

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No. 6631 of 2014.

Reserved on: 21.7.2016.

Decided on: 29.7.2016.

Bhartiya Govansh Rakshan Sanverdhhan Parishad, H.P.Petitioner.

Versus

The Union of India & ors.Respondents.

Coram

The Hon'ble Mr. Justice Rajiv Sharma, Judge.

The Hon'ble Mr. Justice Sureshwar Thakur, Judge.

Whether approved for reporting? Yes.

For the petitioner(s): Mr. Varun Thakur, Advocate.

For the respondents: Mr. Ashok Sharma, ASGI with Mr. Nipun Sharma, Advocate, for respondents No. 1,2 & 10.

Mr. M.A.Khan, Addl. AG with Mr.P.M. Negi, Dy. AG and Mr. Neeraj K. Sharma, Dy. AG for respondents No. 3 to 7 & 9.

Per Justice Rajiv Sharma, J.

In this petition, a question of vital public importance has been raised for the protection of cows. The petitioner is a registered organization. The aim and object of the petitioner-organization is to protect Cows and to preserve its varieties. The petitioner has also sought complete ban on cow slaughter. There is no proper arrangement for food, medicine and infrastructure for the cows. The cows are found abandoned throughout the State of Himachal Pradesh. The cows are also transported outside the State brutally for slaughtering. The devotion of Indians towards worship of cows is an integral part of Hinduism. There is dire need to construct modern gaushallas/gausadans in the State of Himachal Pradesh to protect abandoned cows. There should be compulsory

registration of the cattle as well as gausadans/gaushallas. The petitioner in fact has sought complete ban on cow slaughter in India.

2. The former President of India Dr. Radhakrishnan in his Speech on **“The Role of Cow in Indian Economy”** has addressed as follows:

“There is a great deal of sentiment for the cow; but in our daily life the welfare of the cow has been sadly neglected. There is a tendency among our people to maintain large numbers of cattle and to take pride in them, but adequate attention is not paid to their being properly fed and cared for. The result has been that the average productivity of the cow has remained low. In the changing economy of the country, there is increasing need for more productive cattle for both milk and draught.

There is a large scope for non-official organizations supplementing the efforts made by the governmental agencies for cattle and dairy development in the country. Special mention may be made of the traditional institutions of *gaushalas* and *pinjrapoles* spread all over the country which, I think, have to play an increasingly important role in the field of protection and development of cattle. The *gaushalas* and *pinjrapoles*, as voluntary public bodies, have the advantage of being in direct contact with the people. With the advancement of science and the spread of education in the country, our people are becoming increasingly conscious of the need to apply improved methods in all fields of development. The *gaushalas*, which are reorienting their outlook on scientific lines, can carry the message of scientific development of cattle to the general public. Schemes for the development and reorganization of *gaushalas* and *pinjrapoles* as cattle-breeding-cum-milk production centres have been included in the Third Five Year Plan, and it is noteworthy that these institutions are availing themselves increasingly of the assistance provided under various schemes.”

3. In **“The Indian Constitution Cornerstone of a Nation”**, the learned author Granville Austin, has observed that the provision pertaining to the improvement of agriculture and animal husbandry techniques and the prohibition of cow slaughter was added to the Directive Principles for a mixture of reasons. He made the following observations qua Article 48:

“The need to improve agriculture was obvious, and cattle generally, the cow particularly, held a place of special reverence in Hindu thought. The religious aspect of cow protection had also long standing political ramifications. Indian Muslims killed cows both for food and as part of religious ceremonies. Hindus, of course, resented this; cow protection societies had existed for at least sixty years prior to the Assembly, and a religious difference had become a major political cause espoused by genuine believers and unscrupulous opportunists alike, for reasons both honourable and otherwise. In the days of the British Raj, many Hindu revivalists had promised themselves that with independence cow killing would stop. Those of this persuasion in the Assembly believed that the time for action was ripe and, as a result of agreement in the Congress Assembly Party meeting, the measure passed without opposition. No one would have quarreled with the need to modernize agriculture, but many may have found the reference to cow-killing distasteful. There is good evidence that Nehru did. Generally speaking, however, Hindu feeling ran high on the subject, and one may surmise that those who opposed the anti-cow-killing cause bent with the wind, believing the issue not sufficiently important to warrant a firm stand against it. As various provisions of the Irish Constitution show that Ireland is a Roman Catholic nation, so Article 48 shows that Hindu sentiment predominated in the Constituent Assembly.”

4. Pandit Thakur Dass Bhargava, the Hon'ble Member of the Constituent Assembly has eloquently debated the sensitive issue of “protection of cows” on 24th November, 1948 in the Constituent Assembly while seeking amendment in proposed Article 38-A at page 568 of the Constituent Assembly Debates (Vol. VII) as under:

“I wanted to speak in Hindi which is my own language about the cow and I would request you not to order me to speak in English. As the subject is a very important one, I would like to express myself in the way in which I can express myself with greater ease and facility. I would therefore request you kindly to allow me to speak in Hindi.

*[Mr. Vice-President, with regard to this amendment I would like to submit before the House that in fact this amendment like the other amendment, about which Dr. Ambedkar has

stated, is his manufacture. Substantially there is no difference between the two amendments. In a way this is an agreed amendment. While moving this amendment, I have no hesitation in stating that for people like me and those that do not agree with the point of view of Dr. Ambedkar and others, this entails, in a way, a sort of sacrifice. Seth Govind Das had sent one such amendment to be included in the Fundamental Rights and other members also had sent similar amendments. To my mind it would have been much better if this could have been incorporated in the Fundamental Rights, but some of my Assembly friends differed and it is the desire of Dr. Ambedkar that this matter, instead of being included in Fundamental Rights should be incorporated in the Directive Principles. As a matter of fact, it is the agreed opinion of the Assembly that this problem should be solved in such a manner that the objective is gained without using any sort of coercion. I have purposely adopted this course, as to my mind, the amendment fulfils our object and is midway between the Directive Principles and the Fundamental Rights.

I do not want that due to its inclusion in the Fundamental Rights, non-Hindus should complain that they have been forced to accept a certain thing against their will. So far as the practical question is concerned, in my opinion, there will be absolutely no difference if the spirit of the amendment is worked out faithfully, wheresoever this amendment is placed. With regard to Article 38 which the House has just passed, I would like to state that Article 38 is like a body without a soul. If you fail to pass Article 38-A which is the proposed amendment, then Article 38 will be meaningless. How can you improve your health and food position, if you do not produce full quota of cereals and milk?

This amendment is divided into three parts. Firstly, the agriculture should be improved on scientific and modern lines. Secondly, the cattle breed should be improved; and thirdly, the cow and other cattle should be protected from slaughter. To grow more food and to improve agriculture and the cattle breed are all inter-dependent and are two sides of the same coin. Today, we have to hang our head in shame, when we find that we have to import cereals from outside. I think our country is importing 46 million tons of cereals from outside. If we calculate the average of the last twelve years, namely, from 1935 to 1947, then it would be found that this country has produced 45 million tons of cereals every year. Therefore, it is certain that we are not only self-sufficient but can also export cereals from our country. If we utilize water properly, construct dams, and have proper change in the courses of rivers, use

machines and tractors, make use of cropping and manuring, then surely the production will increase considerably. Besides all these, the best way of increasing the production is to improve the health of human beings and breed of cattle, whose milk and manure and labour are most essential for growing food. Thus the whole agricultural and food problem of this country is nothing but the problem of the improvement of cow and her breed. And therefore I would like to explain to you by quoting some figures, how far cattle-wealth has progressed and what is the position today.

In 1940, there were 11,56,00,960 oxen in India and in 1945 only 11,19,00,000 were left. That is to say, during these five years, there was a decrease of 37 lacs in the number of oxen. Similarly the number of buffaloes in 1940, was 3,28,91,300 and in 1945, this figure was reduced to 3,25,44,400. According to these figures, during these five years, their number was reduced by four lacs. Thus during these five years there was decrease of 41 lacs in the sum total of both the above figures taken together.

Besides this, if we see the figures of the slaughtered cattle in India we find that in 1944, 60,91,828 oxen were slaughtered, while in 1945 sixty five lacs were slaughtered i.e., four lakhs more. In the same year 7,27,189 buffaloes were slaughtered. I do not want to take much of your time. If you wish to see latest figures then I have got them upto 1945. You can see them. I have got figures for Bombay and Madras. A look at these figures will show that there has been no decrease in their slaughter, rather it is on the increase. Therefore, I want to submit before you that the slaughter of cattle should be banned here. Ours is an agricultural country and the cow is 'Kam-Dhenu' to us - fulfiller of all our wants. From both points of view, of agriculture and food, protection of the cow becomes necessary. Our ancient sages and Rishis, realising her importance, regarded her as very sacred. Here, Lord Krishna, who served cows so devotedly that to this day, in affection he is known as "Makhan Chor". I would not relate to you the story of Dalip, how that Raja staked his own life for his cow. But I would like to tell you that even during the Muslim rule, Babar, Humayun, Akbar, Jahangir and even in the reign of Aurangzeb, cow slaughter was not practised in India; not because Muslims regarded it to be bad but because, from the economic point of view, it was unprofitable.

Similarly in every country, in China, cow-slaughter is a crime. It is banned in Afghanistan as well. A year ago, a similar law was passed in Burma, before that, under a certain law cattle

only above fourteen years of age could be slaughtered. But eventually, the Burma Government realized that this partial ban on slaughter was not effective. On the pretext of useless cattle many useful cattle are slaughtered. I have read in newspapers that the Pakistan Government has decided to stop the export of cattle from Western Pakistan, and they too have enforced a partial ban on slaughter of animals. In the present conditions in our country, cow-breeding is necessary, not for milk supply alone, but also for the purposes of draught and transport. It is no wonder that people worship cow in this land. but I do not appeal to you in the name of religion; I ask you to consider it in the light of economic requirements of the country. In this connection I would like to tell you the opinion of the greatest leader of our country - the Father of the Nation - on the subject. You know the ideas of revered Mahatmaji on this topic. He never wanted to put any compulsion on Muslims or non-Hindus. He said, "I hold that the question of cow-slaughter is of great moment - in certain respects of even greater moment - than that of Swaraj. Cow-slaughter and manslaughter are, in my opinion, two sides of the same coin."

Leaving it aside, I want to draw your attention to the speech of our President, Dr. Rajendra Prasad. After this the Government of India, appointed a committee - an expert representative committee - to find out whether for the benefit of the country the number of cattle can be increased, and whether their slaughter can be stopped. The Committee has unanimously decided in its favour. Seth Govind Das was also a member of the committee. The committee unanimously decided that cattle slaughter should be banned. Great minds were associated with the said committee. They examined the question from the economic view-point; they gave thought to the unproductive and unserviceable cattle also. After viewing the problem from all angles they came to the unanimous decision that slaughter of cattle should be stopped. That resolution relates not to cows alone. Slaughtering of buffaloes, which yield 50 per cent of our milk supply, and of the goats which yield 3 per cent of our milk supply, and also bring a profit of several crores, is as sinful as that of cows. In my district of Haryana, a goat yields 3 to 4 seers of milk. Perhaps a cow does not yield that much in other areas. Therefore I submit that we should consider it from an economic point of view. I also want to state that many of the cattle, which are generally regarded as useless, are not really so. Experts have made an estimate of that, and they came to the conclusion that the cattle which are regarded as useless are not really so, because we are in great need of manure. A cow, whether it be a milch-cow or not, is a moving manure factory and so, as far as cow is concerned, there can be no

question of its being useless or useful. It can never be useless. In the case of cow there can be no dispute on the point.] (Hearing the bell being rung.) Am I to stop?

As the Vice-President has ordered me to finish off, I shall not go into the details; otherwise I can prove by figures that the value of the refuse and urine of a cow is greater than the cost of her maintenance. In the end, I would wind up by saying that there might be people, who regard the question of banning cow-slaughter as unimportant, but I would like to remind them that the average age in our country is 23 years, and that many children die under one year of age! The real cause of all this is shortage of milk and deficiency in diet. Its remedy lies in improving the breed of the cow, and by stopping its slaughter. I attach very great importance to this amendment, so much so that if on one side of the scale you were to put this amendment and on the other all these 315 clauses of the draft, I would prefer the former. If this is accepted, the whole country would be, in a way, electrified. Therefore, I request you to accept this amendment unanimously with acclamation.

5. Seth Govind Das has debated at page 571 of Constituent Assembly Debates Vol. VII as under:

Mr. President, the amendment moved by Pandit Thakur Das Bhargava appears to be rather inadequate as a directive in its present form. I therefore move my amendment to his amendment. My amendment runs thus:

"That in amendment No. 1002 of the list of Amendments in article 38-A the words and other useful cattle, specially milch cattle and of child bearing age, young stocks and draught cattle' be deleted and the following be added at the end:

'The word "cow" includes bulls, bullocks, young stock of genus cow'."

The object of the amendment is, I hope, quite clear from its words. The amendment moved by Pandit Bhargava prohibits the slaughter of cow and other useful cattle but according to it unfit or useless cows may be slaughtered. But the object of my amendment is, as far as cows are concerned, to prohibit the slaughter of any cow, be it useful or useless and in my amendment word 'cow' includes bulls, bullocks and calves all that are born of cows. As Pandit Thakur Das told you, I had

submitted this earlier to be included in Fundamental Rights but I regret that it could not be so included. The reason given is that Fundamental Rights deal only with human beings and not animals. I had then stated that just as the practice of untouchability was going to be declared an offence so also we should declare the slaughter of cows to be an offence. But it was said that while untouchability directly affected human beings the slaughter of cows affected the life of animals only – and that as the Fundamental Rights were for human beings this provision could not be included therein. Well, I did not protest against that view and thought it proper to include this provision in the Directive Principles. It will not be improper, Sir, if I mention here, that it is not for the first time that I am raising the question of cow protection. I have been a member of the Central Legislature for the last twenty-five years and I have always raised this question in the Assembly and in the Council of State. The protection of cow is a question of long standing in this country. Great importance has been attached to this question from the time of Lord Krishna. I belong to a family which worships Lord Krishna as "Ishtadev". I consider myself a religious minded person, and have no respect for those people of the present day society whose attitude towards religion and religious minded people is one of contempt. It is my firm belief that Dharma had never been uprooted from the world and nor can it be uprooted. There had been unbelievers like Charvaka in our country also but the creed of Charvaka could never flourish in this country. Now-a-days the Communist leaders of the West also and I may name among them Karl Marx, Lenin, Stalin, declare religion "the opium of the People". Russia recognised neither religion nor God but we have seen that in the last war the Russian people offered prayers to God in Churches to grant them victory. Thus it is plain from the history of ancient times as also from that of God-denying Russia that religion could not be uprooted.

