agriculture and its economic system.

In order to achieve the above objective and also to ensure effective implementation of the policy of State Government towards securing the directive principles laid down in article 48 of the Constitution of India and in larger public interest, it is considered expedient by the Government of Maharashtra to impose total prohibition of slaughter of also the progeny of cow. Certain other provisions which it is felt by the Government would help in effecting the implementation of such total ban are also being incorporated such as provision for prohibition on the transport, export, sale or purchase of the above category of cattle for slaughter, in regard to entry, search and seizure of the place and vehicles where there is a suspicion of such offences being committed, provision placing the burden of proof on the accused, provision regarding custody of the seized cattle, pending trial with the Goshala or panjarapole or such other Animal Welfare Organizations which are willing to accept such custody and the provision relating to liability for the payment of maintenance of such seized cattle for the period they remained in the custody of any of such charitable organizations by the accused. It is also being provided for enhancement of penalty of imprisonment for certain kind of offences under section 9 of the Act from six months to five years and of fine of one thousand rupees to ten thousand rupees and with a view to curb the tendency towards such offences also making such offences non-bail able so as to serve as deterrent.--Statement of Objects and Reasons.

Section 6 - Restrictions on slaughter of scheduled animals

(1) Not with-standing anything contained in any law for the time being in force or any usage or custom to the contrary, no person shall slaughter or cause to be slaughtered any scheduled animal in any place in the State of Maharashtra, unless he has obtained in respect of such animal a certificate in writing from the competent authority that the animal is fit for slaughter.

(2) No certificate shall be granted under sub-section (1), if in the opinion of the competent

authority,-

(a) the scheduled animal, whether male or female, is or is likely to become economical for the purpose of draught or any kind of agricultural operations;

(b) the scheduled animal, if male, is or is likely to become economical for the purpose of breeding;

(c) the scheduled animal, if female, is or is likely to become economical for the purpose of giving milk or bearing offspring.

(3) The State Government may, on an application by any person aggrieved by an order passed by the competent authority refusing to grant him a certificate, made to it within sixty days from the date of receipt of such order, or at any time suo motu, call for and examine the records of the case for the purpose of satisfying itself as to the legality or propriety of any order passed by the competent authority under this section, and pass such order in reference thereto as it thinks fit.

(4) A certificate under this section shall be granted in such form and upon payment of such fees as may be prescribed.

(5) Subject to the provisions of sub-section (3), any order passed by the competent authority granting or refusing to grant a certificate, and any order passed by the State Government under sub-section (3), shall be final and shall not be called in question in any Court.

NOTES

The Maharashtra Animal Preservation Act was passed in 1977 and was brought into force from April, 1978. Since that time the unrest and concern was felt among the Muslims on the occasions of Bakari-Id, when the animals are slaughtered religiously. The Veterinary Doctors do not pass the animals as fit to be slaughtered unless the animal is either old, sick, lame, blind, crippled or of no use. The very purpose of the religious rite performed by the Muslims on the occasion of Bakari-Id is to slaughter a healthy and young male animal. As the sacrifice has a spiritual and religious aim the restriction imposed by the said Act stands in the way. Often the masses are found to violate the law. The restriction round the year is understandable to prevent indiscriminate slaughter of healthy animals but at the time of Bakari-Id few animals are slaughtered with a spiritual intent. The amendment seeks a concession for the three days of Bakari-Id in respect of male animals and no demand is made to lift the restriction imposed with regard to the female animals.--Statement of Objects and Reasons.

The Maharashtra Animal Preservation Act, 1976 (Mah. IX of 1977), has been brought into force in the State from the 15th April, 1978. The Act totally prohibits in any place in the State, slaughter of cows which also include heifer and male or female calf of cow and provides for preservation of certain other

animals specified in the Schedule to the Act, like bulls, bullocks, female buffaloes and buffalo calves. Section 6 of the Act empowers the persons appointed as competent authority under this Act to issue certificate for slaughter of the scheduled animals, but such certificate is not to be granted if in the opinion of that competent authority the animal is or is likely to become useful for draught, agricultural operations, breeding, giving milk or bearing offspring.

The economy of the State of Maharashtra is still predominantly agricultural. In the agricultural sector, use of cattle for milch, draught, breeding or agricultural purposes always has great importance. It has, therefore, become necessary to emphasize preservation and protection of agricultural animals like bulls and bullocks. With the growing adoption of non-conventional energy sources like bio-gas plants, even waste material have come to assume considerable value. After the cattle cease to be useful for the purpose of breeding or are too old to do work, they still continue to give dung for fuel, manure and bio-gas and, therefore, they cannot, at any time, be said to be useless. It is well established that the backbone of Indian agriculture is, in a manner of speaking, the cow and her progeny and have, on their back, the whole structure of the Indian agriculture and its economic system.

