

\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Date of Decision: 24th June, 2021

I.A. No. 4164/2021

In

+ CS(OS) 277/2020

DR. MAYA D. CHABLANI Plaintiff

Through: Mr. Abhishek Gusain and
Mr. Sam C. Mathew,
Advocates

versus

RADHA MITTAL & ORS. Defendants

Through: Mr. D.K. Pandey and
Mr. Deepak Kumar,
Advocates for defendants
No.1 and 3
Mr. Pragyan Sharma,
Advocate as Amicus Curiae
Ms. Nandita Rao, ASC for
GNCTD
Ms. Manisha T. Karia,
Ms. Sukhdha Kalra,
Mr. Adarsh Kumar and
Ms. Nidhi Nagpal, Advocates
for Animal Welfare Board of
India

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T

1. The plaintiff has filed I.A. No. 4164/2021 to restrain defendant No.1 from feeding the stray dogs near the entrance/exit of the suit property. However, the dispute between the parties relating

to the feeding of the stray dogs has been amicably resolved with the assistance of Mr. Pragyan Sharma, learned Amicus Curiae and Ms. Manisha T. Karia, learned counsel for Animal Welfare Board of India. The settlement between the parties on this issue has been recorded in the order dated 05th May, 2021, according to which, defendant No.1 agreed to feed the stray dogs at point A at fixed times. Relevant portion of the order dated 05th May, 2021 is reproduced hereunder:

“I.A. No. 4164/2021

4. Learned counsels for both the parties submit that the parties have resolved their differences with respect to prayer (b) with the assistance of Mr. Pragyan Sharma, learned Amicus Curiae and Ms. Manisha T. Karia, learned counsel for the Animal Welfare Board of India (AWBI). It is submitted that the parties have agreed to the following terms:-

i. The plaintiff is aggrieved with the feeding of stray dogs by defendant No.1 inside the subject property No. A-1/136, Ground Floor, Inderpuri, New Delhi.

ii. Defendant No.1 disputes that she has fed the stray dogs inside the subject property. It is submitted that defendant No.1 feeds the stray dogs at a distance from the subject property. However, defendant No.1 agrees not to feed any stray dogs inside the subject property bearing No. A-1/136, Inderpuri, New Delhi.

iii. Defendant No.1 agrees to feed the stray dogs at point ‘A’ marked on the Site Plan handed over by learned counsels for both the parties. Defendant No.1 further agrees to feed the stray dogs at point ‘A’ in the morning from 06:00 AM to 08:00 AM and in the evening between 07:00 PM to 10:00 PM.

iv. The plaintiff is agreeable to above terms and has no objection to defendant No.1 feeding the stray dogs at point ‘A’ marked on the site plan.

5. *The settlement between the parties is lawful and is recorded.*”

2. Mr. Pragyan Sharma, learned amicus curiae, Ms. Manisha T. Karia, learned counsel for Animal Welfare Board of India, Ms. Nandita Rao, learned Additional Standing Counsel for GNCTD and learned counsels for both the parties urged before this Court to lay down the guidelines with respect to feeding of stray dogs.

3. Mr. Pragyan Sharma, learned amicus curiae has done extensive research on the subject and has filed very comprehensive written submissions before this Court. Ms. Manisha T. Karia, learned counsel for Animal Welfare Board of India and Ms. Nandita Rao, learned Additional Standing Counsel for GNCTD have also filed written submissions. The written submissions filed by the learned counsels have been considered by this Court.

Submissions of Mr. Pragyan Sharma, Advocate as Amicus Curiae

4. Feeding of animals has from times immemorial been considered as a good deed in all religions. Feeding animals including dogs find mention in the *Vedas* and *Purans* and was considered as a resource to absolve the sins of a person. Dogs have been referred to as ‘*Shvan*’ in many Vedic verses and have a deep meaning in Hindu mythology.

5. Dogs are the most protective and loyal species in the world and they live within their own packs and territory. Dogs are considered to be immensely intelligent beings. The survival instincts of dogs are supreme. Their loyalty towards the humans is also due to the awareness that they depend on humans for protection. The dogs

with proper training can be hunters, watchdogs, property protectors or personal guardians. Once domesticated they consider humans as their family and consider them as their pack, therefore, they tend to protect humans in case of any threats.

6. There is a thin line between dog protection and dog aggression. A protective dog will become alert to unfamiliar surroundings or new people but at the same time they will also remain calm and in control. The aggressive nature of the dog is triggered only when the dog feels threatened or senses their owner's fear. However, aggression of a dog is many a times misidentified by owners as protection or over-protectiveness. Internally, this mode is totally different and rooted in a dog's own insecurities and fears.

7. Dogs are highly versatile in nature and play a very important role in the society. Some of these roles are enumerated below:

(i) Service Dogs: Service dogs are specially trained dogs who help physically challenged as well as people with mental illness to live their lives with ease, safety, comfort and confidence. For example, a service dog helps a blind person to move from one place to another. Similarly, a service dog will assist those with stress, anxiety or depression.

(ii) Therapy Dogs: Number of therapists these days use a therapy called dog therapy. Dogs are a source of happiness, therefore, anyone who is facing depression is encouraged to keep a dog to keep them entertained or cheerful. Many countries encourage dogs to visit places like hospitals, old age homes and orphanages to spread joy and happiness.

(iii) Rescue Dogs: In many cases police uses dogs to rescue people. Such trained dogs are known as rescue dogs and they help police in desperate situations, where immediate action is required and human senses fail. Dogs tend to have very strong instincts and if trained well can be a great asset to police as well as other rescue teams.

(iv) Hunting Dogs: Hunting dogs support hunters in tracking, finding and retrieving game. Watch dogs and guard dogs help to protect public or private property.

(v) Tracking Dogs: Tracking dogs aid in finding lost animals and people or help finding suspected criminals.

(vi) Cadaver Dogs: Human Remains Detection Dogs or Cadaver dogs use their scenting ability to discover human remains or bodies at the scenes of crimes, disasters, suicides or accidents.

(vii) Detection Dogs: Detection dogs provide assistance to detect illegal substances in luggage, explosives, chemicals and many other substances.

(viii) Police Dogs: Police dogs are trained vigorously to track or immobilize criminals while assisting police officers in making arrests or investigating the scene of a crime.

(ix) Cancer Detection Dogs: Cancer detection dogs can detect certain types of cancer by sniffing the patients.

8. Till 1890, the Municipal Laws enacted across British India did not provide anything specific relating to feeding of animals. The Britishers enacted *India Prevention of Cruelty to Animals Act, 1890* which prohibited cruelty to the animals and brought in force certain

regulations and provisions dealing with animals. The Act protected animals from any sort of pain and suffering inflicted on the innocent beings. One of the consequences of the *India Prevention of Cruelty to Animals Act, 1890* was that it increased the demand for animal shelters for rescued animals.

9. After independence, the legislature introduced a number of measures with regards to animal welfare to ensure that non-human beings too live a life with dignity and to protect and secure the well-being of animals.

The Constitution of India protects and preserves animals rights

10. Article 48A of the Constitution declares that it is the duty of the state to protect and make all endeavours to safeguard the forests and wildlife.

11. Part IVA of the Constitution declares Fundamental Duties of every citizen of India, and one such duty imposed under Article 51A(g) is to protect and improve the natural environment. It is stated that the words “and to have compassion for living creature” of the said Article are very wide and important as it lays down the duty on every citizen to show kindness and love towards such non-vocal beings.

12. Article 21 lays down the Right to Life and states that no person shall be deprived of his life or personal liberty except according to procedure established by law. The Article has been characterized as the “*procedural magna carta protective of life and liberty.*” The said Article not only protects the life of human beings but also protects the life of animals.

13. The Constitution of India also imposes a power on the Parliament and the Legislatures of states under Article 246 read with Seventh Schedule of the Constitution to make laws for the prevention of cruelty to animals and for the protection of wild animals and birds.

14. Article 243W read with Twelfth Schedule of the Constitution, provides provisions for the Municipalities to make laws for cattle pounds and for the prevention of cruelty to animals.

Prevention of Cruelty to Animals Act, 1960

15. After independence, a private Bill was introduced in the House by Rukmini Devi Arundale namely the “*Prevention of Cruelty to Animals Bill, 1953*”. Although the private Bill could not be passed, the Bill found support by the then Prime Minister Late Jawahar Lal Nehru, the Government assured that a Committee would be appointed to look into the issues raised. The Committee was appointed thereafter which submitted its report on the basis of which *Prevention of Cruelty to Animals Bill* was introduced in Parliament on 12th December, 1960. The Minister for Food and Agriculture while introducing the Bill stated the following:

“At the outset, I may say I do, not claim that this is an ideal Bill. After 70 years, we are making an attempt for the first time to put on the statute at least something that will ultimately lead us on to the ideal Bill, after some years of experience.”

16. The Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as the ‘PCA Act’) was enacted with the view to ensure that the animals are treated without cruelty and nobody inflicts

unnecessary pain and suffering on these innocent beings.

17. The basic concept for enactment of the Act is dignity, which means that human beings are dignified only when animals are treated without cruelty. It is therefore within human self-interest to treat animals with kindness. It is the status of the animal in relation to human beings which is the key for enactment of the said law. Reference is made to Sections 3 and 11 of the PCA Act.

Notifications/Guidelines regarding feeding of stray dogs

18. Section 4 of the PCA Act established the *Animal Welfare Board of India* (hereinafter referred to as the 'AWBI') for the promotion of animal welfare generally and for the purpose of protecting animals from being subjected to unnecessary pain or suffering. AWBI, under Section 17 of the PCA Act, can make Rules for preventing animals from any harm or injury. There are various Notifications which are published by AWBI in regard to stray dogs and protection of such innocent beings.

19. The Ministry of Personnel, vide Notification dated 26th May, 2006, issued guidelines to prevent cruelty to animals. The said Notification was issued for dissuading animal cruelty and to allow animal lovers to feed the stray animals.

20. In view of the directions issued in the order dated 18th December 2009 of this Court in W.P.(CrI.) 467/2009 titled ***Citizens for the Welfare and Protection of Animals v. State.***, AWBI issued a Notification dated 27th January, 2010, wherein various guidelines for feeding of stray dogs were issued.

21. Vide Notification dated 26th February, 2015, the Animal

Welfare Board of India once again issued Guidelines in relation to feeding of stray dogs. The said Guidelines enumerated the manner in which stray dogs had to be fed by their care takers: (i) The caregivers of stray dogs, should follow hygienic feeding techniques when feeding strays in public and ensuring that strays are not fed in the vicinity of children's playgrounds and (ii) feeding should be away from heavily residential areas.

22. AWBI vide Notification dated 25th August, 2015 issued guidelines with respect to harassment of citizen showing compassion towards other living creatures. The Board was of the view that there had been various reports where citizens showing compassion towards the living creatures were harassed and tortured by their neighbours. The AWBI in the said Notification took into account Article 51A(g) and also reiterated the case of *Animal Welfare Board of India v. A. Nagaraja*, (2014) 7 SCC 547. The AWBI issued further Guidelines dated 15th November, 2016, for allowing pet dogs in public parks.

23. During the COVID-19 pandemic, the AWBI by a letter bearing No 9-16/2019- 20/PCA dated 24th March, 2020 requested the law enforcement agencies to ensure evacuation of animals stranded in pet shops and other commercial pet trade establishments which were likely to die without food, water, etc. and State Animal Welfare Board (SAWB) were asked to evacuate such animals with the help of Society for Prevention of Cruelty to Animals (SPCA) and local administration. AWBI also issued a Notification dated 01st May 2020 under the Prevention of Cruelty to Animals (Dog Breeding and

Marketing) Rules, 2017 and Prevention of Cruelty to Animals (Pet Shop) Rules, 2018.

24. Recently, in view of the order dated 24th February, 2021 passed by this Court in W.P.(C) 2556/2021 titled *Urvashi Vashist v. Residents Welfare Association*, AWBI issued a Notification dated 03rd March, 2021 to identify sufficient number of feeding spots for stray dogs in every district and to properly implement the AWBI Revised Guidelines on Pet and Street Dogs dated 26th February, 2015.

Case Law on Relevant Provisions of Constitution and Prevention of Cruelty to Animals Act, 1960

25. The provisions of the Constitution and the Prevent of Cruelty to Animals Act, 1960 have come up for consideration by the Supreme Court and several High Courts. Reference is made to *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat*, (2005) 8 SCC 534; *Animal Welfare Board of India v. A. Nagaraja*, (2014) 7 SCC 547; *Animal Welfare Board of India v. People for Elimination of Stray*, (2016) 10 SCC 684; *People For Animals v. Md Mohazzim*, 2015 SCC OnLine Delhi 9508; *Narayan Dutt Bhatt v. Union Of India And Others*, 2018 SCC Online Utt 645 and *Re Effective Implementation of Prevention of Cruelty to Animal Act, 1960 and its Rules v. The State Government through its Chief Secretary*, (2018) SCC OnLine Mani 79.

International Laws on Animal Welfare

26. Protection of animals has been guaranteed by the Constitution

of Germany by way of an Amendment in 2002 when the words “*and the animals*” were added to the constitution that obliges “*State*” to respect “*animal dignity*”. Therefore, the dignity of the animals is constitutionally recognised Germany. German Animal Welfare Law, especially Article 3 provides far-reaching protections to animals including *inter alia* protecting animals from any animal fights and other activities which may result in the pain, suffering and harm for the animals. Countries like Switzerland, Austria, Slovenia have enacted legislations to include animal welfare in their national Constitutions so as to balance the animal owners' fundamental rights to property and the animals' interest in freedom from unnecessary suffering or pain, damage and fear.