Moreover, cow protection is not only a matter of religion with us; it is also a cultural and economic question. Culture is a gift of History. India is an ancient country; consequently no new culture can be imposed on it. Whosoever attempts to do so is bound to fail; he can never succeed. Ours is a culture that has gradually developed with our long history. Swaraj will have no meaning for our people in the absence of a culture. Great important cultural issues - for instance the question of the name of the country, question of National Language, question of National Script, question of the National Anthem and question of the prohibition of cow slaughter - are before this Assembly and unless the Constituent Assembly decides these questions according to the wishes of the people of the country,

Swarajya will have no meaning to the common people of our country. I would like to submit, Sir, that a referendum be taken on these issues and the opinion of the people be ascertained. Again, cow protection is also a matter of great economic importance for us. Pandit Thakur Das Bhargava has shown to you by quoting statistic how the cattle wealth of the country is diminishing. This country is predominantly agricultural in character. I would give some figures here regarding the position of our cattle wealth. In 1935 there were one hundred nineteen million and four hundred ninety one thousand (11,94,91,000) heads of cattle. In 1940 their number came down to one hundred fifteen million and six hundred ten thousand, and in 1945 it further came down to

one hundred eleven million and 9 hundred thousand. While on one side our population is increasing our cattle wealth is decreasing. Our Government is carrying on a Grow More Food Campaign. Millions of rupees are being spent on this campaign. This campaign cannot succeed so long as we do not preserve the cows. Pandit Thakur Das has given us some figures to show the number of cows slaughtered in our country. I would like to quote here some figures from the Hide and Skin Report of the Government of India. Fifty two lakhs of cows and thirteen lakhs of buffaloes are slaughtered every year in this country. It shows in what amazing numbers cattle are slaughtered here. Thirty six crores acres of land are under cultivation here. These figures also includes the land under cultivation in Pakistan. I have to give these figures because we have no figure of the land under cultivation in India since the secession of Pakistan from our country. We have six crores bullocks for the cultivation of the land. A scientific estimate would show that we need another one and a half crore of bullocks to keep this land under proper cultivation.

So far as the question of milk supply is concerned I would like to place before you figures of milk supply of other countries as compared to that of our country.

In New Zealand milk supply per capita is 56 ounces, in Denmark 40, in Finland 63, in Sweden 61, in Australia 45, in Canada 35, in Switzerland 49, in Netherland 35, in Norway 43, in U.S.A. 35, in Czechoslovakia 36, in Belgium 35, in Australia 30, in Germany 35, in France 30, in Poland 22, in Great Britain 39 and in India it is only 7 ounces. Just think what will be the state of health of the people of a country where they get only seven ounces of milk per head. There is a huge infantile mortality in this country. Children are dying like dogs and cats. How can they be saved without milk?

Thus even if we look at this problem from the economic point of view, we come to the conclusion that for the supply of milk and agriculture also, the protection of the cow is necessary. ◇

I would like to place before the House one thing more. It has been proved by experience that whatever laws we may frame for the prevention of the slaughter of useful cattle, their object is not achieved. In every province there are such laws. There people slaughter cattle and pay some amount towards fines and sometimes escape even that. Thus our cattle wealth is declining day by day.

Sometime back there was a law like that in Burma but when they saw that cattle could not be saved under it, they banned cow slaughter altogether.

I would like to emphasise one point to my Muslim friends also. I would like to see my country culturally unified even though we may follow different religions. Just as a Hindu and a Sikh or a Hindu and a Jain can live in the same family, in the same way a Hindu and a Muslim can also live in the same family. The Muslims should come forward to make it clear that their religion does not compulsorily enjoin on them the slaughter of the cow. I have studied a little all the religions. I have read the life of Prophet Mohammad Sahib. The Prophet never took beef in his life. This is an historic fact.

Pandit Thakur Das Bhargava pointed out just now that from the time of Akbar to that of Aurangzeb, there was a ban on cow slaughter. I want to tell you what Babar, the first Moghul Emperor told Humayun. He said: "Refrain from cow-slaughter to win the hearts of the people of Hindustan."

Pandit Thakur Dass Bhargava just now referred to the Committee constituted by the Government of India for this purpose. It recommended that cow slaughter should be totally banned. I admit that the Government will require money for the purpose. I want to assure you that there will be no lack of money for this purpose. If the allowance given to cattle-pounds and Goshalas is realised from the people by law, all the money needed would be realised. Even if the Government want to impose a new tax for this purpose every citizen of this country will be too glad to pay it. Therefore our Government should not raise before us the financial bogey so often raised by the British Government. I have travelled a little in this country and I am acquainted with the [views of the people.]”

6. Prof. Shibban Lal Saksena has debated at page 574 of Constituent Assembly Debates Vol. VII as under:

“Sir, there are two aspects to this question. One is the religious aspect and the other is the economic aspect. I shall first deal with the religious aspect. I am not one of those men who think that merely because a thing has a religious aspect, it should not be enacted as law. I personally feel that cow protection, if it has become a part of the religion of the Hindus, it is because of its economic and other aspects. I believe that the Hindu religion is based mostly on the principles which have been found useful to the people of this country in the course of centuries. Therefore, if thirty crores of our population feel that this thing should be incorporated in the laws of the country, I do not think that we as an Assembly representing 35 crores should leave it out merely because it has a religious aspect. I agree with Seth Govind Das that we should not think that because a thing has a religious significance, so it is bad. I say, religion itself sanctifies what is economically good. I wish to show how important cattle preservation is for us mahatma Gandhi infact, has written in so many of his articles about his belief that cow protection was most essential for our country. From the scientific point of view, I wish to point out that Dr. Wright who is an expert on the subject in his report on our National Income says that out of 22 crores of national income per annum, about eleven crores are derived from the cattle wealth of India, representing the wealth of most of our people who live in the villages.

Sometimes it is supposed that we have too many cattle and that most of them are useless, and therefore, they must be slaughtered. This is a wrong impression. If you compare the figures, you will find that in India there are only 50 cattle per 100 of the population, whereas in Denmark it is 74, in U.S.A. 71, in Canada 80, in Cape Colony 120 and in New Zealand 150. So in New Zealand, there are about three times the number of cattle per head of population than we have here. So, to say that we have too many cattle is not right. As for useless cattle, scientists say that their excreta has value as manure and its cost is more than the expenditure on the upkeep of such cattle.

Then again, our agriculture depends mostly on cattle, as it is mostly of small holdings where the cultivators cannot make use of tractors and other implements. They depend on bullocks, and if you compare the figures of bullocks, you will

find that although we have got an area of 33 1/2 million acres of land to cultivate, we have only six crores of bullocks which works at about 16 bullocks per 100 acres of land which is quite insufficient. Therefore, even from the point of view of our agricultural economy, we need a very large number of bullocks. It has been estimated that to meet our requirements, we would require about eleven crores more bullocks.

Then, coming to our requirements of milk and other products, if we compare our milk consumption with that of other countries, we find that it is only 5 oz. per head, and that is very little, compared to the figures of other countries. Therefore I think that we must have this amendment incorporated in our Constitution."

7. Dr. Raghu Vira has debated at page 575 of Constituent Assembly Debates Vol. VII as under:

"Sir, I think it my most bounden duty in this House to express the feelings, feelings which no words can really convey, that not a single cow shall be slaughtered in this land.

These sentiments which were expressed thousands of years ago still ring in the hearts of tens of millions of this land. My friends tell me that it is an economic question, that Muslim kings have supported the preservation of cows and banned the killing of the cows. That is all right. But when we attain freedom, freedom to express ourselves in every form and manner - our Preamble says 'There shall be liberty of expression' - is that merely expression of thought or is that the expression of our whole being? This country evolved a civilization and in that civilization we gave prominent place to what we call Ahimsa or non-killing and non-injury, not merely of human beings but also of the animal kingdom. The entire universe was treated as one and the cow is the symbol of that oneness of life and are we not going to maintain it? Brahma hatya and go-hatya - the killing of the learned man, the scientist, the philosopher or the sage and the killing of a cow are on a par. If we do not allow the killing of a scientist or a sage in this land it shall certainly be ordained by this House that no cow shall be killed. I know in my childhood we were not allowed to drink until the cow has had its drink and we were not allowed to eat till the cow has had its meal. The cow takes precedence over the children of the family, because she is the mother of the individual, she is the mother of the nation. Ladies and gentlemen in this House, I appeal to you to look

back with serenity and to search your souls. We are representatives of millions of our people.....”

8. Sh. R.V. Dhulekar has debated at page 576 of Constituent Assembly Debates Vol. VII as under:

“ Sir, I always believed from my childhood that India had a mission and because India had a mission therefore I wanted the independence of this country. many millions of the people, who died for this country, also like me had believed that India had a mission, and what was that mission? The mission was that we should go about the world and carry the message of peace, love, freedom and Abhaya (freedom from fear) to every body in the world. When independence was achieved I was happy to believe that I shall carry out my mission, that I shall carry to the world this message, viz., that India has got no grudge against any country in the world, it has no expansionist ideas but that it is going to save the whole world from the danger of internecine war, bloodshed and many other ills that humanity is suffering from. In the same way and for the same purpose I appeal to the House to discuss this subject from a dispassionate point of view. It is not the crumbs, the loaves and fishes that we are fighting for. Loaves and fishes were left behind by some people thirty years back and by some others fifty years back. We did not want to achieve this independence for loaves and fishes. Those who want the mare welcome but men like us who have a mission or a message for the world cannot love loaves and fishes. We do not want ambassadorship, premierships, ministerships or wealth. We want that India should declare today that the whole human world as well as the whole animal world is free today and will be protected. The cow is a representative of the animal kingdom, the peepal tree is the representative of the vegetable kingdom, the touchstone or the shaligram is the representative of the mineral world. We want to save and give peace and protection to all those four worlds and therefore it is that the Hindus of India have put these four things as representatives of this world - the human being, the cow, the peepal and the shaligram. All these were worshipped because we wanted to protect the whole humanity. Our Upanishad says:

We do not want this property, we do not want this food; we do not want this raiment - not because we cannot take it; not because we are cowards; not because we cannot carry Imperialism to the four

corners of the world; but we may not have it because we see the whole world identical with our own soul. So our humanity which resides in this Bharatvarsha for several thousand years has marched forward and has taken the cow within the fold of human society. Some people here talked to me and said "You say that you want to protect the cow and want it to be included in the Fundamental Rights. Is the protection of the cow a fundamental right of a human being? Or is it the fundamental right of the cow?" I replied to them and tell them suppose it is a question of saving your mother or protecting your mother. Whose fundamental right is it? Is it the fundamental right of the mother? No. It is my fundamental right to protect my mother, to protect my wife, my children and my country. In the Fundamental Rights you have said that you will give justice, equity and all these things. Why? Because you say "it is your fundamental right to have justice". What does that justice mean? It means that we shall be protected, our families shall be protected. And our Hindu society, or our Indian society, has included the cow in our fold. It is just like our mother. In fact it is more than our mother. I can declare from this platform that there are thousands of persons who will not run at a man to kill that man for their mother or wife or children, but they will run at a man if that man does not want to protect the cow or wants to kill her.

With these few words, I wish to say that these two amendments which have been put forward by Mr. Bhargava and Seth Govind Das should be dealt with dispassionately. I shall appeal to you that only that amendment should be passed which is very clear. If Mr. Bhargava's amendment is doubtful, then certainly Seth Govind Das's amendment should be passed.

9.

Sh. Z.H. Lari has debated at page 577 of Constituent Assembly

Debates Vol. VII as under:

"Mr. Vice-President, I appreciate the sentiments of those who want protection of the cow - may be on religious grounds or maybe in the interests of agriculture in this country. I have come here not to oppose or support any of the amendments but to request the House to make the position quite clear and not to leave the matter in any ambiguity or doubt. The House, at the same time, must appreciate that Mussalmans of India have been, and are, under the impression that they can, without violence to the principles which govern the State, sacrifice cows and other animals on the occasion of Bakrid. It

is for the majority to decide one way or the other. We are not here to obstruct the attitude that the majority community is going to adopt. But let there not linger an idea in the mind of the Muslim public that they can do one thing, though in fact they are not expected to do that. The result has been, as I know in my own Province on the occasion of the last Bakrid, so many orders under Section 144 in various places, districts and cities. The consequence has been the arrests of many, molestation of even more, and imprisonment of some. Therefore, if the House is of the opinion that slaughter of cows should be prohibited, let it be prohibited in clear, definite and unambiguous words. I do not want that there should be a show that you could have this thing although the intention may be otherwise. My own submission to this House is that it is better to come forward and incorporate a clause in Fundamental Rights that cow slaughter is henceforth prohibited, rather than it being left vague in the Directive Principles, leaving it open to Provincial Governments to adopt it one way or the other, and even without adopting definite legislation to resort to emergency powers under the Criminal Procedure. In the interests of good-will in the country and of cordial relations between the different communities I submit that this is the proper occasion when the majority should express itself clearly and definitely.

I for one can say that this is a matter on which we will not stand in the way of the majority if the majority wants to proceed in a certain way, whatever may be our inclinations. We feel - we know that our religion does not necessarily say that you must sacrifice cow: it permits it. The question is whether, considering the sentiments that you have, considering the regard which the majority have for certain classes of animals, do they or do they not permit the minority - not a right - but a privilege or a permission which it at present has? I cannot put it higher. I won't class it as interference with my religion. But I do not want that my liberty should be taken away, and especially the peaceful celebration of any festival should be marred by the promulgation of orders under Section 144. I have come only to plead that. Therefore, let the leaders of the majority community here and now make it clear and not leave it to the back-benchers to come forward and deliver sermons one way or the other. Let those who guide the destinies of the country, make or mar them, say definitely "this is our view", and we will submit to it. We are not going to violate it. This is the only thing I have come to say. I hope you will not misunderstand me when I say this. It is not due to anger, malice or resentment but it is out of regard for cordial relations between the communities, and what is more, due to the

necessity of having a clear mind that I say this. Henceforward the Muslim minority must know where they stand so that they may act accordingly, and there be no occasion for any misunderstanding between the majority and the Muslims on this point.

