

Cattle traders move SC against 2017 rules

August 1, 2019

Source: *The Hindu*

Manifest pedagogy

This particular article throws light on a tangential topic in Polity- Delegated legislation and its role in a Parliamentary Democracy. More importantly it describes limitations !

In news

Cattle traders have approached SC against rules notified in 2017.

Placing it in syllabus

Indian Polity : The executive

Static dimensions

Provisions under the livestock rules and its criticisms

Draft Prevention of Cruelty to Animals in Animal Markets Rules, 2018

Current dimensions

Present issue

Ban on cow slaughter and distress in rural India

Content

Current issue

An association of cattle traders and transporters has approached the Supreme Court (SC) against Prevention of Cruelty

to Animals (Care and Maintenance of Case Property Animals) Rules, 2017, which is being used as a tool to seize and forfeit their cattle. A SC Bench has ordered the government to respond to the petition by the Buffalo Traders Welfare Association on threats faced by them as they were being forcibly deprived of their cattle, which are then sent to gaushalas.

The traders have told the court that the seizure and forfeiture of their livestock, a means of livelihood for many families, was happening on the strength of the 2017 rules against animal cruelty and cattle slaughter. The rules' existence had emboldened "anti-social elements" to take matters into their own hands and loot cattle traders. It had become a cause for polarisation of society which would have disastrous consequences on the social fabric of the country.

Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 notified on May 23, 2017 were framed under the Prevention of Cruelty to Animals Act, 1960. The association has said that the 2017 rules have travelled beyond the boundaries of the 1960 Act.

Provisions under Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 and criticisms

In Gauri Maulekhi versus Union of India and others case, the Apex Court passed an order dated 13th July, 2015 to frame guidelines to prevent animals from the being smuggled out of India for the Gadhimai Festival held in Nepal where large scale animals sacrifices took place. The Supreme Court had constituted a Committee under the Chairmanship of DG, Sahastra Seema Bal (SSB) and some suggestions were made by them, including measures to curb trans-boundary smuggling of cattle.

In July, 2016 the SC by the way of a final order directed the Ministry of Environment to frame rules under Section 38 of the

Prevention of Cruelty to Animals, 1960. The Animal Welfare Board of India prepared the draft rules incorporating all the suggestions made by the SC. After inviting objections and suggestions the rules were finally notified on 23rd May, 2017

- The notified rules will remove the scope of illegal sale and smuggling of the cattle which is a major concern.
- The specific provisions apply only to animals which are bought and sold in the notified live stock markets and animals that are seized as case properties. These rules do not cover other areas.
- The 2017 rules allow a magistrate to forfeit the cattle of an owner facing trial under the Prevention of Cruelty to Animals Act (PCA Act). The animals are then sent to infirmaries, gaushalas, pinjarapole, etc. The authorities can further give such animals for "adoption". ((In short, a farmer or a traders loses his cattle even before he is adjudged guilty of cruelty under the 1960 Act.))
- **The sale of all types of cattle, including buffaloes, and camels for slaughter via animal markets is not allowed**
- **The rules do not prevent the dairy industry from continuing to supply animals to the beef industry.**

Under Section 29 of the PCA Act, 1960, private cattle can be forfeited only after the owner is convicted and had faced a previous conviction. The Act says that an animal should be admitted to a shelter, etc., only if it is injured and requires treatment. The animal has to be returned to the owner after treatment. Section 38A of the PCA Act required any rule made under the 1960 Act to be laid before the Parliament. 2017 rules diluted these provisions of the parent act and the rules made were not placed before the parliament.

When The Prevention Of Cruelty To Animal (Regulation Of Live Stocks, Markets) Rules, 2017 and The Prevention of Cruelty to Animals (Care Maintenance of Case Property animals) Rules,

2017 were first challenged before the Supreme Court, the central government had stated that it was in the process of reconsidering the rules and amended rules would be re-notified. The matter was thus disposed of by the Supreme Court. But, there has been no notification of any amended rules.

The Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017, had kicked up a political storm after it banned sale of cattle for slaughter in animal markets. The 2017 rules notified on May 23, 2017, have been replaced with **draft rules called Prevention of Cruelty to Animals in Animal Markets Rules, 2018**

- The 2017 rules had notified a ban on sale of cattle for slaughter. The ministry of environment, forest and climate change has now removed the word 'slaughter' from the draft rules.
- The 2017 rules on 'restriction on sale of cattle' clearly stated that no person would bring an animal to the market for slaughter. The only line that has been retained from this clause is "no unfit animal or young animal shall be sold in an animal market."
- Another clause which required a certification that the 'animal on sale was not for slaughter' too has been dropped.
- The new rules provide for constitution of prevention of cruelty to animals committee which would certify new animal markets, maintain record of animal sales and ensure good living conditions in markets.
- The 2017 rules had "additional precaution to be taken regarding animal markets in border area" which banned animal markets within 25 km from any state border or 50 km from international border. However, the new rules have diluted the provision to make only transport of animals across the border an offence.
- Any committee which has an international border in its

jurisdictional area shall ensure that no animal market in its jurisdiction is the source of transport of animals across any international border except in accordance with the Transport of Animals Rules 1978 and the Prevention of Cruelty to Animals (Transport of Animals on Foot) Rules 2001.

Animal rights activists have criticised the new draft rules as checks introduced in the 2017 rules on animal cruelty have been watered down. There is no mention of inter-state trade of cattle. One of the main reasons for framing 2017 rules was the Supreme Court order to prevent illegal trade of cattle and cruel sacrifice of animals in Gadhimai festival. But the new rules seems weak and far from achieving this objective.

Ban on cow slaughter and distress in rural India

An extraordinary situation is prevailing in rural India with regard to livestock. With many parts experiencing agrarian distress, farmers are under financial stress. Adding to this, the ban on cattle slaughter in several states, combined with the lethal vigilantism of cow protection gangs, have meant a complete collapse of the market for cattle, and in turn, their commercial value. This has resulted in farmers abandoning their cattle in droves, giving rise to a massive stray cattle problem that has hit headlines in recent weeks. In UP, instances of people locking up cows and bulls in school and hospital buildings have been reported.

The problem of stray cattle, wandering into fields, attacking children or older people and sometimes dying and rotting on the street side, is not only restricted to UP but also happening in Rajasthan, Madhya Pradesh and Maharashtra – states that have virtually banned slaughter and sale of cattle. Vigilante activism and lynching of people in the name of cow protection has also made dairy farming risky, and spoilt the economics of owning a cow as an alternative farm income source.

With the fear of vigilantism, the cattle trader who would collect cattle from farmers and take them to markets has disappeared. As a result, even the markets are vanishing. Much of the unproductive cattle from UP would earlier be sent over to West Bengal, the nearest state that permits cattle slaughter. Some would also be smuggled over to Bangladesh. Markets in West Bengal have seen a drop in supplies. As a result the market for productive cows has also collapsed.

The drop in milk prices coupled with the restrictions on cow trade have made dairy farming unviable. The mechanisation of agriculture has reduced the utility of the male animal, which used to do the job of tractor, thresher, fertiliser producer and transporter.

However, the Maharashtra government has tried different models to solve the stray cattle problem. One of the ideas floated is that of a Cow Club, where farmers can keep all their cows. The dairy sector in Maharashtra operates through cooperatives – farmers keep cows at home and sell the milk through the cooperatives. The cow club model envisages farmers leaving all their cows at the club, and getting paid for the milk. The club will use the milk, create value-added products such as curd and paneer, and invest in brand-building. The model also envisages use of cow urine and dung for a biogas power plant. Apart from Cow Club, the state has also started a new scheme called Govardhan Goshalas or Cow Hostels.