27. The Animals Welfare Act of 2006 (UK) also confers considerable protection to the animals from pain and suffering. The Austrian Federal Animal Protection Act also recognises man's responsibilities towards his fellow creatures and the subject “Federal Act” aims at the protection of life and well-being of the animals. The Animal Welfare Act, 2010 (Norway) states:

“3. General requirement regarding the treatment of animals - Animals have an intrinsic value which is irrespective of the usable value they may have for man. Animals shall be treated well and be protected from the danger of unnecessary stress and strains.”

28. *World Organisation for Animal Health*, is an intergovernmental organization established to gather and disseminate information about animal diseases around the world and to create

health standards to protect international trade in animals and their products. It was founded in 1924 as the Office International des Epizooties (OIE). The organization adopted its English-language name in 2003, but it retained the well-recognized abbreviation of its original name. Its headquarters are in Paris. Chapter 7.1.2 of the Guidelines of OIE, recognises five internationally recognised freedoms for animals, which are:

- (i) Freedom from hunger, thirst and malnutrition;
- (ii) Freedom from fear and distress;
- (iii) Freedom from physical and thermal discomfort;
- (iv) Freedom from pain, injury and disease; and
- (v) Freedom to express normal patterns of behaviour.

29. Food and Agricultural Organisation (FAO) while enacting the “*Legislative and Regulatory Options for Animal Welfare*” indicated the five freedoms given under the OIE. The said five freedoms were also a part of the Farm Welfare Council 2009 UK and is also called “Brambell’s Five Freedoms”.

Suggestions of Mr. Pragyam Sharma, Advocate as Amicus Curiae

30. Every person has a right to show compassion, love and affection towards animals in any form whatsoever including feeding of street or stray dogs and this is a right guaranteed to every person under law and should be encouraged. This inherent or natural right of a person to love or show kindness or feed animals cannot be restricted so long and till such time the said acts does not cause any harm, hinderance, harassment and nuisance to other individuals or members of the society.

31. Animals too have a right to be treated with compassion, respect and dignity. In fact, it is the responsibility of State, all authorities and bodies including each and every citizen to ensure protection of animals against pain and suffering - ensure (a) freedom from hunger, thirst and malnutrition; (b) freedom from fear and distress; (c) freedom from physical or thermal discomfort; (d) freedom from pain, injury and disease; and (e) freedom to express normal patterns of behaviour.

32. Community dogs (stray or street dogs) have the right to food and citizens have the right to feed community dogs but in exercising this right, care and caution should be taken to ensure that it does not impinge upon the rights of others or cause any harm, hinderance, harassment and nuisance to other individuals or members of the society.

33. Feeding of the community dogs has to be done at '*designated areas*' to by the AWBI in consultation with Resident Welfare Associations or Municipal Corporation (in case RWA is not available). While determining the '*designated area*' the AWBI and RWA/Municipal Corporations have to be conscious of the fact that every community dog is a territorial being and therefore, community dogs must be fed and tended to at places within their territory. It is the duty of the AWBI and the RWAs to ensure and keep in mind the fact that community dogs live in '*packs*' and care should be taken by the AWBI and RWAs to see that each '*pack*' ideally has different designated areas for feeding, even if that means designating multiple areas in a locality.

34. AWBI and Resident Welfare Associations or Municipal Corporation (in case RWA is not available) while determining the ‘*designated areas*’ shall ensure that the said areas so designated, are not frequented, or less frequented, and sparingly used by the general public and residents. This criterion shall however not be used as an excuse by the Resident Welfare Associations or Municipal Corporation (in case RWA is not available) to avoid demarcating certain areas as ‘*designated areas*’ when there exists a demand or need for such demarcation. In such case, the decision of the AWBI shall be final and binding on the RWA or the Municipal Corporation, as the case may be.

35. AWBI and Resident Welfare Associations or Municipal Corporation (in case RWA is not available) while determining the ‘*designated areas*’ – shall also determine ‘suitable time’ for caregivers or feeder to feed the community dogs which may ensure least inconvenience to the residents of the area. The ‘suitable time’ shall be in two slots – one in the morning and one in the evening or night for a minimum of 2 hours each.

36. It shall be the duty and responsibility of the RWA or Municipal Corporation and all Government authorities including law enforcement authorities like Police to provide all assistance and ensure that no hinderance is caused to the caregivers or feeders of community dogs. It shall be the duty and responsibility of the Government officers particularly the jurisdictional SHO to ensure that peace and harmony is maintained amongst the residents, caregivers and community dog feeders. The SHO, shall be duly bound

and ensure registration of appropriate proceedings under law on receiving any information of any violation or in case any RWA or any resident of any colony tries or seeks to restrain or harass any care-giver or community dog feeder from feeding community dogs in the manner specified.

37. The Government of India (Ministry of Personal, Public Grievances and Pensions, Department of Personal and Training) by Office Memorandum dated 26th May, 2006 indicated that *“the Govt. servant who indulges in act of cruelty to animals will be making himself liable for action under Prevention of Cruelty to Animals Act. Besides, punishment under the Act, he would also make himself liable for action under CCS(Conduct) Rules for conduct unbecoming of a Govt. servant”*. The said Office Memorandum also added that *“while residents and Associations are free to address institutional agencies for redressal of grievances in this matter, no resident/association will interfere with the freedom of other residents in tending animals etc”*. The AWBI may be directed to bring the said Office Memorandum to the notice of the appropriate authority in case of any violations.

38. Despite clear position of law prohibiting cruelty to animals including stray dogs, there is an increasing tendency of the citizens to defy the same. It is also submitted that many times the Government employee take up a position in complete violation of well settled law which has been dealt with in the Office Memorandum dated 26th May, 2006 that such act of defiance shall be noted and action should be initiated as per service rules applicable.

39. It shall be the duty and obligation of every Resident Welfare Association or Municipal Corporation (in case RWA is not available), to ensure that every community dog in every area has access to food and water in the absence of caregivers or community dog feeders in the said area.

40. The AWBI shall ensure that every Resident Welfare Association or Municipal Corporation (in case RWA is not available), shall have an Animal Welfare Committee, which shall be responsible for ensuring compliance of the provisions of the PCA Act and ensure harmony and ease of communication between caregivers, feeders or animal lovers and other residents.

41. In case, any resident(s) or the RWA has any grievance with regard to any act of caregivers and feeders, in relation to feeding of community dogs, the said resident(s), shall, at the first instance seek redressal of their grievance through a process of dialogue and discussion through the Animal Welfare Committee failing which the said issue may be brought to the notice of the AWBI through the RWA. The AWBI shall make best efforts to ensure resolution of the issue within 15 days of the said issue being brought to its notice.

42. AWBI shall initiate as '*pilot project*' in collaboration with 10 Resident Welfare Associations or Municipal Corporation (in case RWA is not available) within the NCT of Delhi, "Operant Positive Conditioning" within a period of 30 days on the model adopted by Nirvana Country, Gurugram, Delhi NCR to mitigate 'community dog' conflict in residential communities with the intention and object to make the community dogs assets to the community instead of

them being viewed as a menace. (AWBI may be requested to give a list of such RWAs where such a 'Pilot Project' may be carried out). AWBI shall carry out a quarterly audit of the 'Pilot Project' and if found successful and feasible, it shall expand the said programme and implement the same across the country. AWBI shall take the assistance of all concerned in this regard.

43. Compassion lies at the heart of what makes us human. Compassion is an evolved part of human nature, rooted in our brain and biology, and ready to be cultivated for the greater good. One reason why we see lack of compassion in human being towards animals is 'fear'. Fear that the animal will cause them harm or attack them. It is this fear that prohibits a human being from being compassionate towards animals including stray dogs. It is seen that most fears are based on one's own internal perceptions - the way in which one perceives a situation in their mind is what triggers fear-based thoughts, which triggers fearful feelings. It is thus, important that this fear is obliterated through education, knowledge and training to humans that stray dogs are not dangerous and aggressive animals. Even, the animals should be trained and their behaviour should be assessed. In this regard, it is suggested that the Animal Welfare Board of India in consultation with experts should be asked to prepare a:

- (a) '*Training Programme*' for judicial officers, police officers, municipal authorities, Central and State Government officers.

- (b) *'Training Module'*, and to consider the implementation of the *'Operant Positive Conditioning'* model in different Resident Welfare Associations or Municipal Corporation (in case RWA is not available).
- (c) *'Orientation and Enrolments Programmes'* and consider whether amongst other initiatives that it may so formulate - children from schools and colleges may be requested (as a part of their overall development) to carry out *'Care for Animals'* campaign on the lines of *'No Crackers'* not only within the school and college compounds but in different part of the city; the parents of these children could also be made part of this campaign; whether school and college students can be encouraged to celebrate Animals Welfare Week as a thanking week to the animals.
- (d) *"Community Dog Training Programme"* - to ensure that the community dogs are assets for the community through operant conditioning and positive reinforcement or any other method as the Committee may deem fit and necessary.
- (e) It is suggested that this Committee be formed by this Court.

44. AWBI may be requested to institute *"Animal Welfare Awards"* and create competition amongst different RWA. Competition amongst RWAs to maintain and develop parks in their Colony has met with huge success.

45. There is a need to spread awareness that even animals have a right to live with respect and dignity in our society. It is therefore important that AWBI, carries out an awareness campaign in association with various Newspapers, Television and Radio Channels and through Social Media campaigns. The AWBI shall also ensure all orders of different Courts delivered in respect of Animal rights and advisories/guidelines issued by it - are disseminated through the above-mentioned media and also ensure that the same is circulated through WhatsApp groups of various Resident Welfare Associations, amongst officer of the Police Department, Municipal Authorities etc.

46. There is a need for Managing Dog Population, like a census of dogs. There shall be a “*Stray Dog Census Program*” (SDCP). This may be joint exercise by the Animal Welfare Board of India and the Municipal Authority.

47. The Animal Birth Control (Dogs) Rules, 2001, provides that all street dogs should be sterilized, vaccinated and shall be released into the same area from where they were taken. These Rules also provides that sick dogs shall be treated prior to their sterilization and vaccination. Incurably ill or mortally wounded dogs can be put to death, and only in a humane manner.

48. A campaign like “*Don't Shop – Adopt*” will help in controlling the dog population in our country. This campaign though there, is not popular yet. This should be popularised by different initiatives. The adoption method will not only help decreasing the population of dogs but will also help the adopting family on an

emotional and spiritual level. The adopted dog is going to add intrinsic value to the family by showing love and gratitude.

Submissions of Ms. Manisha T. Karia, Advocate for Animal Welfare Board of India

Background

49. Most people look at stray dogs as a menace and a threat, and just a few unfortunate events of dog bites are enough to turn people against stray dogs and perceive them all viciously. In all probability, a dog does not bite unless provoked, sick or in pain. That's why learning more about stray dogs and their behaviour is crucial to resolving problems with people. Humans interact with animals in numerous ways and on numerous levels. We are indeed living in an animal's world, in the sense that our lives are very much intertwined with the lives of animals. Dogs have been part of human societies for more than 15,000 years, which is more than any other domestic species. A few isolated incidents of dog bites have made people paint all the stray dogs in the same colour. However, it is pertinent to point out that most of the dogs do not bite unless provoked or diseased.

Relationship between Humans and Dogs

50. Humans have domesticated dogs, not vice versa, mainly to exploit them for their own benefit, as assistants during hunting, as guardians of their homes, or as companions. More recently, we have added other tasks and purposes that cover a very wide range of different contexts. We use dogs as testing devices in labs, as search (and rescue) animals (when looking for missing persons as much as

when looking for rare truffles), as therapists in animal-assisted therapies, dance partners in dog dancing, hair models in dog grooming, or influencers in social media, just to name a few. The multitude of interactions and contexts in which we use them has produced a number of welfare issues and ethical issues beyond welfare.

Importance and Role of Indian stray dogs as Community dogs

51. Many Indian breeds are extremely intelligent and are resistant to developing most diseases that plague dogs. They are not prone to shedding or odour, are loyal and easy to train, have high levels of perceptiveness. This makes them suitable for purposes of guarding and protection. While we usually rely on domesticated dogs often of other breeds for private protection of our premises, many Indian breeds have shown to perform brilliantly in police projects in Kolkata, Bangalore etc. that involve canine training. On a less institutional level, street dogs can be useful for community protection while offering minimal liability in terms of healthcare, provided a better societal understanding is established with respect to such dogs.

52. A major reason for which stray dogs are discriminated against as compared to others and considered uncouth, unhygienic, or dangerous is because of human perception. This has largely been passed on to us by the British who discriminated against Indian/indigenous dogs to be inferior to other breeds brought in by them to increase their popularity. There is no intrinsic quality of stray dogs that indicates undesirability, it is largely stereotyping and

classism, which further makes such dogs vulnerable to violence.

Benefits and qualities of the stray dogs

53. Basic qualities of dogs whether community, stray or pedigreed pet dogs are the same such as loyalty, faithfulness, providing companionship and guarding its premises or area of its habitat, that is being territorial.

54. The nature of an Indian dog is quite different from the other dogs like pedigree and the dogs of foreign origins. Indian dogs are very loyal to their caretakers and never ever leave them in distress and during the difficult times. They can be easily brought up on normal foods like bread, milk, eggs etc and not require any specific foods and diets.