In view of what I have said, I would not oppose nor support any of the amendments, but I would invite a very clear and definite rule instead of the vague phraseology of the clauses which have been put forward. It proceeds to say that we should have modern and scientific agriculture. Modern and scientific agriculture will mean mechanization and so many other things. The preceding portion of the clause speaking about modern and scientific agriculture and the subsequent portion banning slaughter of cattle do not fit in with each other. I appreciate the sentiments of another member who said "this is our sentiment, and it is out of that sentiment that we want this article". Let that article be there, but for God's sake, postpone the discussion of the article and bring it in clear, definite and unambiguous terms so that we may know where we stand and thereafter there should be no occasion for any misunderstanding between the two communities on this issue which does not affect religion but affects practices which obtain in the country."

10. Pandit Thakur Dass Bhargava again debated at page 579 of Constituent Assembly Debates Vol. VII as under:

"Does not the honourable Member know that many useless cattle have been turned into good cattle by goshalas and other organisations and at least 90 per cent can be salvaged by proper feeding and treatment."

11. Article 48 of the Constitution of India reads as follows:

"48. Organisation of agriculture and animal husbandry. The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle."

12. Article 51-A (g) of the Constitution of India reads as follows:

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

13. The relevant entry No. 15 of the State List in the Seventh Schedule of the Constitution of India reads as under:

“15. Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice.”

14. Entry Nos. 17 & 17-B of the Concurrent List in the Seventh Schedule of the Constitution of India reads as under:

“17. Prevention of [cruelty to animals](#).

17-B. [Protection of wild animals](#) and [birds](#).”

15. Their lordships of the Hon’ble Supreme Court in the case of ***Haji Usmanbhai Qureshi and others vs. The State of Gujarat***, reported in ***AIR 1986 SC 1213***, have upheld that ban put on slaughter of bulls and bullocks below 16 years, under clauses (c) and (d) of the Bombay Animal Preservation Act is not violative of Article 19(1) (g) of the Constitution. It has been held as follows:

“15. It is thus clear that because of various scientific factors, namely, better cattle feeding, better medical health and better animal husbandry services, the longevity of cattle in the State of Gujarat has increased and in this context it is correct to say that if the scientific tests were to be applied, bulls and bullocks upto sixteen years of age can be said to be useful for the purpose of breeding, draught and other agricultural purposes. In these circumstances the prescription of The age of sixteen years in clauses (c) and (d) of sub-s. (1A) of s.5 can be said to be reasonable, looking to the balance which has to be struck between public interest, which requires useful animals to be preserved and permitting the different appellants before us to carry on their trade and profession.

17. The material before the court thus clearly goes to show that with the help of the scientific advances which have taken place since 1962, the longevity of the cattle and their useful span of life has increased and, therefore, the prescribed age of sixteen years can be said to be a reasonable restriction on the right of the appellants to carry on their trade and profession as mentioned in [Article 19\(1\)\(g\)](#) of the Constitution.

19. This contention in our opinion has no force. The dealers in different types of meat are not in the same class. It is only if the classification is unreasonable that it can be struck down. But here a clear distinction is maintained on scientific grounds between animals which are useful and which have not yet reached the age of 16 years so far as bulls and bullocks are concerned. As regards buffaloes there is no restriction as to the age and the only restriction is sub-s. (2) of s. 5 and that section has remained unamended, namely the test is whether the animal, male or female, is useful or likely to become useful for the purposes of milch or draught or any kind of agricultural operations; whether the animal, if male is useful or likely to become useful for the purpose of breeding, and whether the animal, if female, is useful or likely to become useful for the purpose of giving milk or bearing offspring. So looking to the different purposes for which buffaloes and their progeny on the one hand and cows and their progeny on the other hand are used in each State it cannot be said that there is any hostile discrimination against those who deal in meat of bulls and bullocks. Bulls and bullocks, particularly bullocks, are useful for agricultural purposes and male buffaloes are seldom used for any purpose other than breeding or rearing progeny and under these circumstances the impugned amendment is not hit by [Art. 14](#) of the Constitution.”

16. Their lordships of the Hon’ble Supreme Court in the case of ***State of Gujarat vs. Mirzapur Moti Kureshi Kassab Jamat and others***, reported in **(2005) 8 SCC 534**, have expanded the scope of Article 48 vis-à-vis Article 51-A. The Hon’ble Supreme Court also discussed the unique and essential role of bovine and bovine dung in our economy. Their lordships have held as follows:

“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 the Parliament is to ensure that the spirit and message of Articles 48 and 48A is honoured as a fundamental duty of every citizen. The Parliament availed the opportunity provided by the Constitution

(Forty-second Amendment) Act, 1976 to improve the manifestation of objects contained in [Article 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 wild life". 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](#).

61. According to their inherent genetic qualities, cattle breeds are broadly divided into 3 categories (i) Milch breed (ii) Draught breed, and (iii) Dual purpose breed. Milch breeds include all cattle breeds which have an inherent potential for milk production whereas draught breeds have an inherent potential for draught purposes like pulling, traction of loads etc. The dual purpose breeds have the potential to perform both the above functions.

68. In our opinion, the expression 'milch or draught cattle' as employed in [Article 48](#) of the Constitution is a description of a classification or species of cattle as distinct from cattle which by their nature are not milch or draught and the said words do not include milch or draught cattle, which on account of age or disability, cease to be functional for those purposes either temporarily or permanently. The said words take colour from the preceding words "cows or calves". A specie of cattle which is milch or draught for a number of years during its span of life is to be included within the said expression. On ceasing to be milch or draught it cannot be pulled out from the category of "other milch and draught cattle."

80. As we have already indicated, the opinion formed by the Constitution Bench of this Court in *Quareshi-I* is that the restriction amounting to total prohibition on slaughter of bulls and bullocks was unreasonable and was not in public interest. We, therefore, proceed to examine the evidence available on record which would enable us to answer questions with regard to the 'reasonability' of the imposed restriction qua 'public interest'.

81. The facts contained in the Preamble and the Statement of Objects and Reasons in the impugned enactment highlight the following facts:-

(i) it is established that cow and her progeny sustain the health of the nation;

(ii) the working bullocks are indispensable for our agriculture for they supply power more than any other animal (the activities for which the bullocks are usefully employed are also set out);

(iii) the dung of the animal is cheaper than the artificial manures and extremely useful of production of biogas;

(iv) it is established that the backbone of Indian agriculture is the cow and her progeny and they have on their back the whole structure of the Indian agriculture and its economic system;

(v) the economy of the State of Gujarat is still predominantly agricultural. In the agricultural sector use of animals for milch, draught, breeding or agricultural purposes has great importance. Preservation and protection of agricultural animals like bulls and bullocks needs emphasis. With the growing adoption of non-conventional energy sources like biogas plants, even waste material have come to assume considerable value. After the cattle cease to breed or are too old to work, they still continue to give dung for fuel, manure and biogas and, therefore, they cannot be said to be useless.

Apart from the fact that we have to assume the above- stated facts as to be correct, there is also voluminous evidence available on record to support the above said facts. We proceed to notice few such documents.

82. Shri J.S. Parikh, Deputy Secretary, Agriculture Cooperative and Rural Development, Department, State of Gujarat, filed three affidavits in the High Court of Gujarat in Special Civil Application No. 9991 of 1993. The first affidavit was filed on 20th October, 1993, wherein the following facts are discernible and mentioned as under:

(i) With the improved scientific animal husbandry services in the State, the average longevity of animals has considerably increased. In the year 1960, there were only 456 veterinary dispensaries and first aid veterinary centers etc, whereas in the year 1993, there are 946 veterinary dispensaries and first aid veterinary centers etc. There were no mobile veterinary dispensaries in 1960 while there are 31 mobile veterinary dispensaries in the State in 1993. In addition, there are around 467 centres for intensive cattle development where besides first aid veterinary treatment, other animal husbandry inputs of breeding, food or development etc. are also provided. In the year 1960, five lakh cattles were vaccinated whereas in the year 1992-93 around 200 lakh animals are vaccinated to provide life saving protection against various fatal diseases. There were no cattle food compounding units preparing cattle food in the year 1960, while in the year 1993 there are ten cattle food factory producing 1545 MT of cattle food per day. As a result of improved animal husbandry services, highly contagious and fatal disease of Rinder Pest is controlled in the state and that the deadly disease has not appeared in the last three years.

(ii) Because of various scientific technologies namely, proper cattle feeding, better medical and animal husbandry services, the longevity of the cattle in the State has considerably increased.

(iii) The population of bullock is 27.59 lakhs. Over and above agricultural work, bullocks are useful for other purposes also. They produce dung which is the best organic measure and is cheaper than chemical manure. It is also useful for production of bio-gas.

(iv) It is estimated that daily production of manure by bullocks is about 27,300 tonnes and bio-gas production daily is about 13.60 cubic metres. It is also estimated that the production of bio-gas from bullock dung fulfil the daily requirement of 54.78 lakh persons of the State if whole dung production is utilized. At present, 1,91,467 bio-gas plants are in function in the State and about 3-4 lakhs persons are using bio-gas in the State produced by these plants.

(v) The population of farmers in the State is 31.45 lakhs. Out of which 7.37 lakhs are small farmers, 8 lakhs are marginal farmers, 3.05 lakhs are agricultural labourers and 13.03 lakhs are other farmers. The total land of Gujarat State is 196 lakh hectares and land under cultivation is 104.5 lakh hectares. There are 47,800 tractors by which 19.12 lakh hectares land is cultivated and the remaining 85.38 lakh hectares land is cultivated by using bullocks. It may be mentioned here that all the agricultural operations are not done using tractors. The bullocks are required for some of agricultural operations along with tractors. There are about 7,28,300 bullock carts and there are about 18,35,000 ploughs run by bullocks in the State.

(vi) The figure of slaughter of animals done in 38 recognised slaughter houses are as under:

Year	Bullock/Bull	Buffalo	Sheep	Goat
1990-91	9,558	41,088	1,82,269	2,22,507
1991-92	9,751	41,882	2,11,245	2,20,518
1992-93	8,324	40,034	1,13,868	1,72,791

The above figures show that the slaughter of bullocks above the age of 16 years is done in the State in very small number. The animals other than bullocks are slaughtered in large number. Hence, the ban on the slaughter of cow and cow progeny will not affect the business of meat production significantly. Therefore, the persons engaged in this profession will not be affected adversely.

Thereafter two further affidavits were filed by Shri J.S. Parikh, abovesaid, on 17th March, 1998, wherein the following facts are mentioned :

(i) there are about 31.45 lakhs land holders in Gujarat. The detailed classifications of the land holders are as under:-

Sl.No.	Details of land holders	No. of land holders
1.	01 hectare	8.00 lakhs
2.	1-2 hectares	7.37 lakhs
3.	2 and above	16.08 lakhs

(ii) almost 50 per cent of the land holdings are less than 2 hectares; tractor keeping is not affordable to small farmers. For economic maintenance of tractors, one should have large holding of land. Such land holders are only around 10 per cent of the total land holders. Hence the farmers with small land holdings require bullocks as motive power for their agricultural operations and transport;

(iii) the total cultivable land area of Gujarat State is about 124 lakh hectares. Considering that a pair of bullocks is required for ploughing 10 acres of land the bullock requirement for ploughing purpose alone is 5.481 million and approximately equal number is required for carting. According to the livestock census 1988 of Gujarat State, the availability of indigenous bullocks is around 2.84 millions. Thus the availability of bullocks as a whole on percentage of requirement works out to be about 25 per cent. In this situation, the State has to preserve each single bull and bullock that is available to it;

(iv) it is estimated that bull or bullock at every stage of life supplies 3,500 kgs of dung and 2,000 litres of urine and whereas this quantity of dung can supply 5,000 cubic feet of biogas, 80 M.T. of organic fertilizer, the urine can supply 2,000 litres of pesticides and the use of these products in farming increases the yield very substantially. The value of above contribution can be placed at Rs.20,000/- per year to the owner;

(v) since production of various agricultural crops removes plant nutrients from the soil, they must be replenished with manures to maintain and improve fertility of soil. There are two types of manures which are (i) Organic manures, i.e. natural manures and (ii) Artificial or chemical fertilizer. Amongst the organic manures, farm yard manures is the most valuable organic manure applied to soil. It is the most commonly used organic manure in India. It consists of a mixture of cattle dung, the bedding used in the stable. Its crop increasing value

has been recognized from time immemorial (Ref. Hand Book of Agriculture, 1987 by ICAR page 214);

(vi) the importance of organic manure as a source of humus and plant nutrients to increase the fertility level of soils has been well recognised. The organic matter content of cultivated soils of the tropics and sub-tropics is comparatively low due to high temperature and intense microbial activity. The crops remove annually large quantity of plant nutrients from soil. Moreover, Indian soils are poor in organic matter and in major plant nutrients. Therefore, soil humus has to be replenished through periodic addition of organic manure for maintaining soil productivity;

(vii) animals are the source of free availability of farmyard manure, which has all the three elements, i.e. Nitrogen, Phosphoric acid and Potash, needed in fertilizer and at the same time which preserve and enrich the fertility of the soil. In paucity of dung availability, the farmers have to depend upon chemical fertilizers. Investment in chemical fertilizers imposes heavy burden upon the economy. If there is availability of alternate source of organic manure from animals, it is required to be promoted;

(viii) the recent scenario of ultramodern technology of super ovulation, embryo transfer and cloning technique will be of very much use to propagate further even from the incapable or even old animals which are not capable of working or reproducing. These animals on a large scale can be used for research programmes as well as for production of non-conventional energy sources such as biogas and natural fertilizers. At present, there are 19,362 biogas plants installed in the State during 1995-97. On an average, each adult cattle produces 4.00 kg. of dung per day. Out of the total cattle strength of (1992 Census) 67,85,865, the estimated dung produced is 99,07,363 tonnes;

(ix) India has 74% of rural population, and in Gujarat out of 4.13 crores of human population, there are 1.40 crores of workers which comprises of 47,04,000 farmers and 32,31,000 workers are workers related to livestock and forestry. In Gujarat, there are 9.24 lakhs marginal farmers and 9.15 lakhs of small farmers, according to the 1991-92 census. Animals are reared in few numbers per family and the feed is obtained from the supplementary crop on fodder/agricultural by-products or from grazing in the gaucher land. In Gujarat 8.48 lakh hectares of land is available as permanent pasture and grazing land. An individual cattle-owner does not consider one or two bullocks as an extra burden for his family, even when it is incapable of work or production. Sometimes the unproductive animals are sent to Panjarapoles and Gosadans. In Gujarat, there are 335 Gaushalas and 174 Panjarapoles which are run by non-governmental organizations and trusts. Formerly farmers mostly kept few animals and, in fact, they are treated as part of their family and maintained till death. It

cannot be treated to be a liability upon them or burden on the economy;

(x) butchers are doing their business since generations, but they are not doing only the slaughter of cow class of animals. They slaughter and trade the meat of other animals like buffaloes, sheep, goats, pig and even poultry. In Gujarat there are only 38 registered slaughter houses functioning under various Municipalities/Nagar Panchayats. Beef (meat of cattle) contributes only 1.3% of the total meat groups. Proportion of demand for beef is less in the context of demand for pig, mutton and poultry meat. Slaughtering of bulls and bullocks for the period between 1990-91 and 1993-94 was on an average 9,000;

(xi) number of bullocks have decreased in a decade from 30,70,339 to 28,93,227 as in 1992. A statement showing the amount of dung production for the year 1983-84 to 1996-97 and a statement showing the nature of economy of the State of Gujarat is annexed. The number of bullocks slaughtered per day is negligible compared to other animals, and the business and/or trade of slaughtering bullocks would not affect the business of butchers. By prohibiting slaughter of bullocks the economy is likely to be benefited.