In order to give complete effect to the policy of the State towards securing the Directive Principles laid down in article 48 of the Constitution of India and in larger public interest, it is considered necessary to impose total prohibition on slaughter of progeny of cow also.

It was also been decided to enhance the penalty of imprisonment from six months to two years and of fine from one thousand rupees to two thousand rupees prescribed in section 9 of the Act for making it deterrent with a view to curb the offences under the Act.--Statement of Objects and Reasons.

Restriction on the slaughter of the schedule animals :- A writ petition was filed by Krushi Goseva Sangh, Malegaon, a special organization and another in a writ of mandamus directing respondent No. 1, State of Maharashtra to frame a scheme for effective implementation of the provisions of the Maharashtra Animal Preservation Act, 1976. A further direction is also sought for making arrangement for preservation and maintenance of animals during the pendency of the trial through social organizations, like the petitioner No. 1, Krushi Goseva Sangh, Malegaon, Ejaz Ahmed Kallu alias Jhinka, Abdul Bari and Subhan Khan, who claim to be traders, dealing in the business of sale and purchase of cattle at Malegaon, made applications for the intervention.

Thus the case of the petitioner that at Malegaon and several other places in Nasik District, flagrant breaches of the provisions of the sections 6 and 7 of the Maharashtra Animal Preservation Act, 1976 are being committed and no action is being taken by the authorities concerned, thereby making the very provisions of the Act nugatory.

While considering the contentions of the petitioner Division Bench of the High Court felt that it is no doubt true that no provision is made in the Act about the custody and disposal of the property pending

the trial. The contention referred by the respondent is that recourse could be taken to section 451 of the Criminal Procedure Code for seeking a direction from the competent Court of Law for the custody and disposal of the property pending trial. The competent Court is expected to pass an order, which will be in tune with the object of the legislation. The order cannot be passed which will defeat the very object of the Act. The order should be for preservation and protection of the cow or schedule animals and not for slaughter or destruction. The High Court, further held that while passing the interim order, Court should bear in mind observations made and the law laid down by the Division Bench of the Court in Criminal Writ Petition made by Ejaz Ahmed Kallu alias Jhinka and others v. State of Maharashtra, Criminal Writ Petition No. 714 of 1981 dated 12.8.1986. Obviously no order can be passed in that behalf without following the principles of natural justice and without giving an opportunity of being heard to both the sides.

Section 11 (d) and (e) of the Maharashtra Animal Preservation Act lays down, that if any person conveys or carries, whether in or upon any vehicle, any animal in such a manner or position as to subject it to unnecessary pain or suffering or keeps or confines the animals in any cage or other receptacle, which does not measure sufficient in height, length and breadth to permit the animal a reasonable opportunity for movement etc. shall be punished under the said Act. The High Court suggested the State Government to make a similar provision in the Animal Preservation Act so also to make it more effective so as to achieve the object of the legislation. The High Court referred the case of Haji Usmanbhai Hasanbhai Qureshi and others v. State of Gujarat, AIR 1986 SC 1213 that because of various hygienical features, viz. better cattle feed, better medical health and husbandry services, the longevity of the cattle in the State of Gujarat has increased. The cattle is not a liability but an asset. The Court further drew the attention of the State Government towards the order passed by the High Court, in 1981, in the case of Tulsidasbhai Vishram and another v. State of Maharashtra and others, Writ Petition No. 1403 of 1981. The High Court asked the State Government to look into this matter and to appoint a Committee and also to suggest ways and means to implement the Act, and also make necessary amendment to the Act.--Krushi Goseva and another v. State of Maharashtra and others, 1987 (3)

Bom. C. R. 713 : 1988 Mah. L. J. 293. In the same case the High Court passed its verdict in 1998 that, the contention in the writ petition that the orders for interim custody cannot be challenged in the writ petition.--See 1998 Bom. C. R. (Cri.) 230.

Section 7 - Scheduled animals to be slaughtered at specified places only

No scheduled animal in respect of which a certificate has been issued under section 6 shall be slaughtered in any place other than a place specified by such authority or officer as the State Government may appoint in that behalf.

Section 8 - Power to enter and inspect places

(1) For the purposes of this Act, the competent authority or any person authorized in writing in that behalf by the competent authority (hereinafter in this section referred to as "the authorized person") shall have power to enter and inspect any place where the competent authority or the authorized person has reason to believe that an offence under this Act has been, or is likely to be, committed.

(2) Every person in occupation of any such place shall allow the competent authority or the authorized person such access to that place as may be necessary for the aforesaid purpose and shall answer to the best of his knowledge and belief any question put to him by the competent authority or the authorized person.

Section 9 - Penalties

Whoever contravenes any of the provisions of this Act shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Section 10 - Offences under Act to be cognizable

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act shall be cognizable.