55. Pets play an important role as best stress busters and calm the nerves of their masters. The trained dogs can be force multipliers for defence, police, security services, and helping in diagnosing human diseases.

56. Street dogs perform the role of community scavengers and also control rodent population in the area thus preventing spread of diseases like *Leptospirosis*. Street dogs provide companionship to those residents who feed them and act as their stress relievers.

57. Street / community dogs have all the traits / qualities which the pedigreed dogs have. After training they are successfully used as working dogs such as Guard, Tracker, Explosive / Mine detection and even for detection of drugs. Therefore, genetically they have all the traits of Dogs which the Pedigreed dogs have.

58. Street dogs are sometimes subjected to abusive treatment by

some residents of the community because of the wide spread of wrong/misplaced beliefs that all street dogs carry Rabies Virus. It is the responsibility of the community residents to get their dogs vaccinated against rabies every year to prevent the spread of rabies.

59. In order to check the overpopulation of street dogs in the community, it is also the responsibility of community to get their street dog population sterilized through an NGO engaged in Dog sterilization programme.

60. Indian street dogs are quite strong physically and can survive in any difficult climatic conditions of our country. Indian street dogs can easily survive on the left overs of human being and other sources of food.

61. The importance of street dogs' role in our community is very high. Being territorial animals, they live in certain areas and play the role of guards by protecting the community from the entry of outsiders or unknown people. If these are removed from a certain area, the new stray dogs will take their place.

62. Indian street dogs, if adopted as pets are very beneficial compared to the foreign breed dogs as their maintenance is cheaper and do not require any special living conditions, food etc. They can easily live with us and play the role of pets and finally reduce the overpopulation of street dogs.

Adopt a Stray

63. We need to encourage the adoption of stray dogs in India, instead of going for fancy & costly breeds of dogs. They are low maintenance and are as good and dedicated to their family members

who adopt them.

64. The best place to adopt a stray is from either a shelter home or just roadside. They deserve that chance. It would be a noble deed as well. However, after adopting them, one should not give up or abandon them ever that would be emotionally traumatic for them, leaving them forlorn and disheartened for the rest of their lives.

65. The Constitution of India gives precedence to the Prevention of Cruelty to Animals Act, 1960 and the Animal Birth Control Rules, 2001 over State and Local laws, such as the Kerala State Municipality Act, 1994, under which Section 438 permits the Secretary to order the “*seizure and destruction*” of stray dogs in a municipal area. In a recent development, Rule 13 of the ABC Rules provides that “in case of any conflict between the Rules and local laws, the provision that is less irksome to the animal shall prevail.”

Why do stray dogs become aggressive

66. Whether a dog is lost or was born a stray, his behaviour will be markedly different to that of a pet dog. Street dogs are a lot more reliant on their survival instincts and are much more street smart. Dogs who have wandered away from their homes or get lost might be anxious, confused and aggressive. Stray dogs also exhibit unpredictable behaviour for the following reasons, so it's important to approach them with caution and compassion-

(i) **Fearful**: Dogs who have strayed from their home, are in unfamiliar and scary surroundings. The strange sounds and sights may encourage them to be defensive and fearful. The fear may manifest as aggression, even when approached by a well-meaning

stranger. Dogs who were born as strays are used to their surroundings and may be less prone to fear. In some cases, they are quite used to the presence of crowds and will happily interact and mingle.

(ii) Aloof: Dogs who are naturally wary of strangers are likely to be even more wary when in unfamiliar surroundings. They typically avoid strangers, running away when approached and will only overcome their fear when hunger gets the better of them.

(iii) Aggression: When a dog is sufficiently fearful, he may turn aggressive. The threshold for fear turning into aggression varies according to the personality of the dog. Dogs who have escaped from their homes may quickly turn aggressive due to the shock of being in unfamiliar, scary surroundings. Streetwise strays may exhibit aggression toward other dogs, whom they view as competitors for food and territory, but will simply avoid humans.

Why does the attack & abuse happen

67. People generally attack stray dogs, kill or take away their puppies and call for their mass slaughter if they bite in retaliation. Erich Fromm, a renowned psychoanalyst and social philosopher gave an insight into man's irrational and brutal behaviour in his famous book, '*The Anatomy of Human Destructiveness*'. He wrote, "*Man's history is a record of extraordinary destructiveness and cruelty and human aggression, it seems, far surpasses that of man's animal ancestors, man is in contrast to most animals, a real "killer."*" There are certain prevalent myths responsible for any animal abuse.

Prevalent Myths

Animals can't be trusted

68. The relationship between humans and dogs has co-existed for more than 15,000 years. Humans have raised canines to be their friendly and eager companions with an added talent of interpreting the former's emotions.

69. According to the National Geographic, a new study reveals that even stray dogs who are untrained, homeless and abused can interpret our body language.

Strays are seen as carriers of rabies

70. Most of the population looks at stray dogs as a menace and a threat. Just a few unfortunate events of dog bites are enough to turn people against stray dogs and perceive them all viciously. In all probability, a dog does not bite unless provoked, sick or in pain. Surprisingly, there are a lot of people who love their own pets but are extremely wary of stray dogs. Their reasons could range from common beliefs that strays are dirty, dishevelled and can't be trusted.

71. Also, rabies is a major issue in India but if the dog has been vaccinated against rabies there is no need to worry. However, in the case of stray dogs no such records of such vaccination are available making people fearful of getting rabies or at least anti rabies injection in case of any bite.

Character & Temperament

72. Indian stray dogs are generally a cheerful souls. They are a highly social breed since their usual day-to-day life in India would

involve interacting with a variety of other dogs and people. They enjoy being around people and dogs, which they consider to be in their family group. In the instances where they have a specific owner, they have been known to develop a strong bond of loyalty and preference to them.

73. Dogs are known for being territorial to dogs outside of their group. This trait makes them good watchdogs, but introducing strange dogs on their home turf might make them defensive. They are a very alert breed and tend to be cautious in new situations, weighing up whether there is an immediate threat.

74. As their place in Indian society often made them rely on their own wits for survival, and they are an intelligent breed. They thrive in a diverse and stimulating environment that meets their need for a family group and regular exercise.

75. Indian Stray Dogs differ from other domestic dogs in another crucial and surprising way. Rather than sporadic oestrus every 6 months, Indian dogs have an annual breeding season between August and January. During this time, their territorial nature is heightened and some dogs may become aggressive to other males, especially during the evening and late at night. During this period, male Dogs will be on high alert for intruders and may show aggression to strangers or visitors.

Trainability

76. Some say that Indian stray dogs cannot be trained. However, this is not true. Indian stray dogs are one of the most intelligent breeds which trains well. They are keen to work with their owners to

accomplish tasks. Training should start early and be tailored to the dog's personality. Most of them, will quickly become bored with repetitive training exercises, so it's important to keep sessions interesting.

Health

77. Indian stray dogs are generally a very healthy breed in comparison to foreign pet breeds with an average life expectancy of 15 years. Since, they were not selectively bred for looks but relied on natural selection to define their characteristics, they are not plagued by genetic conditions as in case of some foreign breeds. There is very little data about causes of death of these Dogs. If they avoid road traffic accidents and infectious disease, the cause of mortality is likely to be tumours or cardiac disease. However, they don't have a predisposition to certain tumour types.

Exercise and activity level

78. Indian stray dogs are active dogs that love exercise. In India, they would normally live in a stimulating and varied environment, so it's important to replicate that as much as possible. They will enjoy long walks and it would be preferable to give them outdoor access in a well-fenced garden.

Grooming

79. Indian dogs do not require much maintenance when it comes to their grooming. They shed all year round but the absence of undercoat ensures that you do not see hair all over the house. Regular brushing will keep this problem to the minimal as it can easily and effectively remove all dead hair from the coat.

80. They have a short and coarse coat and grooming them does not take much of your time or effort. Just take a hound mitt or a brush and brush them all over to prevent further shedding. They have less oil glands on the coat, which prevents odour and keep them clean.

Indian street dogs in foreign countries:

81. There is an observable trend of foreigners from countries such as the United States who have rescued Indian/indigenous pups in squalid conditions in India only to take them back and give them supportive homes. There are also NGOs which have placed several Indian/indigenous puppies with disabilities and other special needs in loving homes abroad.

Submissions of Ms. Nandita Rao, ASC for GNCTD

82. Dogs have since centuries been domesticated and lived like members of the human pack with families and individuals as companions. However, unless appropriately trained their natural instinct is to protect their pack members from any real or perceived danger and further to guard their territory.

83. In India there is a peculiar culture of permitting dogs to live on streets, due to inadequacy of dog shelters and homes that are willing to adopt the dogs. As a result, we have street dogs in every locality. Due to the intrinsic nature of the dogs, they become excessively protective of the homes of persons who feed them and can often become very aggressive towards members of the community with whom they reside as they have to fend for themselves on the street.

84. This Court has acknowledged that several interpersonal, law and order issues keep cropping up between residents due to street dogs and is desirous of making guidelines that would effectively transform street dogs into community dogs.

Suggestions of Ms. Nandita Rao, ASC for GNCTD

85. Section 399 of the Delhi Municipal Corporation Act, 1957 provides for registration of privately-owned dogs. It may be considered to provide communities a sense of ownership and responsibility upon dogs who are born and live on the street in their localities that a joint duty be cast upon the RWA and Municipal Corporation to register all street dogs under Section 399 and provide them a token for their identification.

86. Every Municipal Corporation at the request of the RWA and / or local authority or persons choosing to take such responsibility will be responsible for having the stray dogs registered / vaccinated / sterilised.

87. The MCD can create an App for easy registration of the dogs and provision for updating the regular vaccination status of the dogs.

88. Non compliance of this ought not to bring penal provisions but a fine upon the RWA or individual who fail to register their community or personal dogs. This would encourage compliance.

89. Every RWA should form a Guard and Dog partnerships and in consultation with the Delhi Police Dog Squad the dogs should be trained to make them effective as guard dogs and yet friendly to those who live in the colony. Residents should be encouraged to participate in the training.

90. It is pertinent to mention herein that the Delhi Police Act, 1968 (Sections 73 to 79 & 99) gives special powers to the police to take action when an animal offence has been committed under sub-section (1) of sections 11 or 12 of the Prevention of Cruelty to Animals Act, 1960. Under Section 73 if a police officer believes that there is a reasonable ground for suspecting the commission of the aforementioned offence, he may take the animal to the Metropolitan Magistrate or to an infirmary if the animal is injured followed by a subsequent production before the Magistrate within a period not exceeding three days.

91. The feeding spots for dogs must be in secluded areas of the colony or a back lane. Dog shelters should be made for each community dog in the locality at common costs, so that they don't have to suffer the heat and rain and cold.

92. Also, it would be a nice place for children to play with them. The dogs can rest during the day and accompany the guards at night.

93. Community events with the dogs, such as pet the dog/ run with our dogs, or for the dogs to show off their skills, should be organised with the residents so that both the dog and the residents know each other and take pride in each other.

94. No resident should be permitted to keep a dog in his home at night and put him on the street during the day. This alters the behaviour of the dog towards other residents and makes him aggressive and over protective of one house.

95. If any dog repeatedly attacks other dogs or residents, such dog must be removed to a private shelter by the RWA or a public shelter

by the MCD.

96. If any of the street / community dogs is injured or unwell, it shall be the duty of the RWA to secure treatment for such dog by the vets made available by the Municipal Corporation and / or privately from the funds of the RWA.

97. **RELEVANT PROVISIONS**

Constitution of India, 1950

Article 21 - Protection of life and personal liberty.

No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 48A - Protection and improvement of environment and safeguarding of forests and wild life.

The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

Article 51A - Fundamental duties.

It shall be the duty of every citizen of India-

xxx xxx xxx

(f) to value and preserve the rich heritage of our composite culture;

(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;

Article 243W - Powers, authority and responsibilities of Municipalities, etc.

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow-

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may

contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to-

- (i) the preparation of plans for economic development and social justice;*
- (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;*
- (b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.*

Article 246 - Subject-matter of laws made by Parliament and by the Legislatures of States.

(1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the “Union List”).

(2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the “Concurrent List”).

(3) Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the “State List”).

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List.

Prevention of Cruelty to Animals Act, 1960

Section 3 - Duties of persons having charge of animals.

It shall be the duty of every person having the care or charge of any animal to take all reasonable measures to ensure the well-being of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering.

Section 4 - Establishment of Animal Welfare Board of India

(1) For the promotion of animal welfare generally and for the purpose of protecting animals from being subjected to unnecessary pain or suffering, in particular, there shall be established by the Central Government, as soon as may be after the commencement of this Act, a Board to be called the Animal Welfare Board of India.

(2) The Board shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and may by its name sue and be sued.

Section 11 - Treating animals cruelly.