The three affidavits are supported by documents, statements or tables setting out statistics which we have no reason to disbelieve. Neither the High Court has expressed any doubt on the contents of the affidavit nor has the veracity of the affidavits and correctness of the facts stated therein been challenged by the learned counsel for the respondents before us.

83. In this Court Shri D.P. Amin, Joint Director of Animal Husbandry, Gujarat State, has filed an affidavit. The salient facts stated therein are set out hereunder:

(i) The details of various categories of animals slaughtered since 1997-1998 shows that slaughter of various categories of animals in regulated slaughter houses of Gujarat State has shown a tremendous decline. During the year way back in 1982-83 to 1996-97 the average number of animals slaughtered in regulated slaughter houses was 4,39,141. As against that (previous figure) average number of slaughter of animals in recent 8 years i.e. from 1997-98 to 2004-05 has come down to only 2,88,084. This clearly indicates that there has been a vast change in the meat eating style of people of Gujarat State. It is because of the awareness created among the public due to the threats of dangerous diseases like Bovine Spongiform Encephalopathy commonly known as "Mad Cow disease" B.S.E. which is a fatal disease of cattle meat origin not reported in India. Even at global level people have stopped eating the beef which is known as meat of cattle class animals. This has even affected the trade of meat particularly beef in the America & European countries since last 15 years. Therefore, there

is international ban on export-import of beef from England, America & European countries;

(ii) there is reduction in slaughter of bulls & bullocks above the age of 16 years reported in the regulated slaughter houses of Gujarat State. As reported in the years from 1982-83 to 1996-97, the slaughter of bulls & bullocks above the age of 16 years was only 2.48% of the total animals of different categories slaughtered in the State. This percentage has gone down to the level of only 1.10% during last 8 years i.e. 1997-98 to 2004-05 which is very less significant to cause or affect the business of butcher communities;

(iii) India is predominantly agrarian society with nearly 75% of her population living in seven lakh rural hamlets and villages, possesses small fragmentary holding (54.6% below 1 hectare 18% with 1-2 hectares). Draft/pack animal contributes more than 5 crores horse power (H.P.) or 33,000 megawatt electric power and shares for/in 68% of agricultural operations, transport & other draft operations. In addition to draft power, 100 million tonnes dung per year improves the soil health and also used as raw material for biogas plant;

(iv) the cattle population in Gujarat in relation to human population has declined from 315 per 1000 humans in 1961 to 146 per 1,000 humans in 2001 indicating decline in real terms;

(v) in Gujarat 3.28 million draft animal (bullocks 85%) have multifaceted utilities viz. agricultural operations like ploughing, sowing, hoeing, planking, carting, hauling, water lifting, grinding, etc.; Gujarat State has a very rich cattle population of Kankrej & Gir breed, of which Kankrej bullocks are very well known for its draft power called "Savai Chal";

(vi) considering the utility of aged bullocks above 16 years as draft power a detailed combined study was carried out by Department of Animal Husbandry and Gujarat Agricultural University (Veterinary Colleges S.K. Nagar & Anand). The experiments were carried out within the age group of 16 to 25 years. The study covered different age groups of 156 (78 pairs) bullocks above the age of 16 years. The aged bullocks i.e. above 16 years age generated 0.68 horse power draft output per bullock while the prime bullock generated 0.83 horse power per bullock during carting/hauling draft work in a summer with about more than 42°C temp. The study proves that 93% of aged bullock above 16 years of age are still useful to farmers to perform light & medium draft works. The detailed report is on record;

(vii) by the end of year 2004-05 under the Dept. of Animal Husbandry, there are 14 Veterinary Polyclinics, 515 Vety. Dispensaries, 552 First Aid Vety. Centres and 795 Intensive Cattle Development Project Sub Centers. In all, 1876 institutions were made

functional to cater various health care activities to livestock population of State of Gujarat. About two crores of livestock and poultry were vaccinated against various diseases. As a result, the total reported out break of infectious diseases was brought down to around 106 as against 222 in 1992-1993. This shows that State has created a healthy livestock and specifically the longevity of animals has been increased. This has also resulted into the increased milk production of the state, draft power and source of non-conventional energy in terms of increased quantity of dung and urine;

(viii) the value of dung is much more than even the famous "Kohinoor" diamond. An old bullock gives 5 tonnes of dung and 343 pounds of urine in a year which can help in the manufacture of 20 carts load of composed manure. This would be sufficient for manure need of 4 acres of land for crop production. The right to life is a fundamental right and it can be basically protected only with proper food and feeding and cheap and nutritious food grains required for feeding can be grown with the help of dung. Thus the most fundamental thing to the fundamental right of living for the human being is bovine dung. (Ref. Report of National Commission on Cattle, Vol.III, Page 1063-1064);

(ix) the dung cake as well as meat of bullock are both commercial commodities. If one bullock is slaughtered for its meat (Slaughtering activity) can sustain the butchers trade for only a day. For the next day's trade another bullock is to be slaughtered. But if the bullock is not slaughtered, about 5000-6000 dung cakes can be made out of its dung per year, and by the sale of such dung cake one person can be sustained for the whole year. If a bullock survives even for five years after becoming otherwise useless it can provide employment to a person for five years whereas to a butcher, bullock can provide employment only for a day or two.

(x) Even utility of urine has a great role in the field of pharmaceuticals as well as in the manufacturing of pesticides. The Goseva Ayog, Govt. of Gujarat had commissioned study for "Testing insecticides properties of cow urine against various insect pests". The study was carried out by Dr. G.M. Patel, Principal Investigator, Department of Entomology, C.P. College of Agriculture, S.D. Agricultural University, Sardar Krishi Nagar, Gujarat. The study has established that insecticides formulations prepared using cow urine emerged as the most reliable treatment for their effectiveness against sucking pest of cotton. The conclusion of study is dung & urine of even aged bullocks are also useful and have proved major effect of role in the Indian economy;

(xi) it is stated that availability of fodder is not a problem in the State or anywhere. During drought period deficit is compensated by grass-bank, silo and purchase of fodder from other States as last resources.

The sugarcane tops, leaves of banana, baggase, wheat bhoosa and industrial byproducts etc. are available in plenty. A copy of the letter dated 8.3.2004 indicting sufficient fodder for the year 2004, addressed to Deputy Commissioner, Animal Husbandry Government of India is annexed.

Report on draughtability of bullocks above 16 years of age

84. On 20th June, 2001 the State of Gujarat filed I.A. No. 2/2001 in Civil Appeal Nos. 4937-4940 of 1998, duly supported by an affidavit sworn by Shri D.U. Parmar, Deputy Secretary (Animal Husbandry) Agriculture and Cooperation Department, Government of Gujarat, annexing therewith a report on draughtability of aged bullocks above 16 years of age under field conditions. The study was conducted by the Gujarat Agricultural University Veterinary College, Anand and the Department of Animal Husbandry, Gujarat State, Ahmedabad. The study was planned with two objectives:

(i) To study the draughtability and utility of aged bullocks above 16 years of age; and

(ii) To compare the draughtability of aged bullocks with bullocks of prime age.

85. Empirical research was carried out under field conditions in North Gujarat Region (described as Zone-I) and Saurashtra region (described as Zone-II). The average age of aged bullocks under the study was 18.75 years. The number of bullocks/pair used under the study were sufficient to draw sound conclusions from the study. The gist of the findings arrived at, is summed up as under:

1. Farmer's persuasion

The aged bullocks were utilized for different purposes like agricultural operations (ploughing, planking, harrowing, hoeing, threshing) and transport-hauling of agricultural produce, feeds and fodders of animals, drinking water, construction materials (bricks, stones, sand grits etc.) and for sugarcane crushing/ khandsari making. On an average the bullocks were yoked for 3 to 6 hours per working day and 100 to 150 working days per year. Under Indian conditions the reported values for working days per year ranges from 50 to 100 bullock paired days by small, medium and large farmers. Thus, the agricultural operations-draft output are still being taken up from the aged bullocks by the farmers. The farmers feed concentrates, green fodders and dry fodders to these aged bullocks and maintain the health of these animals considering them an important segment of their families. Farmers love their bullocks.

2. Age, body measurement and body weight

The biometric and body weight of aged bullocks were within the normal range.

3. Horsepower generation/Work output

The aged bullocks on an average generated 0.68 hp/bullock, i.e. 18.1% less than the prime/young bullocks (0.83 hp/bullock). The aged bullocks walked comfortably with an average stride length of 1.43 meter and at the average speed of 4.49 km/hr. showing little less than young bullocks. However, these values were normal for the aged bullocks performing light/medium work of carting. These values were slightly lower than those observed in case of prime or young bullocks. This clearly indicates that the aged bullocks above 16 years of age proved their work efficiency for both light as well as medium work in spite of the age bar. In addition to this, the experiment was conducted during the months of May-June, 2000 □ a stressful summer season. Therefore, these bullocks could definitely generate more work output during winter, being a comfortable season. The aged bullock above 16 years of age performed satisfactorily and disproved that they are unfit for any type of draft output i.e. either agricultural operations, carting or other works.

4. Physiological responses and haemoglobin concentration

These aged bullocks are fit to work for 6 hours (morning 3 hours + afternoon 3 hrs.) per day. Average Hb content (g%) at the start of work was observed to be 10.72 g% and after 3 hours of work 11.14g%, indicating the healthy state of bullocks. The increment in the haemoglobin content after 3 to 4 hours of work was also within the normal range and in accordance with prime bullocks under study as well as the reported values for working bullocks.

5. Distress symptoms In the initial one hour of work, 6 bullocks (3.8%) showed panting, while 32.7% after one hour of work. After 2 hour of work, 28.2% of bullocks exhibited salivation. Only 6.4% of the bullocks sat down/lie down and were reluctant to work after completing 2 hours of the work. The results are indicative of the fact that majority of the aged bullocks (93%) worked normally. Summer being a stressful season, the aged bullocks exhibited distress symptoms earlier than the prime/young bullocks. However, they maintained their physiological responses within normal range and generated satisfactory draught power.

86. The study report submitted its conclusions as under:

"1. The aged bullocks above 16 years of age generated 0.68 horse power draft output per bullock while the prime bullocks generated 0.83 horsepower per bullock during carting-hauling draft work.

2. The aged bullocks worked satisfactorily for the light work for continuous 4 hours during morning session and total 6 hours per day (morning 3 hours and afternoon 3 hours) for medium work.

3. The physiological responses (Rectal temperature, Respiration rate and Pulse rate) and haemoglobin of aged bullocks were within the normal range and also maintained the incremental range during work. However, they exhibited the distress symptoms earlier as compared to prime bullocks.

4. Seven percent aged bullocks under study were reluctant to work and/or lied down after 2 hours of work.

5. The aged bullocks were utilized by the farmers to perform agricultural operations (ploughing, sowing, harrowing, planking, threshing), transport-hauling of agricultural product, feeds and fodders, construction materials and drinking water.

Finally, it proves that majority (93%) of the aged bullocks above 16 years of age are still useful to farmers to perform light and medium draft works."

87. With the report, the study group annexed album/photographs and cassettes prepared while carrying out the study. Several tables and statements setting out relevant statistics formed part of the report. A list of 16 authentic references originating from eminent authors on the subject under study which were referred to by the study group was appended to the report.

88. This application (I.A. No. 2/2001) was allowed and the affidavit taken on record vide order dated 20.8.2001 passed by this Court. No response has been filed by any of the respondents controverting the facts stated in the affidavit and the accompanying report. We have no reason to doubt the correctness of the facts stated therein; more so, when it is supported by the affidavit of a responsible officer of the State Government.

Tenth Five Year Plan (2002-2007) Documents

89. In the report of the Working Group on Animal Husbandry and Dairy Farming, the Tenth Five Year Plan (2002-2007) dealing with 'the draught breed relevance and improvement', published by the Government of India, Planning Commission in January, 2001, facts are stated in great detail pointing out the relevance of draught breeds and setting out options for improvement from the point of view of the Indian Economy. We extract and reproduce a few of the facts therefrom:

"3.6.12 Relevance of draught breeds and options for improvement

3.6.12.1 In India 83.4 million holdings (78%) are less than 2 ha. where tractors and tillers are uneconomical and the use of animal power becomes inevitable since tractors and tillers are viable only for holdings above 5 ha.. In slushy and water logged fields tractor tiller is not suitable. In narrow terraced fields and hilly regions tractors cannot function. Animal drawn vehicle are suitable for rural areas under certain circumstances/conditions viz., uneven terrain, small loads (less than 3 tons), short distances and where time of loading and unloading is more than travel time or time is not a critical factor and number of collection points/distribution points are large as in case of milk, vegetable, water, oil, etc. In India the energy for ploughing two-thirds of the cultivated area comes from animal power and animal drawn vehicles haul two-thirds of rural transport.

3.6.12.2 The role of cattle as the main source of motive power for agriculture and certain allied operations would continue to remain as important as meeting the requirement of milk in the country. It has been estimated that about 80 million bullocks will be needed. There is, therefore, a need for improving the working efficiency of the bullocks through improved breeding and feeding practices.

3.6.13 Development of Draught Breeds

Focused attention to draft breed will not be possible unless a new scheme is formulated for this purpose.

