

Supreme Court order on Confiscation of animals

January 5, 2021

In news

Recently, the Supreme Court ordered the Union government to change the rules on confiscation of animals

What did the Apex Court say?

The court said that a provision in the 2017 rule notified by the Centre, allowing the confiscation of the animals of traders and transporters during the pendency of trials in cases under The Prevention of Cruelty to Animals Act, 1960, is contrary to the latter's provisions which allow such confiscation only in case of conviction. The Apex Court asked the government to either change the rule or face a stay from the court.

Chief Justice S A Bobde observed while hearing a plea by the Buffalo Traders Welfare Association that "Animals are a source of livelihood. We are not talking about pet dogs and cats. People live on the basis of their animals. You can't confiscate them and keep them before the man is convicted. Your rules are contrary. You either change it or we will stay it,"

Chief Justice was hearing the plea which challenged the constitutional validity of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 and Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017.

The 2017 rules allow a magistrate to forfeit the cattle of an owner facing trial under the Act and send them to infirmaries, gaushalas etc.

The SC bench also pointed out that Section 29 of the Act says that a person tried for an offence under the Act can be deprived of the ownership of the animal only upon conviction.

What does Section 29 of the act say?

Section 29, which deals with the “power of the court to deprive person convicted of ownership of animal”, in clause (1) says that “if the owner of any animal is found guilty of any offence under this Act, the court, upon his conviction thereof, may, if it thinks fit, in addition to any other punishment, make an order that the animal with respect to which the offence was committed shall be forfeited to Government and may, further, make such order as to the disposal of the animal as it thinks fit under the circumstances”.

What does the petition say?

According to petitioners the Rules were being used to forcibly deprive even legitimate owners of their cattle and that it had emboldened “anti-social elements” to take matters into their own hands and loot cattle trader. Such incidents act as “triggers for communal polarisation of society

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.

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**