(1) If any person—

(a) beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes or, being the owner permits, any animal to be so treated; or

(b) employs in any work or labour or for any purpose any animal which, by reason of its age or any disease, infirmity, wound, sore or other cause, is unfit to be so employed or, being the owner, permits any such unfit animal to be so employed; or

(c) wilfully and unreasonably administers any injurious drug or injurious substance to any animal or wilfully and unreasonably causes or attempts to cause any such drug or substance to be taken by any animal; or

(d) conveys or carries, whether in or upon any vehicle or not, any animal in such a manner or position as to subject it to unnecessary pain or suffering; or

(e) keeps or confines any animal in any cage or other receptacle which does not measure sufficiently in

height, length and breadth to permit the animal a reasonable opportunity for movement; or

(f) keeps for an unreasonable time any animal chained or tethered upon an unreasonably short or unreasonably heavy chain or cord; or

(g) being the owner, neglects to exercise or cause to be exercised reasonably any dog habitually chained up or kept in close confinement; or

(h) being the owner of any animal, fails to provide such animal with sufficient food, drink or shelter; or

(i) without reasonable cause, abandons any animal in circumstances which render it likely that it will suffer pain by reason of starvation or thirst; or

(j) wilfully permits any animal, of which he is the owner, to go at large in any street while the animal is affected with contagious or infectious disease or, without reasonable excuse permits any diseased or disabled animal, of which he is the owner, to die in any street; or

(k) offers for sale or, without reasonable cause, has in his possession any animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment; or

(l) mutilates any animal or kills any animal (including stray dogs) by using the method of strychnine injections in the heart or in any other unnecessarily cruel manner; or

(m) solely with a view to providing entertainment—

(i) confines or causes to be confined any animal including tying of an animal as a bait in a tiger or other sanctuary) so as to make it an object of prey for any other animal; or

(ii) incites any animal to fight or bait any other animal; or

(n) organises, keeps, uses or acts in the management of, any place for animal fighting or for the purpose of baiting any animal or permits or offers any place to be so used or receives money for the admission of any

other person to any place kept or used for any such purposes; or

(o) promotes or takes part in any shooting match or competition wherein animals are released from captivity for the purpose of such shooting;

he shall be punishable, in the case of a first offence, with fine which shall not be less than ten rupees but which may extend to fifty rupees, and in the case of a second or subsequent offence committed within three years of the previous offence, with fine which shall not be less than twenty-five rupees but which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both.

(2) For the purposes of sub-section (1), an owner shall be deemed to have committed an offence if he has failed to exercise reasonable care and supervision with a view to the prevention of such offence:

Provided that where an owner is convicted of permitting cruelty by reason only of having failed to exercise such care and supervision, he shall not be liable to imprisonment without the option of a fine.

(3) Nothing in this section shall apply to—

(a) the dehorning of cattle, or the castration or branding or nose-roping of any animal, in the prescribed manner; or

(b) the destruction of stray dogs in lethal chambers or by such other methods as may be prescribed; or

(c) the extermination or destruction of any animal under the authority of any law for the time being in force; or

(d) any matter dealt with in Chapter IV; or

(e) the commission or omission of any act in the course of the destruction or the preparation for destruction of any animal as food for mankind unless such destruction or preparation was accompanied by the infliction of unnecessary pain or suffering.

Section 12 - Penalty to practising phooka or doom dev.

If any person performs upon any cow or other milch animal the operation called phooka or doom dev or any other operation (including injection of any substance) to improve lactation which is injurious to the health of the animal or permits such operation being performed upon any such animal in his possession or under his control, he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both, and the animal on which the operation was performed shall be forfeited to the Government.

Section 17 - Duties of the Committee and power of the Committee to make rules relating to experiments on animals.

(1) It shall be the duty of the Committee to take all such measures as may be necessary to ensure that animals are not subjected to unnecessary pain or suffering before, during or after the performance of experiments on them, and for that purpose it may, by notification in the Gazette of India and subject to the condition of previous publication, make such rules as it may think fit in relation to the conduct of such experiments.

(1-A) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:—

(a) the registration of persons or institutions carrying on experiments on animals;

(b) the reports and other information which shall be forwarded to the Committee by persons and institutions carrying on experiments on animals.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made by the Committee shall be designed to secure the following objects, namely:—

(a) that in cases where experiments are performed in any institution, the responsibility therefor is placed on the person in charge of the institution and that, in cases where experiments are performed outside an institution by individuals, the individuals are qualified

in that behalf and the experiments are performed on their full responsibility;

(b) that experiments are performed with due care and humanity, and that as far as possible experiments involving operations are performed under the influence of some anaesthetic of sufficient power to prevent the animals feeling pain;

(c) that animals which, in the course of experiments under the influence of anaesthetics, are so injured that their recovery would involve serious suffering, are ordinarily destroyed while still insensible;

(d) that experiments on animals are avoided wherever it is possible to do so; as for example, in medical schools, hospitals, colleges and the like, if other teaching devices such as books, models, films and the like may equally suffice;

(e) that experiments on larger animals are avoided when it is possible to achieve the same results by experiments upon small laboratory animals like guinea-pigs, rabbits, frogs and rats;

(f) that, as far as possible, experiments are not performed merely for the purpose of acquiring manual skill;

(g) that animals intended for the performance of experiments are properly looked after both before and after experiments;

(h) that suitable records are maintained with respect to experiments performed on animals.

(3) In making any rules under this section, the Committee shall be guided by such directions as the Central Government (consistently with the objects for which the Committee is set up) may give to it, and the Central Government is hereby authorised to give such directions.

(4) All rules made by the Committee shall be binding on all individuals performing experiments outside institutions and on persons in charge of institutions in which experiments are performed.

Indian Penal Code, 1860

Section 428 - Mischief by killing or maiming animal of the value of ten rupees.

Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 429 - Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees

Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Delhi Municipal Corporation Act, 1957

Section 399 - Registration and control of dogs.

(1) The Corporation may, by bye-laws made in this behalf,—

(a) require the registration by the registration authority appointed by the Commissioner in this behalf of all dogs kept within Delhi;

(b) require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the registration authority, and fix the fee payable for the issue thereof;

(c) require that any dog which has not been registered or which is not wearing such token shall, if found in any public place, be detained at a place set apart for the purpose; and

(d) fix the fee which shall be charged for such detention and provide that any such dog shall be liable to be destroyed or otherwise disposed of unless it is claimed and the fee in respect thereof is paid within one week.

(2) *The Commissioner may—*

(a) cause to be destroyed, or to be confined for such period as he may direct, any dog or other animal which is, or is reasonably suspected to be, suffering from rabies, or which has been bitten by any dog or other animal suffering or suspected to be suffering from rabies;

(b) by public notice direct that after such date as may be specified in the notice, dogs which are without collars or without marks distinguishing them as private property and are found straying on the streets or beyond the enclosures of the houses of their owners, if any, may be destroyed and cause them to be destroyed accordingly.

(3) *No damages shall be payable in respect of any dog or other animal destroyed or otherwise disposed of under this section.*

(4) *No one, being the owner or person in charge of any dog, shall allow it to be at large in any public street or public place without being muzzled and without being secured by a chain lead in any case in which—*

(a) he knows that the dog is likely to annoy or intimidate any person, or

(b) the Commissioner has, by public notice during the prevalence of rabies, directed that dogs shall not be at large without muzzles and chain leads.

(5) *No one shall—*

(a) allow any ferocious dog which belongs to him or is in his charge to be at large without being muzzled, or

(b) set on or urge any dog or other animal to attack, worry or intimidate any person, or

(c) knowing or having reason to believe that any dog or animal belonging to him or in his charge has been bitten by an animal suffering or reasonably suspected to be suffering from rabies, fail or neglect to give immediate information of the fact to the Commissioner or give information which is false.

Delhi Police Act, 1978

Chapter IX - Special Powers under the Prevention of Cruelty to Animals Act, 1960

Section 73 - Powers with regard to offences under Act 59 of 1960.

(1) When in respect of an animal an offence punishable under sub-section (1) of Section 11 or Section 12 of the Prevention of Cruelty to Animals Act, 1960 has been committed, or when there is a reasonable ground for suspecting that such offence has been committed, a police officer may—

- (a) take the animal to the Metropolitan Magistrate, or*
- (b) if the accused person so requires, take the animal to a veterinary officer specified by a general or special order by the Administrator in this behalf;*

Provided that the police officer may, instead of taking the animal to a veterinary officer, take the animal for detention in a dispensary, or in a suitable place approved by a Administrator by general or special order and the animal shall thereupon be detained there until its production before a Metropolitan Magistrate, or

- (c) take the animal to an infirmary appointed under Section 35 of the said Act for treatment and detention therein, pending direction of a Magistrate under sub-section (2) of that section; or*
- (d) when the animal is in such physical condition that it cannot be taken to a veterinary officer or a Metropolitan Magistrate, draw up a report of the condition of the animal in the presence of two or more respectable persons describing such wound, sores, fractures, bruises, or other makes of injury as may be found on the body of the animal:*

Provided that the police officer may take the animal for detention in a dispensary or any suitable place approved by the Administrator by general or special order and the animal shall thereupon be detained there until its production before a Metropolitan Magistrate.

(2) Where an animal is detained in a dispensary, infirmary or other place under sub-section (1), the animal shall be produced before a Metropolitan Magistrate with the least possible delay and in any case within a period not exceeding three days from the date on which it was so detained.

Section 74 - Powers of Metropolitan Magistrate to return animal to person from whose possession it was taken

When the animal is brought before a Metropolitan Magistrate under Section 73, the Magistrate may direct the animal to be returned to the person from whose possession it was taken on such person giving security to the satisfaction of the Metropolitan Magistrate binding himself to produce the animal when required or may direct that the animal shall be sent for treatment and care to an infirmary and be detained there as provided in Section 35 of the Prevention of Cruelty To Animals Act, 1960 (59 of 1960), or may make such order as he thinks fit regarding the disposal or custody or production of the animal.

Section 75 - Veterinary officer to examine the animal.

The veterinary officer before whom an animal is brought under Section 73 shall with all convenient speed examine the same and draw up a report of such examination and a copy of the report of such examination shall be delivered free of charge to the accused person if he applies for it.

Section 76 - Animal to be dealt with under Act 59 of 1960.

When under Section 73, a police officer takes an animal for detention in a dispensary or infirmary or other place before its production before a Metropolitan Magistrate or a Metropolitan Magistrate directs its further detention in an infirmary, sub-sections (3) to (7) (both inclusive) of Section 35 of the Prevention of Cruelty to Animals Act, 1960 shall, as far as may be, apply in relation to the detention of the animal (including the cost of transport, maintenance and treatment of the animal) in the dispensary, infirmary or other place.

Section 77 - Power of police officer to unsaddle animal or to unload it.

When a police officer in good faith suspects that any animal being employed in any work or labour is, by reason of any sore, unfit to be so employed, he may require the person in charge of such animal to unsaddle or unload it for the purpose of ascertaining whether any sore exists and, if any person refuses to do so, such police officer may himself unsaddle or unload the animal or may cause the same to be unsaddled or unloaded.

Section 78 - Arrest without warrant in case of certain offences under Act 59 of 1960

Any police officer may arrest, without a warrant from a Magistrate, any person committing in his presence any offence punishable under clauses (a) to (m) (both inclusive) of sub-section (1) of Section 11 of the Prevention of Cruelty to Animals Act, 1960.

Section 79 - Provisions of Chapter to be in addition to the provisions of Act 59 of 1960

The provisions of this Chapter shall be in addition to, and not in derogation of, the provision of the Prevention of Cruelty to Animals Act, 1960.

xxx

xxx

xxx

Section 99 - Punishment for cruelty to animals

Whoever in any place cruelly beats, goads, overworks, ill-treats or tortures or causes, or procures to be cruelly beaten, goaded overworked, ill-treated, or tortured, any animal shall, on conviction, be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Animal Welfare Board of India Notifications

Notification dated 27th January, 2010

“Feeding of stray dogs may lead to some inconvenience for residents, especially those residents who do not like dogs. However, the purpose sought to be achieved

through feeding, or confining dogs to the localities they inhabit to make sterilisation and yearly vaccination possible, and thereby bring down stray dog population and control rabies, is far more important, and for the larger public good.

The Animal Welfare Board of India is of the view that when earmarking spots/sites for the feedings of stray dogs, the following considerations must be kept in mind:

(i) Community dogs must be fed and tended to at places which are not frequented, or less frequented, and sparingly used by the general public and residents. This will minimize inconvenience to both humans and the dogs themselves, since it has been noticed that these dogs, especially when possessed of food, tend to avoid crowded places and places where noise levels are high. By their intrinsic nature they tend to retreat with eatables to secluded spots away from such places. Avoid areas therefore, that are immediately adjacent to spots in which the public residents congregate in large numbers.

(ii) Dogs are territorial by nature and cannot all be herded into one spot for the purpose of feeding them. They must not therefore be sought to be so herded. (Needless to state, seeking to do so will lead to dog fights, probably dog bites, and hence tremendous inconvenience for resident).

(iii) Public causeways, public streets, pedestrian paths and foot paths which are regularly used by public and residents for commuting are to be avoided while feeding community dogs. However, if public land is available adjacent to the above the feeding should be done on the same.

(iv) The common/public area immediately abounding the entrance to flats/houses must be avoided for feeding dogs, except where the residents have no objection to the same. Any person having compassion for the stray dogs may

permit them to be fed or feed them at his/her private entrance/porch/driveway of his/her house or any other place not shared with other residents.

(v) Effort should be made, where service lanes are existent, to feed the dogs on these, as service lanes are not frequently used for ingress and egress. Areas adjacent to the boundary walls of the houses which are not used for passage or do not have any exit/entry points should also be used for feeding. Likewise, vacant lands may be used for this purpose.

(vi) Feeding ought, as far as possible, be undertaken at a time when the density of human population tends to be minimal. Such time may vary in every locality, and the local volunteers, in consultation with the notified

(vii) A.W.O. working in that area may set such timings and inform the Board of the same. (It is clarified that the above timing is restricted, and applies only to feeding. It does not, and should not extend to the wider task of tending to community dogs, which includes vaccinations, inoculations, sterilizations, treatment of ill and ailing dogs.)