3.6.13.2 In tracts where there are specialized draught breeds of cattle like Nagori in Rajasthan, Amritmahal and Hallikar in Karnataka, Khillar in Maharashtra etc., selection for improvement in draughtability should be undertaken on a large scale as the cattle breeders in these areas derive a large income by sale of good quality bullocks. Planned efforts should be made for improving the draught capacity and promoting greater uniformity in the type of the cattle population in the breeding tracts. There is need to intensify investigations to develop yardsticks for objective assessment of draught capacity of bullocks.

3.6.14 Supplementation of fund-flow for cattle and Buffalo development.

3.6.14.2 A number of organizations like NABARD, NDDB, NCDC etc. are also likely to be interested in funding activities relating to cattle and buffalo development in the form of term as loan provided timely return is ensured. Time has now come for exploring such avenues seriously at least on pilot basis in selected areas, where better prospects of recovery of cost of breeding inputs and services exists."

90. Recognising the fact that the cow and its progeny has a significant role to play in the agricultural and rural economy of the

country, the Government felt that it was necessary to formulate measures for their development in all possible ways. In view of the persistent demands for action to be taken to prevent their slaughter, the Government also felt and expressed the need to review the relevant laws of the land relating to protection, preservation, development and well-being of cattle and to take measures to secure the cattle wealth of India.

91. Yet another document to which we are inclined to make a reference is Mid-Term Appraisal of 10th Five Year Plan (2002- 2007) released in June, 2005 by the Government of India (Planning Commission). Vide para 5.80 the report recommends that efforts should be made to increase the growth of bio- pesticides production from 2.5 to 5 per cent over the next five years.

92. According to the report, Organic farming is a way of farming which excludes the use of chemical fertilizers, insecticides, etc. and is primarily based on the principles of use of natural organic inputs and biological plant protection measures.

93. Properly managed organic farming reduces or eliminates water pollution and helps conserve water and soil on the farm and thereby enhances sustainability and agro-biodiversity.

94. Organic farming has become popular in many western countries. There are two major driving forces behind this phenomenon; growing global market for organic agricultural produce due to increased health consciousness; and the premium price of organic produce fetched by the producers.

95. India has a comparative advantage over many other countries.

96. The Appraisal Report acknowledged the commencement of the biogas programme in India since 1981-82. Some 35,24,000 household plants have been installed against an assessed potential of 120,00,000 units.

97. Biogas has traditionally been produced in India from cow dung (gobar gas). However, dung is not adequately and equitably available in villages. Technologies have now been developed for using tree-based organic substrates such as leaf litter, seed starch, seed cakes, vegetable wastes, kitchen wastes etc. for production of biogas. Besides cooking, biogas can also be used to produce electricity in dual fired diesel engines or in hundred per cent gas engines. Ministry of Non-conventional Energy Sources (MNES) is taking initiatives to integrate biogas programme in its Village Energy Security Program (VESP).

98. Production of pesticides and biogas depend on the availability of cow-dung.

National Commission on Cattle

99. Vide its Resolution dated 2nd August, 2001, the Government of India established a National Commission on Cattle, comprising of 17 members.

100. The Commission was given the follow terms of reference:-

- a. To review the relevant laws of the land (Centre as well as States) which relate to protection, preservation, development and well being of cow and its progeny and suggest measures for their effective implementation,
- b. To study the existing provisions for the maintenance of Goshalas, Gosadans, Pinjarapoles and other organisations working for protection and development of cattle and suggest measures for making them economically viable,
- c. To study the contribution of cattle towards the Indian economy and to suggest ways and means of organising scientific research for maximum utilisation of cattle products and draught animal power in the field of nutrition and health, agriculture and energy, and to submit a comprehensive scheme in this regard to the Central Government,
- d. To review and suggest measures to improve the availability of feed and fodder to support the cattle population.

101. The Committee after extensive research has given a list of recommendations. A few of them relevant in the present case are:-

" 1. The Prohibition for slaughter of cow and its progeny, which would include bull, bullocks, etc., should be included in Fundamental Rights or as a Constitutional Mandate anywhere else, as an Article of Constitution. It should not be kept only in the Directive Principles or/Fundamental duties as neither of these are enforceable by the courts.

2. The amendment of the Constitution should also be made for empowering the Parliament to make a Central Law for the prohibition of slaughter of cow and its progeny and further for prohibition of their transport from one State to another.

3. The Parliament should then make a Central law, applicable to all States, prohibiting slaughter of cow and its progeny. Violation of the Law should be made a non-bailable and cognizable offence.

xxx xxx xxx

14. The use and production of chemical fertilizers and chemical pesticides should be discouraged, subsidies on these items should be reduced or abolished altogether. The use of organic manure should be subsidized and promoted."

102. Thus the Commission is of the view that there should be a complete prohibition on slaughter of cow progeny.

Importance of Bovine Dung

103. The Report of the National Commission on Cattle, *ibid*, refers to an authority namely, Shri Vasu in several sub- paragraphs of para 12. Shri Vasu has highlighted the unique and essential role of bovine and bovine dung in our economy and has pleaded that slaughter of our precious animals should be stopped. He has in extenso dealt with several uses of dung and its significance from the point of view of Indian society. Dung is a cheap and harmless fertilizer in absence whereof the farmers are forced to use costly and harmful chemical fertilizers. Dung also has medicinal value in Ayurved, the Indian system of medicines.

Continuing Utility of Cattle :

104. Even if the utility argument of the Quareshi's judgment is accepted, it cannot be accepted that bulls and bullocks become useless after the age of 16. It has to be said that bulls and bullocks are not useless to the society because till the end of their lives they yield excreta in the form of urine and dung which are both extremely useful for production of bio-gas and manure. Even after their death, they supply hide and other accessories. Therefore, to call them 'useless' is totally devoid of reality. If the expenditure on their maintenance is compared to the return which they give, at the most, it can be said that they become 'less useful'. (Report of the National Commission on Cattle, July 2002, Volume I, p. 279.)

105. The Report of the National Commission on Cattle has analyzed the economic viability of cows after they stopped yielding milk and it also came to the conclusion that it shall not be correct to call such cows 'useless cattle' as they still continue to have a great deal of utility. Similar is the case with other cattle as well.

"37. Economic aspects:

37.1 The cows are slaughtered in India because the owner of the cow finds it difficult to maintain her after she stops yielding milk. This is because it is generally believed that milk is the only commodity obtained from cows, which is useful and can be sold in exchange of cash. This notion is totally wrong. Cow yields products other than milk, which are valuable and saleable. Thus the dung as well as the

urine of cow can be put to use by owner himself or sold to persons or organizations to process them. The Commission noticed that there are a good number of organizations (goshalas) which keep the cows rescued while being carried to slaughter houses. Very few of such cows are milk yielding. Such organizations use the urine and dung produced by these cows to prepare Vermi-compost or any other form of bio manure and urine for preparing pest repellents. The money collected by the sale of such products is normally sufficient to allow maintenance of the cows. In some cases, the urine and dung is used to prepare the medical formulations also. The organizations, which are engaged in such activities, are making profits also.

37.2 Commission examined the balance sheet of some such organizations. The expenditure and income of one such organization is displayed here. In order to make accounts simple the amounts are calculated as average per cow per day.

It is obvious that expenditure per cow is Rs. 15-25 cow/day.

While the income from sale is Rs. 25-35 cow-day.

37.3 These averages make it clear that the belief that cows which do not yield milk are unprofitable and burden for the owner is totally false. In fact it can be said that products of cow are sufficient to maintain them even without milk. The milk in such cases is only a by-product.

37.4 It is obvious that all cow owners do not engage in productions of fertilizers or insect repellents. It can also be understood that such activity may not be feasible for owners of a single or a few cows. In such cases, the cow's urine and dung may be supplied to such organizations, which utilize these materials for producing finished products required for agricultural or medicinal purpose. Commission has noticed that some organizations which are engaged in production of agricultural and medical products from cow dung and urine do purchase raw materials from nearby cow owner at a price which is sufficient to maintain the cow." (Report of National Commission on Cattle, July 2002, Vol. II, pp.68-69)

106. A host of other documents have been filed originating from different sources such as Governmental or Semi-governmental, NGOs, individuals or group of individuals, who have carried out researches and concluded that world-over there is an awareness in favour of organic farming for which cattle are indispensable. However, we do not propose to refer to these documents as it would only add to the length of the judgment. We have, apart from the affidavits, mainly referred to the reports published by the Government of India, whose veracity cannot be doubted.

107. We do not find any material brought on record on behalf of the respondents which could rebut, much less successfully, the correctness of the deductions flowing from the documented facts and statistics stated hereinabove.

108. The utility of cow cannot be doubted at all. A total ban on cow slaughter has been upheld even in *Quareshi-I*. The controversy in the present case is confined to cow progeny. The important role that cow and her progeny play in the Indian Economy was acknowledged in *Quareshi-I* in the following words:

"The discussion in the foregoing paragraphs clearly establishes the usefulness of the cow and her progeny. They sustain the health of the nation by giving them the life giving milk which is so essential an item in a scientifically balanced diet. The working bullocks are indispensable for our agriculture, for they supply power more than any other animal. Good breeding bulls are necessary to improve the breed so that the quality and stamina of the future cows and working bullocks may increase and the production of food and milk may improve and be in abundance. The dung of the animal is cheaper than the artificial manures and is extremely useful. In short, the back bone of Indian agriculture is in a manner of speaking the cow and her progeny. Indeed Lord Linlithgow has truly said □ "The cow and the working bullock have on their patient back the whole structure of Indian agriculture." (Report on the Marketing of Cattle in India, p. 20). If, therefore, we are to attain sufficiency in the production of food, if we are to maintain the nation's health, the efficiency and breed of our cattle population must be considerably improved. To attain the above objectives, we must devote greater attention to the preservation, protection and improvement of the stock and organise our agriculture and animal husbandry on modern and scientific lines."

109. On the basis of the available material, we are fully satisfied to hold that the ban on slaughter of cow progeny as imposed by the impugned enactment is in the interests of the general public within the meaning of clause (6) of [Article 19](#) of the Constitution.

128. In the first and second Five Year Plans (*Quareshi-I* era), there was scarcity of food which reflected India's panic. The concept of food security has since then undergone considerable change.

129. 47 years since, it is futile to think that meat originating from cow progeny can be the only staple food or protein diet for the poor population of the country. 'India Vision 2020' (ibid, Chapter 3) deals with 'Food Security and Nutrition : Vision 2020'. We cull out a few relevant findings and observations therefrom and set out in brief in the succeeding paragraphs. Food availability and stability were considered good measures of food security till the Seventies and the achievement of self-sufficiency was accorded high priority in the food

policies. Though India was successful in achieving self-sufficiency by increasing its food production, it could not solve the problem of chronic household food insecurity. This necessitated a change in approach and as a result food energy intake at household level is now given prominence in assessing food security. India is one of the few countries which have experimented with a broad spectrum of programmes for improving food security. It has already made substantial progress in terms of overcoming transient food insecurity by giving priority to self-sufficiency in foodgrains, employment programmes, etc. The real problem, facing India, is not the availability of food, staple food and protein rich diet; the real problem is its unequal distribution. The real challenge comes from the slow growth of purchasing power of the people and lack of adequate employment opportunities. Another reason for lack of food and nutrient intake through cereal consumption is attributable to changes in consumer tastes and preferences towards superior food items as the incomes of the household increases. Empirical evidence tends to suggest a positive association between the calorie intake and nutritional status. The responsiveness is likely to be affected by the factors relating to health and environment. It is unclear as to how much of the malnutrition is due to an inadequate diet and how much due to the environment.

137. For multiple reasons which we have stated in very many details while dealing with Question-6 in Part II of the judgment, we have found that bulls and bullocks do not become useless merely by crossing a particular age. The Statement of Objects and Reasons, apart from other evidence available, clearly conveys that cow and her progeny constitute the backbone of Indian agriculture and economy. The increasing adoption of non-conventional energy sources like Bio-gas plants justify the need for bulls and bullocks to live their full life in spite of their having ceased to be useful for the purpose of breeding and draught. This Statement of Objects and Reasons tilts the balance in favour of the constitutional validity of the impugned enactment. In Quareshi-I the Constitution Bench chose to bear it in mind, while upholding the constitutionality of the legislations impugned therein, insofar as the challenge by reference to [Article 14](#) was concerned, that "the legislature correctly appreciates the needs of its own people". Times have changed; so have changed the social and economic needs. The Legislature has correctly appreciated the needs of its own people and recorded the same in the Preamble of the impugned enactment and the Statement of Objects and Reasons appended to it. In the light of the material available in abundance before us, there is no escape from the conclusion that the protection conferred by impugned enactment on cow progeny is needed in the interest of Nation's economy. Merely because it may cause 'inconvenience' or some 'dislocation' to the butchers, restriction imposed by the impugned enactment does not cease to be in the interest of the general public. The former must yield to the latter.

138. According to Shri M.S. Swaminathan, the eminent Farm Scientist, neglect of the farm sector would hit our economy hard. According to him "Today, global agriculture is witnessing two opposite trends. In many South Asian countries, farm size is becoming smaller and smaller and farmers suffer serious handicaps with reference to the cost-risk-return structure of agriculture. In contrast, the average farm size in most industrialized countries is over several hundred hectares and farmers are supported by heavy inputs of technology, capital and subsidy. The on-going Doha round of negotiations of the World Trade Organisation in the field of agriculture reflects the polarization that has taken place in the basic agrarian structure of industrialized and developing countries. Farming as a way of life is disappearing and is giving way to agribusiness." (K.R. Narayanan Oration delivered by Dr. Swaminathan at the Australian National University, Canberra, published in 'The Hindu', October 17, 2005, p.10) "In India, nearly 600 million individuals are engaged in farming and over 80 per cent of them belong to the small and marginal farmer categories. Due to imperfect adaptation to local environments, insufficient provision of nutrients and water, and incomplete control of pests, diseases and weeds, the present average yields of major farming systems in India is just 40 per cent of what can be achieved even with the technologies currently on the shelf. There is considerable scope for further investment in land improvement through drainage, terracing, and control of acidification, in areas where these have not already been introduced." (ibid)

139. Thus, the eminent scientist is very clear that excepting the advanced countries which have resorted to large scale mechanized farming, most of the countries (India included) have average farms of small size. Majority of the population is engaged in farming within which a substantial proportion belong to small and marginal farmers category. Protection of cow progeny will help them in carrying out their several agricultural operations and related activities smoothly and conveniently. Organic manure would help in controlling pests and acidification of land apart from resuscitating and stimulating the environment as a whole."