Section 11 - Abetments and attempts

Whoever abets any offence punishable under this Act or attempts to commit any such offence shall be deemed to have committed that offence and shall, on conviction, be punished with the punishment provided for such offence under section 9.

NOTES

The charge issued under sections 5 and 11.--

The petitioners had purchased six bullocks from the market area of Panchavati and that the police prohibited them on the road on suspicion that they were taking the bullocks for purposes of slaughtering them. The petitioners explained to the police that the bullocks have been purchased for agricultural purposes but that the police refused to accept their contention. Animals were seized under the panchanama and the police also recorded the statements of certain persons who were present there. The petitioners were charge-sheeted under the provisions of sections 5 and 11 of the Maharashtra Animal Preservation Act, 1976. Taking into

account the High Court justified the special facts and circumstances on the basis of which the Court concluded that the prosecution is liable to be quashed for the reason that the material placed before the Trial Court is of such a nature that it would not result in conviction and subsequently, the continuance with the prosecution would be unjustified. In the case of *Madhavrao Jiwaji Rao Scindia and another v. Sambhajirao Chandrojirao Angre*, AIR 1988 SC 709, it was held by the Supreme Court that legal position is well settled with when the prosecution at the initial stage is asked to be quashed, the test to be applied by the Court is as to whether the uncontroverted allegations as made prima facie established the offence. It is also for the Court to take into consideration any special facts which appear in a particular case to consider whether it is experienced and in the interest of justice to permit the prosecution to continue. The Court may while taking into consideration the special facts of the case also quash the proceeding even though it may be at the preliminary stage.

The High Court quashed the order for the reasons that the material placed before the Trial Court was of such a nature that it would not result in a conviction and consequently, the continuance with the prosecution would be unjustified. There being no ground whatsoever on the material placed before the Court, to the proceedings under sections 5 and 11 of the Act, the prosecution was unjustified. -*Shaikh Ahmed Hussain and another v. State of Maharashtra*, 1991 Mah. L. J. 77 : 1991 (2) Bom. C. R. 392.

Section 12 - Persons exercising powers under this Act deemed to be public servants

All persons exercising powers under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Section 13 - Protection of persons acting in good faith under Act or Rules

No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules made there under.

Section 14 - Exemptions under this Act

Subject to any conditions prescribed in this behalf, this Act shall not apply to,-

- (a) any animal (other than cow) operated upon for vaccine, lymph or serum at any institution established, conducted or recognized by the State Government;
- (b) any animal (other than cow) operated upon for any experimental or research purposes at the institution referred to in clause (a);

(c) any animal (other than cow) or class thereof,-

(i) slaughter of which is certified by a veterinary surgeon authorized in this behalf by the State Government to be necessary in the interest of the public health;

(ii) which are suffering from any disease which is certified by such veterinary surgeon as being contagious and dangerous to other animals:

Provided that, no animal referred to in this section shall be slaughtered or cause to be slaughtered unless an authority in writing for such slaughter has been obtained from the competent authority.

Section 15 - Delegation of powers

The State Government may, by notification in the Official Gazette, delegate, -

(a) to any local authority, its powers and functions under section 4 within the local area subject to the jurisdiction of such local authority;

(b) to any officer of the State Government, its powers and function under sub-section (3) of section 6.

Section 16 - Power to make rules

(1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for,-

(a) the form of the certificate under section 6;

(b) the amount of the fee to be paid for such certificate;

(c) the conditions subject to which this Act shall not apply to any scheduled animal under section 14;

(d) any other matter which is or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making

any modification in the rule or both Houses agree that the rule should not be made, the rule shall, from the date of publication of notification in the Official Gazette of such decision have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Section 17 - Repeal and savings

On the commencement of this Act, the following Acts, that is to say,-

- (1) the Bombay Animal Preservation Act, 1948,
- (2) the Bombay Animal Preservation Act, 1954,
- (3) the Central Provinces and Berar Animal Preservation Act, 1949, and
- (4) the Hyderabad (Slaughter of Animals) Act, 1950, shall stand repealed:

Provided that, such repeal shall not affect, -

- (a) the previous operation of any Act so repealed, or anything duly done or suffered there under;
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under any Act so repealed;
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any Act so repealed;
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed :

Provided further that, subject to the preceding proviso, anything done or any action taken (including notifications, orders or certificates issued, appointments or rules made) under any Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue in force in the respective area accordingly, unless and until superseded by anything done or any action

taken under this Act.

Schedule - SCHEDULE

SCHEDULE

[Section 3 (e)]

Bovines (Bulls, Bullocks, Female Buffaloes and Buffalo Calves). ¹[Ovines (Sheeps) and Caprines (Goats)].

1. These words were added by Notification No. SLT. 1000-CR-51(B)/ ADF-3, dated 18th September, 2000 (M.G.G., Pt. IV-B, dated 21.2.2002, p. 30).