(viii) Feeding should not be undertaken more than twice daily (except for dogs who are sick and ailing and need special attention or under the advice of the veterinary doctor). Dogs which, for unavoidable reasons, have not been fed at the time ear- marked for the same must be fed if spotted with minimum inconvenience to the general public, since hungry dogs tend to venture close to houses/eateries in search of food, which people may not like.

(ix) Feeding must without exception be undertaken in the most hygienic manner. Clean bowls for both food and water must be used. It must be ensured that no bowls eatables and packets are left behind after feeding is over. No

littering must be caused. Water bowls are placed for regular and recurring thirst of the dogs must be cleaned and replaced with fresh and clean water at regular intervals.”

Notification/Guidelines dated 03rd March, 2021

“5. Further, according to the most recent Judgment passed by the Hon’ble High Court of Delhi in W.P.(C) 255612021 & CM APPL.7535/2021 dated 24.02.2021 in the Matter of Urvashi Vashist & Ors Vs. RWA & Ors, it was directed that the RWA and the feeders with the help of AWBI representatives will identify the spot for feeding of the street dogs in the colony; no hindrance, whatsoever, shall be caused to the persons in carrying out any activities in respect of the street dogs at the said spot. Also it shall be the duty of the SHO concerned to ensure that peace and harmony is maintained amongst the residents of the area so that no harassment is caused to the petitioners by RWA and vice versa. I would also brought to the notice of recent incident of harassment of couple happened in Sector 83 of Gurugram.

6. In view of the above, you are requested to kindly issue necessary directions to all the local authorities to take appropriate steps to identify sufficient number of feeding spots for stray dogs in every town, villages, RWA and other institute etc. in each and every District. Also, law enforcement authority shall ensure that no harassment or hindrance is caused to the person feeding street dog at the designated feeding spot and to properly implement the AWBI Revised Guidelines on Pet dogs and street dogs dated 26.02.2015.”

Relevant Judgments

98. In *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat*,

(2005) 8 SCC 534, as, the Supreme Court was dealing with an issue pertaining to banning of cow slaughter. The Petition challenged the amendments in Section 5 of the Bombay Animal Preservation, which was also applicable to the State of Gujrat. The amendments challenged the ban on slaughter of bulls and bullocks under the age of 16 to a complete ban. The petition challenged the amendment because of the belief that bull and bullocks over the age of 16 tend to become economically unbeneficial. While hearing the said case the Supreme Court for the very first time went into the details of the Article 51A(g) and explained, how, the wordings given under the Article, directly portrays that it is the fundamental duty of each citizen to have compassion for the living creatures. The Supreme Court held that the economy of the State of Gujarat is still dependent on agriculture and therefore, the use of the animals for draught, milch or breeding is of great importance for the agricultural sector. It is of great importance to protect and preserve animals of agricultural use such as bulls and bullocks. While determining the said question the Supreme Court also interpreted that all animals shall be treated with compassion. The relevant paragraphs of the said judgment are reproduced hereinunder:

“49. Article 48-A deals with “environment, forests and wildlife”. These three subjects have been dealt with in one article for the simple reason that the three are interrelated. Protection and improvement of environment is necessary for safeguarding forests and wildlife, which in turn protect and improve the environment. Forests and wildlife are clearly interrelated and interdependent. They protect each other.

xxx xxx xxx

51. By enacting clause (g) in Article 51-A and giving it the status of a fundamental duty, one of the objects sought to be achieved by Parliament is to ensure that the spirit and message of Articles 48 and 48-A are honoured as a fundamental duty of every citizen. Parliament availed the opportunity provided by the Constitution (Forty-second Amendment) Act, 1976 to improve the manifestation of objects contained in Articles 48 and 48-A. While Article 48-A speaks of “environment”, Article 51-A(g) employs the expression “the natural environment” and includes therein “forests, lakes, rivers and wildlife”. While Article 48 provides for “cows and calves and other milch and draught cattle”, Article 51-A(g) enjoins it as a fundamental duty of every citizen “to have compassion for living creatures”, which in its wider fold embraces the category of cattle spoken of specifically in Article 48.

xxx xxx xxx

67. This reasoning is further strengthened by Article 51-A(g) of the Constitution. The State and every citizen of India must have compassion for living creatures. Compassion, according to the Oxford Advanced Learner's Dictionary means “a strong feeling of sympathy for those who are suffering and a desire to help them”. According to the Chambers 20th Century Dictionary, compassion is “fellow-feeling, or sorrow for the sufferings of another; pity”. Compassion is suggestive of sentiments, a soft feeling, emotions arising out of sympathy, pity and kindness. The concept of compassion for living creatures enshrined in Article 51-A(g) is based on the background of the rich cultural heritage of India the land of Mahatma Gandhi, Vinobha, Mahaveer, Buddha, Nanak and others. No religion or holy book in any part of the world teaches or encourages cruelty. Indian society is a pluralistic society. It has unity in diversity. The religions, cultures and people may be diverse, yet all speak in one voice that cruelty to any

living creature must be curbed and ceased. A cattle which has served human beings is entitled to compassion in its old age when it has ceased to be milch or draught and becomes so-called “useless”. It will be an act of reprehensible ingratitude to condemn a cattle in its old age as useless and send it to a slaughterhouse taking away the little time from its natural life that it would have lived, forgetting its service for the major part of its life, for which it had remained milch or draught. We have to remember: the weak and meek need more of protection and compassion.”

99. In *Animal Welfare Board of India v. A. Nagaraja*, (2014) 7 SCC 547, the Animal Welfare Board of India (AWBI) petitioned to ban Jallikattu due to concerns of animal cruelty and public safety. Jallikattu was banned in 2011 by the Ministry of Environment and Forests which issued a notification banning the use of bulls as performing animals. However, the practice continued to be held under certain conditions of the Tamil Nadu Regulation of Jallikattu Act (2007). AWBI filed an appeal against a High Court decision allowing for Jallikattu to be conducted upon compliance with the Tamil Nadu Act. The AWBI sought to enforce the government notification barring bulls from being exhibited or being trained as performing animals. The Supreme Court ruled in favour of the AWBI and upheld the enforcement of the ban on Jallikattu. It held that Article 51A(g) of the Constitution is the “*magna carta of animal rights*” and made several observations to safeguard the “life” of animals under Article 21.

100. This case, dealt with “*the rights of animals under the Constitution of India as well as Indian laws, culture, tradition,*

religion and ethology”. History testifies, that the amalgamation of law and religion always leads to a tussle, inviting dire consequences. In spite of a lot of regression and protests, the Court reasoned that life meant a life full of worth and dignity, and in light of this, practices and sports like *Jallikattu* and bullock-cart racing must be banned. The Apex Court also considered that animals’ well-being and welfare have been recognised under Sections 3 and 11 of the Prevention of Cruelty to Animals Act. Right to live in a healthy and clean atmosphere and right to get protection from human beings against inflicting unnecessary pain or suffering is a right guaranteed to the animals under Sections 3 and 11 of the PCA Act read with Article 51A(g) of the Constitution. Right to get food, shelter is also a guaranteed right under Sections 3 and 11 of the PCA Act and the Rules framed thereunder. The relevant portion of the judgment is reproduced hereinunder:

“Compassion

67. Article 51-A(g) states that it shall be the duty of citizens to have compassion for living creatures. In State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat [(2005) 8 SCC 534] , this Court held that by enacting Article 51-A(g) and giving it the status of a fundamental duty, one of the objects sought to be achieved by Parliament is to ensure that the spirit and message of Articles 48 and 48-A are honoured as a fundamental duty of every citizen. Article 51-A(g), therefore, enjoins that it was a fundamental duty of every citizen “to have compassion for living creatures”, which means concern for suffering, sympathy, kindness, etc., which has to be read along with Sections 3, 11(1)(a) and (m), 22, etc. of the PCA Act.

Humanism

68. Article 51-A(h) says that it shall be the duty of every citizen to develop the scientific temper, humanism and the spirit of inquiry and reform. Particular emphasis has been made to the expression “humanism” which has a number of meanings, but increasingly designates as an inclusive sensibility for our species. Humanism also means, to understand benevolence, compassion, mercy, etc. Citizens should, therefore, develop a spirit of compassion and humanism which is reflected in the Preamble of the PCA Act as well as in Sections 3 and 11 of the Act. To look after the welfare and well-being of the animals and the duty to prevent the infliction of pain or suffering on animals highlights the principles of humanism in Article 51-A(h). Both Articles 51-A(g) and (h) have to be read into the PCA Act, especially into Section 3 and Section 11 of the PCA Act and be applied and enforced.

xxx

xxx

xxx

Right to life

72. Every species has a right to life and security, subject to the law of the land, which includes depriving its life, out of human necessity. Article 21 of the Constitution, while safeguarding the rights of humans, protects life and the word “life” has been given an expanded definition and any disturbance from the basic environment which includes all forms of life, including animal life, which are necessary for human life, fall within the meaning of Article 21 of the Constitution. So far as animals are concerned, in our view, “life” means something more than mere survival or existence or instrumental value for human beings, but to lead a life with some intrinsic worth, honour and dignity. Animals' well-being and welfare have been statutorily recognised under Sections 3 and 11 of the Act and the rights framed under the Act. Right to live in a healthy and clean atmosphere and right to get protection from human beings against inflicting unnecessary pain or suffering is a right guaranteed to the animals under Sections 3 and 11 of the PCA Act read

with Article 51-A(g) of the Constitution. Right to get food, shelter is also a guaranteed right under Sections 3 and 11 of the PCA Act and the Rules framed thereunder, especially when they are domesticated. The right to dignity and fair treatment is, therefore, not confined to human beings alone, but to animals as well. The right, not to be beaten, kicked, overridden, overloaded is also a right recognised by Section 11 read with Section 3 of the PCA Act. Animals also have a right against human beings not to be tortured and against infliction of unnecessary pain or suffering. Penalty for violation of those rights are insignificant, since laws are made by humans. Punishment prescribed in Section 11(1) is not commensurate with the gravity of the offence, hence being violated with impunity defeating the very object and purpose of the Act, hence the necessity of taking disciplinary action against those officers who fail to discharge their duties to safeguard the statutory rights of animals under the PCA Act.

xxx

xxx

xxx

82. Section 3 has been specifically enacted, as already indicated, to confer duties on persons who are in-charge or care of the animals, which says, it is the duty of such persons to ensure the well-being of such animals and to prevent infliction of unnecessary pain or suffering upon the animals. In other words, the well-being and welfare of the animals is the paramount and dominant intention of the PCA Act and with that intention it has conferred duties on the person in-charge or care of the animals and corresponding rights on the animals. Section 11 confers obligations on all persons, including persons-in-charge or care of the animals to see that Section 3 has been fully obeyed. Exemptions to Section 11 have been provided in sub-section (3) on the doctrine of necessity, which concept we have already dealt with in the earlier part of the judgment. Section 22 of the PCA Act, which deals with “performing animals”, has to be read along with Sections 3, 11(1) and 11(3) of the Act and that expects

only the animal to perform in an exhibition and bull tamers have no role unlike the TNRJ Act. Sections 21 and 22 refer to training of animals for performance and not training to withstand the onslaught of bull tamers. Sections 3, 11 or 22 do not confer any right on the human beings to overpower the animals while it is performing, on the other hand, under Section 11(1)(m), inciting an animal to fight is an offence.”

(Emphasis supplied)

101. In ***Animal Welfare Board of India v. People For Elimination of Stray***, (2016) 2 SCC 598, the Supreme Court held that all the Municipal Corporations, Local Bodies etc shall seriously take into consideration the PCA Act and the Animal Birth Control Rules and it shall be the duty of AWBI to have a check upon that. Further it was held that it shall be the duty of the Municipal Corporation to provide the mandatory infrastructure as provided under the statute and rules to strike a balance between compassion for dogs and the lives of the human beings and thereafter, they can harmoniously co-exist in the same environment. The relevant portion of the judgment is reproduced hereinunder:

“10. For the purpose of certain interim order, we have to prima facie understand the provisions of the 1960 Act. Section 2(b) of the said Act defines the “Board” which is established under Section 4 and reconstituted from time to time under Section 5-A. Section 2(e) defines “local authority” which means a municipal committee, district board or other authority for the time being invested by law with the control and administration of any matters within a specified local area. Section 9 deals with the functions of the Board. The said provision reads as under:

...

We have emphasised on clause (f) as it empowers the Board to ensure that unwanted animals are destroyed by local authorities, wherever it is necessary to do so, either instantaneously or after being rendered insensible to pain or suffering. The significant words are “the Board has to form an opinion.”

xxx xxx xxx

15. As we find, the local authorities have a sacrosanct duty to provide sufficient number of dog pounds, including animal kennels/shelters, which may be managed by the animal welfare organisations, that apart, it is also incumbent upon the local authorities to provide requisite number of dog vans with ramps for the capture and transportation of street dogs; one driver and two trained dog catchers for each dog van; an ambulance-cum-clinical van as mobile centre for sterilisation and immunisation; incinerators for disposal of carcasses and periodic repair of shelter or pound.

xxx xxx xxx

17. We may note with profit that Mr Shekhar Naphade, learned Senior Counsel appearing for Bombay Municipal Corporation would contend with vehemence that the Corporation has a duty under the Act to remove the dogs that create nuisance. As stated earlier, we will advert to the same at a later stage, but for the present it is suffice to say that all the State Municipal Corporations, Municipal Committees, District Boards and local bodies shall be guided by the Act and the Rules and it is the duty and obligation of the Animal Welfare Board to see that they are followed with all seriousness. It is also the duty of all the municipal corporations to provide infrastructure as mandated in the statute and the rules. Once that is done, we are disposed to think for the present that a balance between compassion to dogs and the lives of human beings, which is appositely called a glorious gift of nature, may harmoniously co-exist.