17. Their lordships of the Hon'ble Supreme Court in the case of **Ramlila Maidan Incident, in re**, reported in **(2012) 5 SCC 1**, have held that the Constitution does not merely speak of human rights protection. It also speaks of preservation and protection of man as well as animals, all creatures, plants, rivers, hills and environment. It has been held as follows:

“310. The Constitution does not merely speaks for human right protection. It is evident from the catena of judgments of this Court that it also speaks of preservation and protection of man as well as animals, all creatures, plants, rivers, hills and environment. Our Constitution professes for collective life and collective responsibility on one hand and individual rights and responsibilities on the other hand. In *Kharak Singh v. State of U.P. & Ors.*, AIR 1963 SC 1295; and *Govind v. State of Madhya Pradesh & Anr.*, AIR 1975 SC 1378, this Court held that right to privacy is a part of life under [Article 21](#) of the Constitution which has specifically been re-iterated in *People's Union for Civil Liberties v. Union of India & Anr.*, AIR 1997 SC 568, wherein this Court held:

"We do not entertain any doubt that the word 'life' in [Article 21](#) bears the same signification. Is then the word 'personal liberty' to be construed as excluding from its purview an invasion on the part of the police of the sanctity of a man's home and an intrusion into his personal security and his right to sleep which is the normal comfort and a dire necessity for human existence even as an animal? It might not be inappropriate to refer here to the words of the preamble to the Constitution that it is designed to 'assure the dignity of the individual' and therefore of those cherished human values as the means of ensuring his full development and evolution. We are referring to these objectives of the framers merely to draw attention to the concepts underlying the Constitution which would point to such vital words as 'personal liberty' having to be construed in a reasonable manner and to be attributed that sense which would promote and achieve those objectives and by no means to stretch the meaning of the phrase to square with any preconceived notions or doctrinaire constitutional theories".

18. Their lordships of the Hon'ble Supreme Court in the case of ***Animal Welfare Board of India vs. A. Nagaraja and ors.***, reported in **(2014) 7 SCC 547**, have held that there are five internationally recognized freedoms of animals; 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. Their lordships have further held that every species has an inherent right to live and shall be protected by

law, subject to the exception provided out of 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, “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. Dignity of animals under the Indian Constitution is also duly recognized. It has been held as follows:

“15. We have to examine the various issues raised in these cases, primarily keeping in mind the welfare and the well-being of the animals and not from the stand point of the Organizers, Bull tamers, Bull Racers, spectators, participants or the respective States or the Central Government, since we are dealing with a welfare legislation of a sentient- being, over which human-beings have domination and the standard we have to apply in deciding the issue on hand is the “Species Best Interest”, subject to just exceptions, out of human necessity.

55. As early as 1500-600 BC in Isha-Upanishads, it is professed as follows:

“The universe along with its creatures belongs to the land. No creature is superior to any other. Human beings should not be above nature. Let no one species encroach over the rights and privileges of other species.”

In our view, this is the culture and tradition of the country, particularly the States of Tamil Nadu and Maharashtra.

56. [PCA Act](#) has been enacted with an object to safeguard the welfare of the animals and evidently to cure some mischief and age old practices, so as to bring into effect some type of reform, based on eco-centric principles, recognizing the intrinsic value and worth of animals. All the same, the Act has taken care of the religious practices of the community, while killing an animal vide [Section 28](#) of the Act.

INTERNATIONAL APPROACH TO ANIMALS WELFARE

57. We may, at the outset, indicate unfortunately, there is no international agreement that ensures the welfare and protection of animals. United Nations, all these years, safeguarded only the rights of human beings, not the rights of other species like animals, ignoring the fact that many of them, including Bulls, are sacrificing their lives to alleviate human suffering, combating diseases and as food for human consumption. International community should hang their head in shame, for not recognizing their rights all these ages, a species which served the humanity from the time of Adam and Eve. Of course, there has been a slow but observable shift from the anthropocentric approach to a more nature's right centric approach in International Environmental Law, Animal Welfare Laws etc. Environmentalist noticed three stages in the development of international environmental law instrument, which are as under:

(a) The First Stage: Human self-interest reason for environmental protection

57.1 The instruments in this stage were fuelled by the recognition that the conservation of nature was in the common interest of all mankind.

57.2 Some the instruments executed during this time included the Declaration of the Protection of Birds Useful to Agriculture (1875), Convention Designed to Ensure the Protection of Various Species of Wild Animals which are Useful to Man or Inoffensive (1900), Convention for the Regulation of Whaling (1931) which had the objective of ensuring the health of the whaling industry rather than conserving or protecting the whale species.

57.3 The attitude behind these treaties was the assertion of an unlimited right to exploit natural resources – which derived from their right as sovereign nations.

(b) The Second Stage: International Equity

57.4 This stage saw the extension of treaties beyond the requirements of the present generation to also meet the needs to future generations of human beings. This shift signalled a departure from the pure tenets of anthropocentrism.

57.5 For example, the 1946 Whaling Convention which built upon the 1931 treaty mentioned in the preamble that “it is in the interest of the nations of the world to safeguard for future generations the great natural resource represented by the whale stocks”. Similarly, the Stockholm Declaration of the UN embodied this shift in thinking, stating that “man bears a solemn responsibility to protect and improve the environment for present and future generations” and

subsequently asserts that “the natural resources of the earth must be safeguarded for the benefit of present and future generations through careful planning and management”. Other documents expressed this shift in terms of sustainability and sustainable development.

(c) The Third Stage: Nature’s own rights

57.6 Recent Multinational instruments have asserted the intrinsic value of nature.

57.7 UNEP Biodiversity Convention (1992) “Conscious of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, educational, cultural, recreational and aesthetic values of biological diversity and its components [we have] agreed as follows:.....”. The World Charter for Nature proclaims that “every form of life is unique, warranting respect regardless of its worth to man.” The Charter uses the term “nature” in preference to “environment” with a view to shifting to non-anthropocentric human-independent terminology.”

58. We have accepted and applied the eco-centric principles in [T. N. Godavarman Thirumulpad v. Union of India and Others](#) (2012) 3 SCC 277, [T. N. Godavarman Thirumulpad v. Union of India and Others](#) (2012) 4 SCC 362 and in [Centre for Environmental Law World Wide Fund - India v. Union of India and Others](#) (2013) 8 SCC 234.

59. Based on eco-centric principles, rights of animals have been recognized in various countries. 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 constitutional clauses that obliges ‘state’ to respect ‘animal dignity’. Therefore, the dignity of the animals is constitutionally recognised in that country. German Animal Welfare Law, especially [Article 3](#) provides far-reaching protections to animals including inter alia from animals fight 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.

60. Animals Welfare Act of 2006 (U.K.) 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 “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 strain. Section 26 of the Legislation prohibits training an animal to fight with people, the operative portion of the same reads as follows :

“Any person who trains animals and who uses animals which are used for showing, entertainment and competitions, including those who organise such activities, shall ensure that the animals:

- a) xxx xxx xxx
- b) xxx xxx xxx
- c) xxx xxx xxx
- (d) are not trained for or used in fights with other animals or people.”

61. When we look at the rights of animals from the national and international perspective, what emerges is that every species has an inherent right to live and shall be protected by law, subject to the exception provided out of necessity. Animal has also honour and dignity which cannot be arbitrarily deprived of and its rights and privacy have to be respected and protected from unlawful attacks.

62. Universal Declaration of Animal Welfare (UDAW) is a campaign led by World Society for the Protection of Animals (WSPA) in an attempt to secure international recognition for the principles of animal welfare. UDAW has had considerable support from various countries, including India. WSPA believes that the world should look to the success of the Universal Declaration of Human Rights (UDHR) to set out what UDAW can achieve for animals. Five freedoms referred to in UDAW, which we will deal with in latter part of the judgment, find support in [PCA Act](#) and the rules framed thereunder to a great extent.

63. World Health Organization of Animal Health (OIE), of which India is a member, acts as the international reference organisation for animal health and animal welfare. OIE has been recognised as a reference organisation by the World Trade Organisation (WTO) and, in the year 2013, it has a total of 178 member countries. On animal welfare, OIE says that an animal is in good state of welfare if (as indicated by Scientific evidence) it is healthy, comfortable, well nourished, safe, able to express innate behaviour and if it is not suffering from unpleasant states such as pain, fear and distress.

FREEDOM:

64. Chapter 7.1.2 of the guidelines of OIE, recognizes five internationally recognized freedoms for animals, such as:

- 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.

Food and Agricultural Organisation (FAO) in its “Legislative and Regulatory Options for Animal Welfare” indicated that these five freedoms found their place in Farm Welfare Council 2009 U.K. and is also called Brambell’s Five Freedoms. These five freedoms, as already indicated, are considered to be the fundamental principles of animal welfare and we can say that these freedoms find a place in [Sections 3](#) and [11](#) of PCA Act and they are for animals like the rights guaranteed to the citizens of this country under Part III of the Constitution of India.

65. Animals are world-wide legally recognised as ‘property’ that can be possessed by humans. On deletion of [Article 19\(1\)\(f\)](#) from the Indian Constitution, right to property is more a fundamental right in India, this gives the Parliament more a leeway to pass laws protecting the rights of animals. Right to hold on to a property which includes animals also, is now only a legal right not a fundamental right. We have also to see the rights of animals in that perspective as well.

66. Rights guaranteed to the animals under [Sections 3, 11](#), etc. are only statutory rights. The same have to be elevated to the status of fundamental rights, as has been done by few countries around the world, so as to secure their honour and dignity. Rights and freedoms guaranteed to the animals under [Sections 3](#) and [11](#) have to be read along with [Article 51A\(g\)\(h\)](#) of the Constitution, which is the magna carta of animal rights.

69. Speciesism as a concept coined by Richard Ryder in his various works on the attitude to animals, like Animal Revolution, Changing

Attitudes towards Speciesism (Oxford: Basil Blackwell, 1989), Animal Welfare and the Environment (London: Gerald Duckworth, 1992) etc. Oxford English Dictionary defines the term as “the assumption of human superiority over other creatures, leading to the exploitation of animals”. Speciesism is also described as the widespread discrimination that is practised by man against the other species, that is a prejudice or attitude of bias towards the interest of members of one’s own species and against those of members of other species. Speciesism as a concept used to be compared with Racism and Sexism on the ground that all those refer to discrimination that tend to promote or encourage domination and exploitation of members of one group by another. One school of thought is that Castism, Racism and Sexism are biological classification, since they are concerned with physical characteristics, such as, discrimination on the ground of caste, creed, religion, colour of the skin, reproductive role etc. rather than with physical properties, such as the capacity for being harmed or benefited.

70. We have got over those inequalities like Castism, Racism, Sexism etc. through Constitutional and Statutory amendments, like Articles 14 to 17, 19, 29 and so on. So far as animals are concerned, [Section 3](#) of the Act confers right on animals so also rights under [Section 11](#) not to be subjected to cruelty. When such statutory rights have been conferred on animals, we can always judge as to whether they are being exploited by human-beings. As already indicated, an enlightened society, of late, condemned slavery, racism, castism, sexism etc. through constitutional amendments, laws etc. but, though late, through [PCA Act](#), Parliament has recognized the rights of animals, of course, without not sacrificing the interest of human beings under the Doctrine of necessity, like experiments on animals for the purpose of advancement by new discovery of physiological knowledge or of knowledge which will be useful for saving or for prolonging life or alleviating suffering or for combating any disease,

whether of human beings, animals or plants and also destruction of animals for food under [Section 11\(3\)](#) of the PCA Act. Legislature through [Section 28](#) also saved the manner of killing of animals in the manner prescribed by religions, those are, in our view, reasonable restrictions on the rights enjoyed by the animals under [Section 3](#) read with [Section 11\(1\)](#). Evidently, those restrictions are the direct inevitable consequences or the effects which could be said to have been in the contemplation of the legislature for human benefit, since they are unavoidable. Further, animals like Cows, Bulls etc. are all freely used for farming, transporting loads etc., that too, for the benefit of human beings, thereby subjecting them to some pain and suffering which is also unavoidable, but permitted by the Rules framed under the [PCA Act](#).

NON-ESSENTIAL ACTIVITIES:

71. We have, however, lot of avoidable non-essential human activities like Bullock-cart race, Jallikattu etc. Bulls, thinking that they have only instrumental value are intentionally used though avoidable, ignoring welfare of the Bulls solely for human pleasure. Such avoidable human activities violate rights guaranteed to them under [Sections 3](#) and [11](#) of PCA Act. AWBI, the expert statutory body has taken up the stand that events like Jallikattu, Bullock-cart race etc. inherently involve pain and suffering, which involves both physical and mental components, including fear and distress. Temple Grandin and Catherine Johnson, in their work on “Animals in Translation” say:

“The single worst thing you can do to an animal emotionally is to make it feel afraid. Fear is so bad for animals I think it is worse than pain. I always get surprised looks when I say this. If you gave most people a choice between intense pain and intense fear, they’d probably pick fear.” Both anxiety and fear, therefore, play an

important role in animal suffering, which is part and parcel of the events like Jallikattu, Bullock-cart Race etc..

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 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, especially when they are domesticated. Right to dignity and fair treatment is, therefore, not confined to human beings alone, but to animals as well. Right, not to be beaten, kicked, over-ridder, over-loading is also a right recognized by [Section 11](#) read with [Section 3](#) of the PCA Act. Animals have also a right against the 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](#).”

19. Their lordships of the Hon’ble Supreme Court in the case of ***Shakti Prasad Nayak vs. Union of India & ors.***, reported in **(2014) 15 SCC 514**, have restrained State of West Bengal from taking any step to administer any kind of contraceptives or introducing any method of sterilization which hinders natural procreative process of elephants or any wildlife. It has been held as follows:

“17. At this juncture, we are obliged to take note of the submission made by Mr. Tapesh Kumar Singh, learned counsel appearing for State of Jharkhand that State of West Bengal has decided to take a regressive step by introducing contraceptives so that the elephants do not procreate and consequently the accidents of the present nature are avoided. If it is so, it is absolutely impermissible and also condemnable. Mr. Avijit Bhattacharjee, learned counsel appearing for the State of West Bengal shall take instructions in this regard and file an affidavit of the competent authority. However, as advised at present, we restrain the authorities of the State of West Bengal from taking any steps to administer any kind of contraceptives or introducing any method of sterilization which hinders natural procreative process of the elephants or any wildlife.”