18. The learned counsel appearing for both the sides are at liberty to file affidavits which may contain the data of

the dog bites and the steps taken by the local bodies with regard to destruction/removal of the stray dogs. They are also at liberty to file data pertaining to population of stray dogs. The local authorities shall file affidavits including what kind of infrastructures they have provided, as required under the law. Needless to emphasise, no innovative method or subterfuge should be adopted not to carry out the responsibility under the 1960 Act or the 2001 Rules. Any kind of laxity while carrying out statutory obligations is not countenanced in law.”

102. The above case was again considered by the Supreme Court in ***Animal Welfare Board of India v. People For Elimination of Stray***, (2016) SCC OnLine SC 222. The Court determined the steps that shall be taken by the local bodies with regard to destruction/removal of the stray dogs and data pertaining to population of stray dogs. The local authorities had to file affidavits including what kind of infrastructure they had provided, as required under the law. In pursuance of the order, the State, the Municipal Council and Municipal Corporations filed their responses. The relevant portion of the judgment/order is reproduced hereinunder:

“5. In course of hearing, we have been apprised that the real problem is the implementation of the Act and the Rules. Learned counsel for the parties very fairly stated that the litigation is not adversarial, but the purpose is to see that the Acts and Rules are appositely implemented and the compassion to animals and the healthy existence of the human beings are seemly balanced.

6. 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.

7. 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. Considering the facts and circumstances in entirety, we 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.”

103. In *Animal Welfare Board of India v. People for Elimination of Stray*, (2016) 10 SCC 684, the Supreme Court passed detailed directions to achieve the object of the PCA Act. In pursuance to the above two orders the Animal Welfare Board filed a module taking note of various aspects. One aspect pertains to ‘*Implementation of Framework for Street Dog Population Management, Rabies Eradication and Reducing Man-Dog Conflict*’. The relevant portion

of the order is reproduced hereinunder:

“20. 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 of 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 stakeholders 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 throughout 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 watertight 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.”

104. In ***People for Animals v. Md Mohazzim***, 2015 SCC OnLine Delhi 9508, this Court, relied upon the ***Nagaraj Case*** and observed that the birds have a fundamental right to fly and cannot be caged and will have to be set free in the sky. The relevant portion of the judgement is reproduced herein below:

“5. After hearing both sides, this Court is of the view that running the trade of birds is in violation of the rights of the birds. They deserve sympathy. Nobody is caring as to whether they have been inflicting cruelty or not despite of settled law that birds have a fundamental right to fly and cannot be caged and will have to be set free in the sky. Actually, they are meant for the same. But on the other hand, they are exported illegally in foreign countries without availability of proper food, water, medical aid and other basic amenities required as per law. Birds have fundamental rights including the right to live with dignity and they cannot be subjected to cruelty by anyone including claim made by the respondent. Therefore, I am clear in mind that all the birds have fundamental rights to fly in the sky and all human beings have no right to keep them in small cages for the purposes of their business or otherwise. The petition requires consideration.”

(Emphasis supplied)

105. In ***Narayan Dutt Bhatt v. Union of India***, 2018 SCC Online Utt 645, the Division Bench of the Uttaranchal High Court discussed the international law relating to animal protection. The relevant portion of the judgment is reproduced herein under:

“83. We have to show compassion towards all living creatures. Animals may be mute but we as a society have

to speak on their behalf. No pain or agony should be caused to the animals. Cruelty to animals also causes psychological pain to them. In Hindu Mythology, every animal is associated with god. Animals breathe like us and have emotions. The animals require food, water, shelter, normal behavior, medical care, self-determination.

84. Due to damage caused to environment and ecology, the avian and aquatic life is also threatened. Major rivers have been reduced to the status of a sewer. Aquatic life cannot survive without water. The rivers have inherent right to flow in length as well as in width. The oceans are choked with plastic. Many species are becoming extinct. The loss of one species causes immense damage to the entire ecosystem. Global warming has arrived and its impact can be seen in day-to-day existence. There are gaps in laws. New inventions are required to be made in law to protect the environment and ecology. The animals including avian and aquatics have a right to life and bodily integrity, honour and dignity. Animals cannot be treated merely as property.

xxx xxx xxx

87. It would be pertinent at this stage to make reference of book, “Sacred Animals of India”, written by Nanditha Krishna. She has introduced every animal with the myths and legends that establish its religious status, followed by a short note on the ecological or social role of the animal, which made it important in people's lives. Learned author has also discussed the Ahimsa and Non-violence preached by Lord Mahavira, Lord Gautama Buddha as under:—

“Ahimsa or Non-violence

The concept of ahimsa - non-violence in thought and deed - is India's unique contribution to world culture. The Vedas and Upanishads were the first to speak of ahimsa. Although the Aryans were not vegetarians, the concept of non-killing appears in the earliest literature. The Rig Veda (10.87.16),

condemns all forms of killing, even for food, preferring vegans to drinkers of milk: The yatudhana who fills himself with the flesh of man, He who fills himself with the flesh of horses or of other animals, And he who steals the milk of the cow: Lord, cut off their heads with your flame... ”

xxx xxx xxx

91. In a well-researched article, “Personhood, Animals and the Law”, author Christine M. Korsgaard has discussed the concept of conferring status of personhood on the animals as under:—

“But it may be argued that those who make this proposal are ignoring something important about the concept of a person. It has generally been assumed that “personhood,” whatever it is, is, or is based on, an attribute that is characteristic of human beings, and not of the other animals. In the philosophical tradition, the most common candidate for the attribute that establishes “personhood” is rationality, but understood in a specific sense. Rationality is sometimes loosely identified with the ability to choose intelligently between options or to solve problems by taking thought, but those are attributes that human beings arguably share with many other animals. The more specific sense of “rationality” refers to a normative capacity, a capacity to assess the grounds of our beliefs and actions, and to adjust them accordingly. On the side of action, for instance, it is the capacity to ask whether something that would potentially motivate you to perform a certain action is really a reason for doing that action - and then to be motivated to act in accordance with the answer that you get. Rationality, in this sense, is normative self-government, the capacity to be governed by thoughts about what you ought to do or to believe. In fact, even some thinkers who would deny that

rationality is the distinctive characteristic of humanity would still agree that normative self-government is both definitive of personhood and distinctive of humanity. In the empiricist tradition, the tradition of Locke, Hume, and Hutcheson, it has been common to attribute to human beings, and human beings alone, a capacity to form so-called "second-order" attitudes - for instance, attitudes towards our own desires - that make them liable to normative assessment. Though I may desire to do something, I may also disapprove of that desire, and reject its influence over me. According to empiricists, second order attitudes are what make human beings subject to an "ought." So many philosophers have agreed that it is in virtue of normative self-government that human beings count as persons in the legal and moral sense.

Certainly, if something along these lines is correct, it is natural to think that only human beings can have obligations. In order to have obligations, you need to be able to think about whether what you are doing is right, and to adjust your conduct accordingly. This requires a highly developed "theory of mind," as ethologists call it. An animal has a theory of mind when the animal knows that animals (herself included) have mental attitudes, such as beliefs and desires. But in order to be rational in the sense I just described, an animal must not only know that she and other animals have mental attitudes. She must also know that her attitudes are connected in certain ways - for instance, that she is inclined to perform a certain action because she has a certain desire. To ask whether you have a good reason for doing what you propose to do, or whether it is right, is to think about and evaluate that connection, and it seems likely that only human beings can do that.

But it is a much harder question whether being rational in this sense is necessary for having rights, and that is the question most pressing from the point of view of those who seek legal protections for animals. The traditional distinction between persons and things groups the ability to have rights and the liability to having obligations together. One common view about why that should be so is that rights are grounded in some sort of agreement that is reciprocal: I agree to respect certain claims of yours, provided that you respect certain similar claims of mine. The view of society as based on a kind of social contract supports such a conception of rights. But in fact our laws do not merely protect those who as citizens are involved in making its laws: rather, they protect anyone who shares the interests that the laws were made to protect. So for instance, foreigners on our soil have rights not to be robbed or murdered, regardless of the fact that they are not parties to our own social contract. The laws that we make against murder and robbery are intended to protect certain human interests that foreigners share with citizens, and that is sufficient to give them the relevant rights. Of course, foreigners on our soil can also be made to conform to our laws - reciprocity can be required of them. But when we speak of universal human rights, we speak of interests that are shared by every human being and that we think ought to be protected, not merely of the interests protected under some actual social contract. So it makes sense to raise the question whether the other animals share the kinds of interests that our laws - either legal or moral - are meant to protect.

What is distinctive of animal life is the way that it functions, which is by means of perception and action. Through perception, an animal forms some

sort of representation of her environment. As a result of instinct, learning, and in the case of some animals, intelligent thought, objects in the animal's environment are represented as desirable or aversive in specific ways: as something to eat, or to flee from, or to mate with, or to take care of. Or some sort of practical representation may arise from within, as when you get hungry and find yourself irresistibly thinking about a sandwich. The animal then acts in accordance with these practical representations. The practical representations serve, though very imperfectly of course, to enable an animal to get what is good for her and avoid what is bad for her. In other words, when animals evolved, a kind of entity came into existence which actually experiences the goodness or badness of its own condition, or at least of some aspects of its own condition, in a positive or negative way - as something desirable or aversive. An animal experiences its own good or ill....”

92. Similarly, Jane Nosworthy, in the article “The Koko Dilemma: A Challenge to Legal Personality”, has discussed the entire concept of conferring with the personhood/personality on the animals as under:—

xxx xxx xxx

“The shelter of the legal umbrella would also provide more effective protection of animal interests than is available under current animal welfare law. As legal persons, animals could be recognised as parties to legal actions, because they would have the independent standing that they currently lack. There is no conceptual problem with the fact that animals' inability to speak means that they would require human legal persons to act as their representatives and to interact with the courts and the legal system on their behalf. As I noted above, it is quite acceptable for a legal person's rights and interests to be exercised and

protected by another legal person acting as the “administrator” of those rights. Infants are a prime example of legal persons whose rights and interests must be administered by another legal person, usually a parent or an appointed guardian. In practical terms, a human legal person of full capacity, concerned with the well-being of the animal and willing to represent the animal on a legal level, could be appointed by the court as the guardian and legal representative of that animal. Appropriate guardians might include animal welfare bodies, like the RSPCA, or individuals with a particular interest in, or familiarity with, the animal concerned. The guardian could represent the interests of an individual animal or a group of animals. For example, guardians might represent the rights of grain-destroying cockatoos to a humane death, rather than cruel clubbing, the rights of circus animals to freedom from suffering caused by unnatural captivity, or the rights of marine animals and birds to prevent the indiscriminate killing caused by the use of nets in long-line trawling.”

xxx xxx xxx

99. Accordingly, the writ petition is disposed of by issuing the following mandatory directions:—

A. The entire animal kingdom including avian and aquatic are declared as legal entities having a distinct persona with corresponding rights, duties and liabilities of a living person. All the citizens throughout the State of Uttarakhand are hereby declared persons in loco parentis as the human face for the welfare/protection of animals.

B. The Nagar Panchayat, Banbasa is directed to regulate the plying of horse carts/tongas from Banbasa to Nepal by issuing licenses to the owners by charging reasonable fee within one month from today.

C. The State Government is directed to ensure the medical examination of all the animals including horses entering from Nepal to India as well as horses moving from Indian border to Nepal to check infectious and contagious diseases by setting the veterinary check-posts on the border.”

(Emphasis supplied)

106. In ***Re Effective Implementation of Prevention of Cruelty to Animal Act, 1960 and its Rules v. The State Government through its Chief Secretary***, (2018) SCC OnLine Mani 79, the Manipur High Court held that the implementation of the PCA Act was not being done appropriately. The relevant portion of the judgment is reproduced herein below:

“5. Since the animals being an integral part of the Indian economy and are being used in various fields like agriculture, transportation, amusement etc., the Prevention of Cruelty to Animals Act, 1960 was enacted by the Union of India and the relevant rules were made thereunder, from time to time, some of which mention may be made, are-(a) the Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001; (b) the Animal Birth Control (Dogs) Rules, 2001 and (c) the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 which are hereinafter referred to as “the Prevention Rules, 2001”; “the Birth Control Rules, 2001” and “the Prevention Rules, 2017” respectively. Section 4 of the Act provides for the establishment of the Animal Welfare Board of India for the purpose of promotion of animal welfare and protection of animals from being subjected to unnecessary pain or suffering. The detailed functions of the Board are enumerated in Section 9 of the Act. Rule 3 of the Prevention Rules, 2001 provides that every State

Government shall establish a society for every district in the State to be the SPCA in that district and a Managing Committee thereof shall be appointed by the State Government. Rule 4 provides that every State Government shall provide adequate land and other facilities to the Society for the purpose of constructing infirmaries and animal shelters. The Birth Control Rules, 2001 talks about the obligations of the Local Authority which are detailed in Rule 6 thereof and sub-rule (1)(a) states that the local authority shall provide for establishment of a sufficient number of dog pounds including animal kennels/shelters. Rule 3 of the Prevention Rules, 2017 provides for keeping animals in infirmary, pinjrapole, SPCA, Animal Welfare Organization or Gaushala during the pendency of the litigation. Rule 8 also provides that if the accused is convicted or pleads guilty, the Magistrate shall deprive him of the ownership of animals and forfeit the same to the centre already having the custody for proper adoption or other depositions.

6. The importance of safeguarding the welfare of the animals can be looked at from the angle of the provisions of the Constitution of India and in particular, Article 21 of the Constitution which mandates that no person shall be deprived of his life and personal liberty except according to procedure established by law. It is well settled that the right to life, as enshrined in Article 21, means something more than survival or animal existence. The scope of the right to life has been expanded by the Hon'ble Supreme Court, time and again, and in other words, the right to life would include all those aspects of life which go to make a man's life meaningful, complete and worth living...

xxx

xxx

xxx

9. Shri. A. Romenkumar, the learned Amicus Curiae has drawn the attention of this court to the sorry state of affairs in the State and according to him, the State Government has failed to implement the various

provisions of the Act and the rules made thereunder as well as the law laid down by the Hon'ble Supreme Court, in letter and spirit, as aforesaid hereinabove. The stand of the State Government as indicated in their affidavit dated 16-07-2018 is that Societies for prevention of Cruelty to Animals (SPCA) have been established in six districts pursuant to the Notification dated 26-10-2012 issued by the Commissioner (Vety & AH), Government of Manipur. It has further been stated in the affidavit that the State Government has directed the Director (Vety & AH), Government of Manipur to designate the Joint Director (Veterinary) as the Joint Director, Animal welfare Board and three Deputy Directors to be in-charge of IEC & awareness, shelter homes for rescue animals, legal matter and planning etc. The Animal Welfare Board is not functional properly for want of fund. Necessary steps have been taken to implement the directions issued by the Hon'ble Supreme Court in the case of Animal Welfare Board of India v. Nagaraja, (2014) 7 SCC 547. Necessary steps are being taken up to set up animal shelter at Porompat at the earliest. So far as the direction relating to throwing of plastic materials is concerned, it has been stated that the Department is not concerned with it but the concerned authority has been requested for proper disposal of plastic materials so as to enable to prevent from consumption by the animals.

10. The contention of the learned Amicus Curiae appears to have some force and merit. From the perusal of the affidavit filed on behalf of the State respondents, it is clearly seen that despite the relevant rules having been framed, way back, in the year, 2001, the Animal Welfare Board still remains admittedly non-functional and SPCAs have been established only in the year, 2012 on papers only, as is evident from the letter dated 23-10-2017 addressed to the PFA, Manipur by the Director (Vety & AH) informing that the Department does not have any scheme for providing permanent or temporary shelter to animals and birds. The callous attitude being shown to

by the State Government and the insensibility to the issue relating to the welfare of the animals which has been held to be included within the meaning of the “right to life”, are unfortunate. Although it has been stated in the affidavit that necessary steps have been taken for purpose of implementing the provisions of the Act and the rules made thereunder as well as the orders/directions passed by the Hon’ble Supreme Court, the documents in support thereof have not been placed on record for perusal by this court. The Act, 1960 and the rules made thereunder, being enacted by the Union of India, the State Government is bound to implement the provisions thereof and in addition thereto, the State Government is bound to comply with the orders passed by the Hon’ble Supreme Court. The State Government shall not be swayed by a wrong notion or an impression that nobody would approach the Hon’ble Supreme Court by way of a contempt proceeding against the State Government for its non-compliance with the Apex Court’s order. It is the bounden duty of the State Government to have due respect for the Apex Court and in other words, our country being a welfare State, the State of Manipur ought to act fairly and reasonably with a view to keep a healthy environment for purpose of making the human life meaningful. In this regard, the observation made by the Hon’ble Supreme Court in Indian Council for Enviro-Legal Action v. Union of India, (1996) 5 SCC 281 is relevant and para 26 thereof is as under:

“26. Enactment of a law, but tolerating its infringement, is worse than not enacting a law at all. The continued infringement of law, over a period of time, is made possible by adoption of such means which are best known to the violators of law. Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the enforcement authorities encourages lawlessness and adoption of means which cannot, or ought not to, be tolerated in any

civilized society. Law should not only be meant for the law-abiding but is meant to be obeyed by all for whom it has been enacted. A law is usually enacted because the legislature feels that it is necessary. It is with a view to protect and preserve the environment and save it for the future generations and to ensure good quality of life that Parliament enacted the anti-pollution laws, namely, the Water Act, Air Act and the Environment (Protection) Act, 1986. These Acts and Rules framed and notification issued thereunder contain provisions which prohibit and/or regulate certain activities with a view to protect and preserve the environment. When a law is enacted containing some provisions which prohibit certain types of activities, then, it is of utmost importance that such legal provisions are effectively enforced. If a law is enacted but is not being voluntarily obeyed, then, it has to be enforced. Otherwise, infringement of law, which is actively or passively condoned for personal gain, will be encouraged which will in turn lead to a lawless society. Violation of anti-pollution laws not only adversely affects the existing quality of life but the non-enforcement of the legal provisions often results in ecological imbalance and degradation of environment, the adverse effect of which will have to be borne by the future generations.”

11. Being conscious of the order passed by the Hon'ble Supreme Court in Animal Welfare Board India case (supra) by which all the High Courts have been requested not to pass any order relating to the Act, 1960 and the 2001 rules pertaining to dogs, we refrain ourselves from passing any order thereto but this PIL stands disposed of with the direction that the State Government shall implement the provisions of the Act and the rules made thereunder, in letter and spirit, as

directed by the Hon'ble Supreme Court and submit a compliance report thereof to this court within four months from the date of receipt of a copy of this order."

(Emphasis supplied)

107. In *Karnail Singh v. State of Haryana*, 2019 SCC OnLine P&H 704, the Punjab and Haryana High Court recognized all animals as legal entities and also declared that the citizens of Haryana as persons in *Loco Parentis* (in place of a parent) to the animals. The court also stated that legal personhood is not limited to human beings. The relevant portion of the judgement is reproduced hereinunder:

"76. Author Albert Schweitzer has said, "Until we extend the circle of compassion to all living things, we will not find peace." The first American law prohibiting cruelty to animals was passed by the Puritans of the Massachusetts Bay Colony in 1641: "No man shall exercise any turranny or crueltie towards any brute creatures which are usuallie kept for man's use." Learned Author has made very pertinent observation on legal changes taking place globally to recognize non-human animals as legal persons as under:—

"On the frontiers of legal change, there is a growing global movement to recognize non-human animals as legal persons, a radical change that would endow them with the variety of legal rights. Animal rights advocates are not saying primates, cetaceans, or elephants are people. A 'legal person' is not necessarily a human being, but rather an entity to which the law grants specific rights. A corporation is considered a legal person, as are ships, churches and municipalities. The rights and responsibilities of a legal person vary according to the nature of the entity. Corporations and human beings have different sets of legal

rights and duties. For example, corporations may assert freedom of expression, but are not protected by the right to life.”

77. With the development of the society where the interaction of individuals fell short to upsurge the social development, the concept of juristic person was devised and created by human laws for the purposes of the society. A juristic person, like any other natural person is in law also conferred with rights and obligations and is dealt with in accordance with law. In other words, the entity acts like a natural person but only through a designated person, as their Lordships have held in the judgments cited hereinabove, that for a bigger thrust of socio-political-scientific development, evolution of a fictional personality to be a juristic person becomes inevitable. This may be any entity, living inanimate, objects or things. It may be a religious institution or any such useful unit which may impel the Courts to recognise it. This recognition is for subserving the needs and faith of the society. Corpus Juris Secundum, Vol.6, page 778 explains the concept of juristic persons/artificial persons thus: “Artificial persons. Such as are created and devised by human laws for the purposes of society and government, which are called corporations or bodies politic.” A juristic person can be any subject matter other than a human being to which the law attributes personality for good and sufficient reasons. Juristic persons being the arbitrary creations of law, as many kinds of juristic persons have been created by law as the society require for its development. (See Salmond on Jurisprudence 12th Edition Pages 305 and 306).

78. We have to show compassion towards all living creatures. Animals may be mute but we as a society have to speak on their behalf. No pain or agony should be caused to the animals. Cruelty to animals also causes psychological pain to them. In Hindu Mythology, every animal is associated with god. Animals breathe like us and have emotions. The animals require food, water,

shelter, normal behavior, medical care, self-determination.

79. *Due to damage caused to environment and ecology, the avian and aquatic life is also threatened. Major rivers have been reduced to the status of a sewer. Aquatic life cannot survive without water. The rivers have inherent right to flow in length as well as in width. The oceans are choked with plastic. Many species are becoming extinct. The loss of one species causes immense damage to the entire ecosystem. Global warming has arrived and its impact can be seen in day-to-day existence. There are gaps in laws. New inventions are required to be made in law to protect the environment and ecology. The animals including avian and aquatics have a right to life and bodily integrity, honour and dignity. Animals cannot be treated merely as property.*”

(Emphasis supplied)

108. In ***Citizens for the Welfare and Protection of Animals v. State***, W.P. (Crl.) No. 467/2009, this Court dealt with a case filed by the Petitioners for a declaration that feeding of stray dogs was not an offense. The Petitioners were also seeking relief from the enforcement agencies such as the police, as no help was provided to the Petitioners by the Police to protect them from harassment of the neighbours while feeding of stray dogs. This Court vide order dated 18th December 2009, directed framing of various guidelines for feeding the stray dogs. The relevant portion of the Order is reproduced herein below:

“...in each colony of Delhi, Animal Welfare Board of India should identify, in consultation with Residents Welfare Association, Area SHO and the Animal Welfare Organization working in that area, the spots/sites which in its opinion,

would be most suitable for the purpose of feeding dogs. The purpose of feeding dogs is to keep them confined to a particular place, so as to subject them to sterilization/vaccination/re-vaccination, as the vaccination does not last more than one year. To begin with, the Animal Welfare Board shall identify suitable sites in the colonies, subject matter of these petitions, within four weeks from today. It shall also try to cover as many more colonies as it can during that period. Gradually, such sites will be identified in other colonies/localities of the city. Status report after identifying the suitable sites in those four colonies and such other colonies as may be feasible, shall be filed in this Court within five weeks from today.”

109. The issues relating to feeding of stray dogs again came up for consideration before this Court in W.P.(C) 2556/2021 titled ***Urvashi Vashist v. Residents Welfare Association***, W.P. (C) 2556/2021 and CM APPL. 75351/2021, when a lady from Vasant Kunj approached this Court seeking relief on feeding the stray dogs without any harassment. This Court reiterated and opined that the guidelines relating to the feeding of stray dogs is clear, however, to resolve the issue the Court ordered the AWBI, the RWA members and the SHO to have a meeting in regard to feeding of stray dogs and take appropriate actions. The relevant portion of the order is reproduced herein under:

“6. The order dated 18th December 2009 passed in Citizen for the Welfare (supra) reads:

“All the learned counsel appearing before me agree that in each colony of Delhi, AWBI should identify, in consultation with Residents Welfare

Association, Area SHO and the Animal Welfare Organization working in that area, the spots/sites which in its opinion should be most suitable for the purpose of feeding dogs. The purpose of feeding dogs is to keep them confined to a particular place, so as to subject them to sterilization/vaccination/re-vaccination, as the vaccination does not last more than one year. To begin with, the Animal Welfare Board shall identify suitable sites in the colonies, subject matter of these petitions, within four weeks from today. It shall also try to cover as many more colonies as it can during that period. Gradually, such sites will be identified in other colonies/localities of the city.”

“In the meantime, the Delhi Police will ensure that no harm is caused to the volunteers of Animal Welfare Organizations feeding dogs in these localities provided that they feed them only during hours to be specified by Animal Welfare Board and provided further that as soon as suitable sites for feeding the 41 dogs are identified, these organizations will feed dogs only on those identified sites and at hours specified by Animal Welfare Board.”

7. A perusal of the above order shows that the court had clearly given directions to AWBI, in consultation with the RWAs, to identify suitable spots/sites in the colonies for the feeding of street dogs.

8. It, however, appears that there has been no consensus in identifying the suitable spot. The RWA appears to have been having apprehensions in view of the fact that children and senior residents also roam around in the open area of the block, for their own recreation. The circular dated 07th December, 2019, issued by the Resident Welfare Association, which is under challenge in this petition, reads as under:

“IMPORTANT CIRCULAR REG DOG MENACE
Dated: 7th Dec 2019

All the residents are hereby informed that a meeting has been arranged to discuss the street dog menace and their patronization by the dog lovers of E2.

You are requested to gather at Gate No. 1 at 10.30 AM tomorrow i.e. Sunday 8th Dec 2019 to have the views of the residents and the way to get rid of the menace of street dogs and their excreta. This menace has reached an alarming point because people fear to come out without a stick and many residents including children have been bitten by these dogs.

RWA is trying it's best to address this issue, please come forward and support the RWA. Without your support RWA can't handle this issue alone as this involves following many guidelines related to animal rights.

Therefore, you are requested to assemble in large numbers to participate and show your solidarity against this menace."

9. From a perusal of the said circular, it is clear that the Residents of the area also have grave concerns towards the safety of the children and others who live in the area. The residents and the members of the RWA as also the Petitioners have to act in harmony with each other and not in a manner which shall lead to unpleasant circumstances in the colony. Accordingly, in order to maintain peace and harmony in the locality, the following directions are issued:

1. AWBI shall send two representatives on 8th March, 2021 at 3:00 pm. The said members of the AWBI shall hold a meeting at an appropriate spot in E-2 Block, Vasant Kunj. The said members would intimate the Petitioners as also the RWA office bearers of the said spot through the two counsels who are appearing in the matter today, on their mobile numbers.