20. It is evident from the combined reading of Articles 48 and 51-A(g) of the Constitution of India that the citizen must show compassion to the animal kingdom. The animals have their own fundamental rights. Article 48 specifically lays down that the State shall endeavour to prohibit the slaughter of cows and calves, other milch and draught cattle. This

Court has issued numerous directions to the respondents on 7.10.2014, 8.1.2015, 2.5.2015, 14.10.2015 and 2.3.2016 in this regard. ◇

21. In sequel to the directions issued by this Court on 2.3.2016, the Superintendent of Police, Kangra at Dharamshala has filed the affidavit. According to the averments contained in the affidavit, FIR No. 332/2015 dated 14.10.2015, FIR No. 346/2015 dated 24.10.2015, FIR No. 354/2015 dated 2.11.2015, FIR No. 238/2015 dated 22.11.2015, FIR No. 105/2014 dated 28.12.2014, FIR No. 112/2015 dated 3.12.2015, FIR No. 45/2015 dated 12.3.2015 and FIR No. 103/2015 dated 21.4.2015 have been registered under Section 11 of Prevention of Cruelty to Animals Act, Sections 279, 336, 337 and 429 IPC and Section 187 M.V. Act against the accused. The challans have also been presented in the Courts. The Superintendent of Police, Kangra has undertaken to comply with the directions issued by this Court from time to time in letter and spirit.

22. The Superintendent of Police, Police District Baddi, Distt. Solan, has also filed the affidavit. According to the averments contained in the affidavit, all the SHOs and IOs in the Police district have been directed to keep strict vigil to trace persons who abandon their animals and to take action against them according to the directions issued by this Court. FIR No. 18/15 dated 15.4.2015 has been registered under Section 429 IPC and Section 11 of Prevention of Cruelty to Animals Act, 1960 and Section 8 of the H.P. Prohibition of Cow Slaughter Act, 1979 at Ramshehar and two accused were arrested. The charge sheet has been filed on 2.4.2016. One FIR No. 80/2016 dated 2.4.2016 stood registered with PS Baddi under

Section 11(1) (D) of Prevention of Cruelty to Animals Act, 1960 and three persons were arrested. Challan has been filed in the Court of JMFC, Nalagarh on 25.4.2016. Two stray cows were handed over to "Gaushala" at Satiwala-Barotiwala and entry to this effect was made in daily diary vide entry No. 34 dated 30.3.2015 and daily diary No. 33 dated 24.4.2015 at Police Station Barotiwala.

23. The Superintendent of Police, Sirmaur at Nahan has filed an affidavit. According to the averments contained in the affidavit, directions have been issued to the Police functionaries especially at district entry and exit points to ensure that no kind of violation of Transportation of Animals Rules takes place in the district and is being ensured through the SHOs regularly. During the year 2015, total 13 cases have been registered in district Sirmaur against the violators/offenders under the various sections of IPC, Prevention of Cruelty to Animals Act, 1960, H.P. Prohibition of Cow Slaughter Act, 1979 and H.P. Police Act, 2007. 12 cases have been presented in the Court, out of which one case has been decided and 11 cases are pending trial.

24. The Superintendent of Police, Kullu has also filed an affidavit in pursuance to the directions issued by this Court. According to the averments contained in the affidavit, strict vigil is being kept in his district on the defaulters/violators of rules for the transportation of animals. Naka/Patrolling parties and officials have been deputed for traffic duty and briefed/instructed regularly to keep strict vigil in the area.

25. The Superintendent of Police, Hamirpur has also filed an affidavit in pursuance to the directions issued by this Court. According to the averments contained in the affidavit, it was found that 14 cows and calves were being transported in a truck without following the rules for transportation of animals. Three violators have been booked under Section 114/115 of H.P. Police Act, 2007 and cows and calves have been released from the truck. No case of slaughtering, cause or cause to be slaughtered, or offer, or cause to be offered for slaughter, any cow/calf has come into the notice of the police in his district.

26. The Superintendent of Police, Kinnaur District at Reckong Peo has filed an affidavit. According to the averments contained in the affidavit, strict vigil is being kept on the defaulters/violators in the District. Two cases were registered against the defaulters and FIR Nos. 63/2014 and 8/2016 have been registered and challans have been put up in the Court.

27. The Superintendent of Police, Lahaul Spiti at Keylong has also filed an affidavit in pursuance to the directions issued by this Court. According to the averments contained in the affidavit, the SHOs, IOs and field functionaries have been directed to maintain strict vigil on all vehicles in which animals and poultry are being transported as per the transport of Animal Rules, 1978.

28. According to the affidavit filed by the Superintendent of Police, Una, 10 cases were registered in the district under the Prevention of Cruelty to Animals Act, 1960. No case was registered under Section 11 D

of Prevention of Cruelty to Animals Act, 1960 till the date of filing of the affidavit.

29. The Superintendent of Police, Shimla has also filed an affidavit. According to the averments contained in the affidavit, necessary directions have been issued to the subordinate functionaries as per the orders passed by this Court. FIR No. 6/2016 PS Sunni and another FIR No. 37/2016 was registered at PS Dhalli under Prevention of Cruelty to Animals Act, 1960. The final report has been presented before the trial Court.

30. The Superintendent of Police, Solan has also filed an affidavit. According to the averments contained in the affidavit, one FIR was registered at PS Arki and another at Darlaghat and charge sheet has been filed.

31. The Superintendent of Police, Chamba, has also filed an affidavit. According to the averments contained in the affidavit, FIRs have been registered against the accused under the Prohibition of Cow Slaughter Act, 1979. The in-charge of traffic check posts/barriers have been directed to comply with the directions issued by this Court.

32. According to the affidavit filed by the Superintendent of Police, Mandi, the orders passed by this Court were circulated to all the supervisory officers. The directions were issued to remove stray animals from the National Highway and make arrangements for their transportation to nearest "Gaushalas" to ensure safe, free and smooth flow of traffic. 11

cases have been registered under the provisions of Section 11 of Prevention of Cruelty to Animals Act, 1960 and Sections 289 and 429 IPC. ◇

33. All the Superintendents of Police throughout the State of Himachal Pradesh are directed to comply with the directions issued by this Court from time to time in letter and spirit and to ensure timely presentation of challans before the Courts of law.

34. In the affidavit filed by the Deputy Commissioner, Una, in sequel to directions issued by this Court on 2.3.2016, it is reported that all the BDOs in Una District have been appointed as Nodal Officers to expedite the construction work of each "Gaushala". A meeting was convened on 10.3.2016 by the Deputy Commissioner. The meeting was again convened on 21.3.2016 in which the Executive Officer, Municipal committee, Una, Mehatpur and Gagret were directed to complete the construction work of gausadans within three months as per the directions issued by this Court. The meeting was also convened on 7.4.2016 by the Deputy Commissioner, Una in which SDO(C) Amb was directed to transfer the land for the establishment of new Gausadan and also ensure its construction work to be done expeditiously. A detailed report was sought from the District Revenue Officer, Una and in total 92 cases, land has been transferred for the construction of New Gausadan in Distt. Una and no case is pending with him. The Secretary, Nagar Panchayat Daulatpur Chowk had also identified the land for establishment of Gausadan. He has intimated on 10.5.2016 that the land has been identified by him at Gram Sabha Gondpur Banehra Lower and Gram Sabha Nangal Jarialan for

establishment of new Gausadan and NOC has also been received by him from the concerned Gram Panchayat. The proposal of land transfer for establishment of new Gausadan at Nagar Panchayat, Daulatpur Chowk would be put up shortly to him. Now, as far as Gausadan at Gagret is concerned, land has already been transferred vide order dated 10.12.2015. According to the affidavit, there was need for new Gausadan at Santokhgarh as the existing Gausadan has limited capacity of 110 animals. The Executive Officer, MC Santokhgarh is directed to identify the land for establishment of new Gausadan in the adjoining Panchayat Chhatterpur, PO Santokhgarh. Zila Parishad, Una has sanctioned Rs. 2,00,000/- and Rs. 3,00,000/- for each gosadan respectively. There would be one gausadan at each Municipal Committee level and about 4-5 gausadans at Block Level. Out of the 4-5 gausadans, there will be one master gausadan at Block level. The Veterinary Doctor is directed to visit each gausadan on weekly basis as well as on need basis. A society is also being constituted under the control of government functionary for the proper functioning of gausadan in which facility of open membership and donation in kind would be made. It has also been stated that the Executive Officer, MC Una has intimated that five kanals of land has been transferred in the name of Urban Development Department at Village Samoor Kalan Doem for establishment of new gausadan and the construction work is in progress since 2.5.2016.

35. The Court appreciates the sincere efforts made by the Deputy Commissioner, Una towards implementation of directions issued by this

Court from time to time in letter and spirit. The model visualized in the affidavit providing one gausadan at the Municipal Committee level and 4-5 gausadans at Block Level and setting up of society should be adopted by all the Deputy Commissioners in the State of Himachal Pradesh. The Deputy Commissioner, Una is directed to ensure that the land is transferred in remaining cases expeditiously and the gausadans are constructed within a period of six months from today. The construction of gausadans in the Municipal Councils within Una district be also completed within three months from today. The Court also appreciates the release of funds by Zila Parishad Una amounting to Rs. 5,00,000/- for the construction of gausadans. The Deputy Commissioners throughout the State shall also ensure that at least there is one master gausadan at block level. The Deputy Commissioner Una is also directed to ensure that sufficient funds are released for the upkeep of cows as well as stray cattle by providing them sufficient fodder, water etc.

36. The Deputy Commissioner, Lahaul and Spiti has also filed an affidavit. According to him, 41 Panchayats of the district have submitted resolutions to the effect that no stray cattle exist in the entire district. According to the meetings convened on 29.2.2016 and 24.5.2016 there was no need of gausadan/gaushala/shelter in Lahaul & Spiti. However, the Veterinary Institutions have been directed to maintain separate OPD register of sick stray cattle and to report cases in monthly progress report separately. Thus, it is evident that there is a problem of stray cattle in

Lahaul & Spiti. The Deputy Commissioner, Lahaul & Spiti is directed to ensure to construct at least one shelter in each Block to house stray cattle.

37. The Deputy Commissioner, Bilaspur has also filed an affidavit. According to him, an amount of Rs. 60,00,000/- has been released as second installment for the construction of gausadans at six places i.e. Rs. 10,00,000/- for each gausadan. The funds for construction of gausadans at Balghad and Balhseena has been released from Sh. Baba Balak Nath Temple Trust on 28.1.2016 whereas funds have been released for Talli, Kuthera, Ranikotla and Barmana from Sh. Naina Devi Ji Temple Trust on 15.3.2016. A sum of Rs. 1,16,47,800/- has already been released for construction of six new gausadans in the district. A sum of Rs. 5,00,000/- has been released for enhancing the capacity of existing gausadan at Padyalag. BDO, Jhandutha has intimated that construction of gausadan at Balghar is in progress. He has been directed to complete the work at Balghar by June, 2016. BDO Jhandutha has intimated that work of construction of gausadan at Balhseena is in progress. BDO, Sadar has intimated that work of construction of gausadan at Ranikotla has been completed and boundary wall work and construction of shed is in progress. He has further informed that site development work of Barmana (Lagat) is in progress. BDO, Shri Naina Devi Ji has informed that the construction of gausadan work at Talli is in progress. BDO, Ghumarwin has intimated that construction of gausadan work is in progress.

38. Now, as far as M.C. Bilaspur is concerned, the Executive Officer concerned has intimated that tender for conversion of Municipal

pond building situated near sabji mandi complex Bilaspur to gausadan has been invited and the process for obtaining no objection certificate from the concerned department is in progress. There will be a direction to complete the work within six months from today. Similarly, the Deputy Commissioner shall ensure that the construction of gausadan at Ghumarwin is undertaken at the earliest by identifying the land and also to obtain all the no-objections from the concerned departments. Gausadan at Nagar Panchayat Talli be completed at the earliest and not later than three months.

39. The Deputy Commissioner, Bilaspur is directed to ensure that the construction work of gausadans in the district are completed expeditiously within three months from today, including taking up of steps for enhancing the capacity of existing gausadans as undertaken in the affidavit.

40. The Deputy Commissioner, Mandi has also filed an affidavit. According to him, there were 32 cluster points identified and six gausadans were made functional. Thus, total gausadans in the district are 15. The process of opening new gausadans, as mentioned in the affidavit, be completed within a period of six months. The process of transferring forest land in the name of Panchayati Raj Department be also completed at the earliest. The authorities concerned are directed to ensure release of sufficient funds to facilitate the transfer of forest land to the Panchayati Raj Institutions. 690 stray cattle have been treated and 155 number of awareness camps have been organized. The Court appreciates the efforts

made by the Deputy Commissioner, Mandi for the construction of gausadans.

41. The Deputy Commissioner, Kullu, in his affidavit has averred that the District Administration has received proposal from 106 out of total 204 Gram Panchayats to construct gausadans. The Government of HP has declared District Panchayat Officer, Kullu as User Agency to move and process all cases of diversion of forest land for non-forestry purposes. The Deputy Commissioner has undertaken to provide necessary microchip in all the animals throughout the district. The process for transfer of land has also been undertaken. There are seven gausadans in the district. The Zila Parishad Kullu has sanctioned a sum of Rs. 64,45,000/- for the upgradation and construction of gausadans at Bandrol, Bajaura, Chanaun, Kararsu, etc. The construction work has been completed at Kungash. A sum of Rs. 5,00,000/- has been sanctioned for construction of gausadan at Dalash. The land has been transferred in the name of Panchayat. Rs. 18,00,000/- have been sanctioned for the construction of gausadan at Chanon. The Deputy Commissioner, Kullu is directed to ensure the completion of construction work at Chanon and Dalash within six months from today.

42. According to the averments contained in the affidavit filed by Deputy Commissioner, Shimla, in compliance to the order dated 2.3.2016, Sub-Committee has submitted the latest status report. The revenue papers of seven selected places have been sent to BDO, Jubbal, Chhohara, CEO Nagar Parishad Rohru. The Deputy Commissioner, Shimla is directed

to ensure that the revenue papers are completed, the land is transferred and gausadans are constructed at Purana Jubbal, Chanderpur, Sheeladesh, Disbani, Sundha Bhonda, Thalli Jangla, Barada, Pujarli No. 3, Dhara and Knevara. A meeting of Sub-Divisional Level Committee, Chopal was held on 30.5.2016. The Chairman apprised the members that left over cases of FRA of 20 Panchayats received from BDO Chopal have been sent to the Deputy Commissioner, Shimla for NOC and joint inspection of selected land for the construction of gausadans. The Deputy Commissioner, Shimla is directed to issue NOCs within a period of 4 weeks, if not already granted.