2. *During the meeting, the members of AWBI and RWA shall interact with the residents in the area as also the Petitioners and identify a spot, which is not used by children, senior citizens and other residents, so that the said specified spot can be used for the purpose of feeding and taking care of street dogs etc.*
3. *Once the said spot is identified, the Petitioners would feed and take care of the street dogs at that particular spot, and no hindrance, whatsoever, shall be caused to the Petitioners in carrying out any activities in respect of the street dogs at the said spot.*
4. *The SHO of area concerned shall also be present at the time when the meeting would be held between the RWA and Petitioners along with representatives of AWBI. It shall be the duty of the SHO concerned to ensure that peace and harmony is maintained amongst the residents of the area so that no harassment is caused to the Petitioners by RWA and vice versa.”*

(Emphasis Supplied)

Summary of Principles

110. Article 21 of the Constitution, while safeguarding the rights of humans, protects life of all species. The word “*life*” has been given an expanded definition. So far as animals are concerned, “*life*” means something more than mere survival or existence.

111. Article 48A declares the duty of the State to protect and make all endeavours to safeguard the forests and wildlife.

112. Article 51A (g) imposes a duty on the citizens to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.

113. Article 51A (g) enjoins that it is a fundamental duty of every citizen “*to have compassion for living creatures*”, which means concern for suffering, sympathy, kindness, etc., which has to be read along with Sections 3, 11(1)(a) and (m), 22, etc. of the PCA Act.

114. Article 51A (h) highlights the principles of humanism to look after the welfare and well-being of the animals and the duty to prevent the infliction of pain or suffering on animals.

115. Articles 51A(g) and (h) have to be read into the Prevention of Cruelty to Animals Act, 1960, especially Sections 3 and 11 of the PCA Act.

116. Sections 3 and 11 of the Prevention of Cruelty to Animals Act, 1960 read with Article 51A(g) of the Constitution guarantees right to live in a healthy and clean atmosphere and right to get protection from human beings against inflicting unnecessary pain or suffering is a right to the animals.

117. Sections 3 and 11 of the Prevention of Cruelty to Animals Act, 1960 provides statutory recognition to animals’ well-being and welfare.

118. Section 3 of Prevention of Cruelty to Animals Act, 1960 stipulates the duties of persons having charge of animals to take all reasonable measures to ensure the well-being of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering.

119. Section 4 of Prevention of Cruelty to Animals Act, 1960 has established Animal Welfare Board of India for the promotion of

animal welfare generally and for the purpose of protecting animals from being subjected to unnecessary pain or suffering.

120. Section 11 of the Prevention of Cruelty to Animals Act, 1960 also takes into account that no animal shall be starved to death. The animals have a right against human beings not to be tortured and against infliction of pain or suffering.

121. Stray dogs are protected under the Prevention of Cruelty to Animals Act, 1960, and Rules enacted under Section 38 of the Act, particularly, the Animal Birth Control (Dogs) Rules, 2001 which makes it illegal for an individual, RWA or estate management to remove or relocate dogs.

122. The Delhi Police Act, 1968 (Sections 73 to 79 & 99) gives special powers to the police to take action when an animal offence has been committed under sub-Section (1) of Sections 11 or 12 of the Prevention of Cruelty to Animals Act, 1960. Under Section 73, if a police officer believes that there is a reasonable ground for suspecting the commission of the aforementioned offence, he may take the animal to the Metropolitan Magistrate or to an infirmary if the animal is injured followed by a subsequent production before the Magistrate within a period not exceeding three days.

123. Government of India (Ministry of Personal, Public Grievances and Pensions, Department of Personal and Training) by Office Memorandum dated 26th May, 2006 notified that “*the Govt. servant who indulges in act of cruelty to animals will be making himself liable for action under Prevention of Cruelty to Animals Act. Besides, punishment under the Act, he would also make himself*

liable for action under CCS(Conduct) Rules for conduct unbecoming of a Govt. servant". The said Office Memorandum also added that "while residents and associations are free to address institutional agencies for redressal of grievances in the matter, no resident/association will interfere with the freedom of other residents in tending animals etc".

Guidelines

124. Animals have a right under law to be treated with compassion, respect and dignity. Animals are sentient creatures with an intrinsic value. Therefore, protection of such beings is the moral responsibility of each and every citizen including the governmental and non-governmental organisations.

125. We have to show compassion towards all living creatures. Animals may be mute but we as a society have to speak on their behalf. No pain or agony should be caused to the animals. Cruelty to animals causes psychological pain to them. Animals breathe like us and have emotions. The animals require food, water, shelter, normal behaviour, medical care, self-determination.

126. Community dogs (stray/street dogs) have the right to food and citizens have the right to feed community dogs but in exercising this right, care and caution should be taken to ensure that it does not impinge upon the rights of others or cause any harm, hinderance, harassment and nuisance to other individuals or members of the society.

127. Feeding of the community dogs have to be done at areas *designated* by the AWBI in consultation with Resident Welfare

Associations or Municipal Corporation (in case RWA is not available). While determining the '*designated area*', the AWBI and RWA/Municipal Corporations has to be conscious of the fact that every community dog is a territorial being and therefore, community dogs must be fed and tended to at places within their territory. It is the duty of the AWBI and the RWAs to ensure and keep in mind the fact that community dogs live in '*packs*' and care should be taken by the AWBI and RWAs to see that each '*pack*' ideally has different designated areas for feeding even if that means designating multiple areas in a locality.

128. All Law enforcement authorities shall ensure that no harassment or hindrance is caused to the person feeding street dog at the designated feeding spot and to properly implement the AWBI Revised Guidelines on Pet dogs and street dogs dated 26th February, 2015.

129. It shall be the duty and obligation of every Resident Welfare Associations or Municipal Corporation (in case RWA is not available) to ensure that every community dog in every area has access to food and water in the absence of caregivers or community dog feeders in the said area.

130. Every dog is a territorial being, and therefore, the street dogs have to be fed and tended to at places within their territory which are not frequented, or less frequented, and sparingly used by the general public and residents.

131. Any person having compassion for stray dogs can feed the dogs at their private entrance/porch/driveway of their house or any

other place not shared with other residents.

132. No person can restrict the other from feeding of dogs, until and unless it is causing harm or harassment to that other person.

133. The residents and the members of the RWA as well as the dog feeders have to act in harmony with each other and not in a manner which shall lead to unpleasant circumstances in the colony.

134. AWBI shall ensure that every Resident Welfare Association or Municipal Corporation (in case RWA is not available), shall have an Animal Welfare Committee, which shall be responsible for ensuring compliance of the provisions of the PCA Act and ensure harmony and ease of communication between caregivers, feeders or animal lovers and other residents.

135. Municipal Corporations at the request of the RWA and / or local authority or persons volunteering to take such responsibility shall be responsible for having the stray dogs registered / vaccinated / sterilised.

136. The dogs have to be sterilized and vaccinated and returned to the same area. Vaccinated and sterilized dogs cannot be removed by the Municipality.

137. No hindrance, whatsoever, shall be caused to the persons in carrying out any activities in respect of the street dogs at the said spot. Also, it shall be the duty of the SHO concerned to ensure peace and harmony is maintained amongst the residents of the area.

138. If any of the street / community dogs is injured or unwell, it shall be the duty of the RWA to secure treatment for such dog by the vets made available by the Municipal Corporation and / or privately

from the funds of the RWA.

139. Street dogs perform the role of community scavengers and also control rodent population in the area thus preventing spread of diseases like Leptospirosis.

140. Street dogs provide companionship to those residents who feed them and act as their stress relievers.

141. Street dogs are sometimes subjected to abusive treatment by some residents of the community because of the wide spread of wrong/misplaced beliefs that all street dogs carry Rabies Virus. It is the responsibility of the community residents to get their dogs vaccinated against rabies every year to prevent the spread of rabies.

142. Every RWA should form *Guard and Dog partnerships* and in consultation with the Delhi Police Dog Squad, the dogs can be trained to make them effective as guard dogs and yet friendly to those who live in the colony.

143. The importance of street dogs' in our community is of great significance. Being territorial animals, they live in certain areas and play the role of guards by protecting the community from the entry of outsiders or unknown people. If these are removed from a certain area, the new stray dogs will take their place

144. If any of the street / community dog is injured or unwell, it shall be the duty of the RWA to secure treatment for such dog by the vets made available by the Municipal Corporation and / or privately from the funds of the RWA.

145. In order to check the overpopulation of street dogs in the community, it is also the responsibility of community to get their

street dog population sterilized through an NGO engaged in Dog sterilization programme.

Conclusion

146. It shall be the duty and responsibility of the RWA or Municipal Corporation and all Government authorities including enforcement authorities like Police to provide all assistance and ensure that no hindrance is caused to the caregivers or feeders of community dogs. It shall be the duty and responsibility of the jurisdictional SHO to ensure that peace and harmony is maintained amongst the residents, care-givers and community dog feeders and there is no harassment to any care-giver or community dog feeder from feeding community dogs in the manner specified.

147. It is the duty and obligation of every Resident Welfare Association or Municipal Corporation (in case RWA is not available), to ensure that every community dog in every area has access to food and water in the absence of caregivers or community dog feeders in the said area.

148. AWBI shall ensure that every Resident Welfare Association or Municipal Corporation (in case RWA is not available), shall have an Animal Welfare Committee, which shall be responsible for ensuring compliance of the provisions of the PCA Act and ensure harmony and ease of communication between caregivers, feeders or animal lovers and other residents.

149. In case, any resident(s) or the RWA has any grievance with regard to any act of caregivers and feeders, in relation to feeding of community dogs, the said resident(s), shall, at the first instance seek

redressal of their grievance through a process of dialogue and discussion through the Animal Welfare Committee failing which the said issue may be brought to the notice of the AWBI through the RWA. The AWBI shall ensure expeditious resolution of the issues.

150. The Government of India (Ministry of Personal, Public Grievances and Pensions, Department of Personal and Training) by Office Memorandum dated 26th May, 2006 notified that the Government servant who indulges in act of cruelty to animals will be making himself liable for action under Prevention of Cruelty to Animals Act. Besides, punishment under the Act, he would also make himself liable for action under CCS(Conduct) Rules for conduct unbecoming of a Government servant. The said Office Memorandum also added that while residents and Associations are free to address institutional agencies for redressal of their grievances, no resident/association will interfere with the freedom of other residents in tending animals etc. AWBI shall bring this to the notice of RWA of Government employees.

151. Despite the clear position of law prohibiting cruelty to the animal including stray dogs, there is increasing tendency of the citizens to defy the same. Many times, the Government employees take up a position in complete violation of well settled law which has been dealt with in the Office Memorandum dated 26th May, 2006. Such act of defiance be noted down in the ACR file of Government employee. If any such complaint is received by AWBI, the same be sent to the concerned office for being placed in the ACR file of the Government employee for necessary action as per CCS Rules.

152. There is a need to spread awareness that even animals have a right to live with respect and dignity. AWBI shall carry out an awareness campaign in association with various Newspapers, Television, Radio Channels and Social Media platforms. AWBI shall also ensure these Guidelines are disseminated through the above-mentioned media. AWBI shall circulate these Guidelines to various Resident Welfare Associations, the Police Department, Municipal Authorities etc.

153. This Court is of the view that it would be appropriate to constitute a Committee to implement these Guidelines. This Court hereby constitutes the Implementation Committee which shall comprise of the following members:

- (i) The Director, Animal Husbandry Department or his nominee.
- (ii) One Senior Officer to be nominated by all the Municipal Corporations.
- (iii) One Senior Officer to be nominated by Delhi Cantonment Board.
- (iv) One Senior Officer to be nominated by Animal Welfare Board of India.
- (v) Ms. Nandita Rao, Additional Standing Counsel, Govt. of NCT of Delhi as Convenor.
- (vi) Ms. Manisha T. Karia, Advocate for Animal Welfare Board of India.
- (vii) Mr. Pragyan Sharma, Advocate

154. The Committee shall hold its first meeting within four weeks.

155. This Court appreciates the assistance rendered by Mr. Pragyan Sharma, Advocate as amicus curiae, Ms. Nandita Rao, Additional Standing Counsel for Govt. of NCT of Delhi, Ms. Manisha T. Karia,

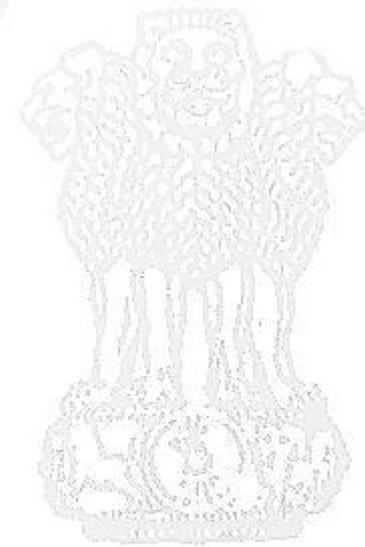
Advocate for Animal Welfare Board of India and Mr.Akshay Chowdhary and Ms Anjali Agrawal, Law Researchers attached to this Court.

156. Copy of this judgment be sent to the Delhi Judicial Academy to sensitize the judges about the directions laid down by this Court.

157. Delhi Judicial Academy shall upload this judgment on their website (<http://judicialacademy.nic.in>) as good practices of this Court.

JUNE 24, 2021
ak/ds/dk

J.R. MIDHA, J.



भारत्यमेव जयते