43. The meeting was held under the Chairmanship of SDM Theog on 7.5.2016. The Chairman informed that as per the directions issued by this Court, four gausadans in each block are to be constructed on priority basis. In GP Sainj, Deothi, Kot Shillaroo and Dhar Kandaroo of Theog Block and representative of BDO Jubbal and Kotkhair told that in GP Deori Khaneti and Premnagar, gausadan will be constructed on priority basis. The Deputy Commissioner, Shimla is directed to ensure that as per para (IV) of the affidavit, gausadans are constructed on priority basis within a period of six months from today.

44. The meeting of Sub Committee Shimla (Rural) was held on 12.5.2016 wherein directions were issued to the concerned BDOs to expedite the process of land transfer cases concerning gausadans. In Block Mashobra, three gausadans are functional while construction work of gausadan is in progress at GP Chedi. In Development Block Mashobra

in 38 Gram Panchayats, land has been selected while in rest 7 Gram Panchayats, selection process is in progress. The Deputy Commissioner, Shimla is directed to ensure that the gausadan at Gram Panchayat Chedi be constructed within six months. Similarly, gausadans be also constructed in Block Mashobra where the land has been identified. Now, as far as 7 Gram Panchayats where the selection process is in progress, the Deputy Commissioner, Shimla shall ensure that the land is identified expeditiously.

45. The Deputy Commissioner, Kangra has averred in the affidavit that the Sub Divisional Officer (C), Dharamshala has submitted that two new sheds are complete in GP Sarah with the capacity to house about 80 stray cattle. The gausadan at Attarian in tehsil Indora is functional. Shri Ram Gopal Mandir Trust Damtal is also functional. Similarly at Khajjian, Private Mahadav Gausadan Centre gausadans are functional and at Mahal Chakwan Khanni, gausadan work is in progress. At Sub Division Dehra, land has been transferred and Rs. 6,00,000/- was sanctioned for the construction of gausadan at GP Muhal. The construction work has been completed except the roof work, for which the balance amount of Rs. 2,00,000/- have been sanctioned. The Deputy Commissioner, Kangra is directed to ensure that the construction is completed within three months.

46. The land for the construction of gausadan in MC area Dehra has also been identified. The Deputy Commissioner, Kangra is directed to ensure that the gausadan is completed within six months after completing

all the codal formalities. The construction work of gausadan at Jijjal is in progress. The work be completed within a period of six months from today.

47. In Sub Division Palampur, two sheds have been constructed by the Society and an amount of Rs. 6,00,000/- has been spent. In Sub Division Kangra, now since the land has been transferred to the Urban Development Department, the construction of gausadan shall be completed within a period of six months. The Deputy Commissioner, Kangra is directed that in those cases where the land has already been transferred as per para (G) of the affidavit, the construction be completed within six months from today and in those cases where the land has not been transferred, the same be transferred within three months and thereafter construction be completed within six months. The Deputy Commissioner, Kangra is also directed to ensure the completion of construction of gausadans at Sub Divisions Jaisinghpur, Jawali and Baijnath within a period of six months from today.

48. The Deputy Commissioner, Sirmaur at Nahan has also filed an affidavit. As per the affidavit, the contouring, building plan and estimate of the proposed gausadan at Nauni-ka-bag, Nahan has been prepared and construction work of the gausadan is being started soon. The concerned authorities are directed to complete the work within three months. The construction of gausadan at Rajgarh be also completed within six months since the land has already been identified. There are 228 Gram Panchayats in the district. The work of cattle registration in 228 Gram Panchayats has been completed. The construction work is in progress in

41 Gram Panchayats. In 10 Gram Panchayats, construction of gausadans has been completed. The land for construction of gausadans in 174 Gram Panchayats has been identified. The Deputy Commissioner, Sirmaur is directed to ensure the construction of gausadans in the remaining Gram Panchayats within three months where the land has been identified and in the Gram Panchayats where the land has not been identified, it be done within six months from today. The Deputy Commissioner Sirmaur is also directed to constitute a Committee to ensure the early transfer of land for the construction of gausadans in his district. The members of the Committee shall expedite the process of transfer of land.

49. According to the affidavit filed by the Deputy Commissioner, Hamirpur, meeting of Sub-Committee, Sujanpur under the Chairmanship of SDM Sujanpur was held on 26.4.2016. The SDM Sujanpur informed that the land has been transferred in 23 cases and in one case land transfer is in progress. The Deputy Commissioner, Hamirpur is directed to ensure that the construction of gausadan is undertaken in all the 23 cases and completed within six months and in remaining one case land is transferred and construction of gausadan is completed within six months.

50. The meeting of Sub-Committee under the Chairmanship of SDM Barsar was held on 23.5.2016. The representative of SDM Barsar informed that land has been transferred in 43 cases, 6 cases of land transfer are under process. In those cases where the land has already been transferred construction be completed within three months and

sufficient funds are made available. In six cases, land transfer cases be expedited.

51. The SDM Nadaun informed that the land has been transferred in 49 cases and 10 cases of land transfer are under process. The Deputy Commissioner, Hamirpur is directed to ensure construction of gausadans in those cases where the land has already been transferred within six months and in those cases where the land transfer is in process, the same be done expeditiously.

52. The meeting of Sub Committee under the Chairmanship of SDM Bhoranj was held on 27.4.2016 wherein it was informed that in 30 cases land has been transferred and in 8 cases it is in process. The Deputy Commissioner, Hamirpur is directed to ensure construction of gausadans in those cases where the land has already been transferred within six months and in those cases where the land transfer is in process, the same be done expeditiously.

53. The meeting of Sub Committee under the Chairmanship of SDM Hamirpur was held on 27.4.2016 wherein it was informed that in 47 cases land has been transferred and in 16 cases it is in process. The Deputy Commissioner, Hamirpur is directed to ensure construction of gausadans in those cases where the land has already been transferred within six months and in those cases where the land transfer is in process, the same be expedited and thereafter the construction of gausadans be completed within six months. The Chief Secretary to the State of Himachal

Pradesh is also directed to facilitate the release of amount from the 14th Finance Commission.

54. The Deputy Commissioner, Chamba has filed the affidavit in sequel to the directions issued by this Court on 2.3.2016. As per the affidavit, the land measuring 2312 sq. yards in Mohal Chamba was identified for the construction of gausadan. A sum of Rs. 5.50 lac was utilized for the construction. At MC Dalhousie, a sum of Rs. 5,00,000/- has been sanctioned for the construction of gausadan, however, the land could not be transferred. The Deputy Commissioner, Chamba is directed to ensure early transfer of land for the construction of gausadan at MC Dalhousie within a period of six months.

55. The construction of gausadan at GP Salooni has been completed. The land for the construction of gausadan in GP Bhalei has been identified. The codal formalities be completed for the transfer of forest land and thereafter construction of gausadan be completed within six months.

56. Now, as far as construction of gausadan at Tissa is concerned, the leveling work of the land selected for gausadan in GP Gadfari has been completed. An amount of Rs. 4,00,000/- was sanctioned out of which an amount of Rs. 2,00,000/- has been released to GP Gadfari for the construction of gausadan. The process of construction be completed within a period of six months positively.

57. The gausadan at Sihuntha has been completed. The construction work of gausadan in Mohal Gulahar, GP Turkara near

Chowari be completed within a period of three months from today. Similarly, the gausadan at GP Parchhore and at Mohal Hatli, GP Tunuhatti near Nainikhad be also completed within six months from today.

58. The construction of gausadan at Lahal, GP Khanni after getting the land transferred be completed within three months from today. Similarly, construction work/land transfer for the construction of gausadans at GP Bhanota, GP Janghi, GP Mehla, GP Baloth, GP Bharian Kothi be completed within a period of six months from today. The Court places its appreciation for the early construction of gausadans at GP Janghi, GP Mehla, GP Baloth and GP Bharian Kothi. The construction work at Sub Division Pangi has also been completed.

59. In the affidavit filed by Deputy Commissioner, Kinnaur, it is averred that 26 estimates for construction of gausadans have been prepared and Rs. 13,75,383/- stands released from Distt. Panchayat Office to Zila Parishad concerned in the district. The construction work of three gausadans have already been started in Sub Division Kalpa and Sub Division Nichar. The Deputy Commissioner, Kinnaur is directed to ensure the early completion of the work of construction at three places, mentioned hereinabove and also at 26 places within a period of six months from today.

60. In the affidavit filed by Deputy Commissioner, Solan, it is averred that 46-01 bigha land has been transferred for the construction of gausadans in the district. The gausadans are being set up in a cluster approach and will cater to all Panchayats in a particular cluster so that

optimum cattle population is covered. An amount of Rs. 47,95,247/- has been sanctioned for the purpose. The Deputy Commissioner, Solan is directed to ensure early construction of 35 gausadans as undertaken in the affidavit, but not later than six months from today.

61. The Addl. Chief Secretary (UD) has filed the affidavit. According to the averments contained in the affidavit, all the Urban Local Bodies have already been directed on 13.8.2015 and 4.12.2015 to spend funds for the construction and maintenance of gausadans out of the funds under the 13th Finance Commission. The Animal Husbandry Department has placed the issue of stray cattle before the Cabinet in the meeting held on 11.5.2016. The matter was considered by the Cabinet. The Cabinet approved that a cluster approach may be followed for construction of gausadans considering that the capacity of State, Local bodies, NGOs etc. to construct and manage gausadans, is limited. However, this Court is of the considered opinion that taking into consideration the menace of stray cattle numbering 32,100 across the State of Himachal Pradesh, the orders passed by this Court from time to time for the construction of gausadans/gaushallas/shelters is imperative. The respective Panchayats have already taken steps for construction of gausadans/gaushallas/shelters at the grass root level. The stray cattle destroy the crops and are obstructing the smooth flow of traffic. The State Government has also not taken necessary steps for the removal of stray cattle from the National Highway which is resulting in injuries to the hapless animals and to the commuters. The paucity of funds should not

come in the way of construction of gausadans/gaushallas/shelters throughout the State of Himachal Pradesh. It is the constitutional duty of the State to protect the cattle wealth by augmenting its financial capacity.

62. The MC Shimla has constructed gausadan at Boileauganj. Action taken progress made by the concerned Urban Local Bodies is highlighted in para 5 of the affidavit. The Addl. Chief Secretary (UD) is directed to ensure that the construction of gausadns at 38 urban areas, if not already completed be completed within a period of six months from today.

63. The Deputy Secretary (PR) has filed the affidavit/status report. According to the averments made in the affidavit, a sum of Rs. 5,34,84,939/- has been released for the construction of gausadans in eleven districts.

64. The Addl. Chief Secretary (Animal Husbandry), has filed the affidavit. According to the averments made in the affidavit, treatment is being provided to sick and injured stray animals. Separate registers have been maintained in all the Veterinary Institutions for maintaining record of treatment provided to stray cattle. In the affidavit, it is reiterated that there is dearth of funds. It is the responsibility of the Department of Animal Husbandry, Dairying and Fisheries, Government of India to provide sufficient funds. The matter has already been taken up by the State Government.

65. The Department of Animal Husbandry, Dairying and Fisheries, Government of India through Secretary is directed to provide sufficient

funds for the construction of gausadans in the State of Himachal Pradesh. 122 gausadans have already been constructed. The Himachal Pradesh Govansh Samverdhan Board has been constituted vide notification dated 8.2.2016. The Board is directed to formulate norms for registration of gausadans within three months from today.

66. The Chief Secretary to the State of Himachal Pradesh has also filed the affidavit. He was directed to file the status/compliance report within three months before 1.6.2016. The Chief Secretary was directed to implement broader recommendations made by the National Commission of Farmers (NCF) constituted on 18.11.2004. The matter was taken up with the Government of India. MSP is recommended by Commission (NCF) for agricultural costs and prices. The Court is not satisfied with the affidavit as to why the MSP could not be introduced for 107 commodities, as mentioned in the order dated 2.3.2016. It is always open to the State to adopt MSPs recommended by the NCF for agricultural costs and prices or at its own level. The MSP is must to protect the interest of the farmers. It is also highlighted in the affidavit that there is Market Intervention Scheme (MIS) in place which is implemented on the request of State Governments for procurement of perishable and horticultural commodities in the event of fall in market prices. There are items i.e. apple, citrus fruits like Kinnow/Malta/Santra, Galgal and Mango included therein. If there can be Market intervention Scheme for three commodities, there is no reason why there cannot be Market Intervention Scheme for 107 commodities as mentioned in the order dated 2.3.2016.

67. Accordingly, the Chief Secretary to the State of Himachal Pradesh is directed to take up the matter again with the Ministry concerned of the Government of India for declaring MSP for 107 commodities and till then, the State Government is directed to at least formulate Market Intervention Scheme for 107 commodities as per order dated 2.3.2016. There can also be price regulation fund which is in vogue for onion and potatoes. The matter shall be taken up by the Chief Secretary to the State of Himachal Pradesh directly with the Commission for Agricultural Costs and Prices (CACP), Government of India within six weeks from today.

68. The compounded annual growth rates (CAGR) in nominal as well as real incomes (deflated by state specific CPI-AL) of farmer households during 2002-03 to 2012-13 is as under:

* In 2012-13, an average Indian farmer's monthly income was Rs 6,426. Punjab's farmers had the highest income at Rs 18,059, followed by those in Haryana (Rs 14,434), Jammu & Kashmir (Rs 12,683) and Kerala (Rs 11,888). Bihar's farmers earned the least, with their monthly incomes averaging Rs 3,558.

* The CAGR of farmers' nominal incomes between 2002-03 and 2012-13 was 11.8 per cent at an all-India level. Within this, Haryana registered the highest growth (17.5 per cent) and West Bengal the lowest (6.7 per cent).

* In real income terms, Odisha emerged as the top performer with a CAGR of 8.3 per cent, closely followed by Haryana (8 per cent), Rajasthan 7.9 (per cent) and Madhya Pradesh (7.3 per cent), as against a national average of 3.5 per cent. The worst performers were Bihar and West Bengal, with negative real growth rates in their farmers' incomes.

* Coming to sources of farmers' income, the share from cultivation rose from 45.8 per cent in 2002-03 to 47.9 per cent in 2012-13. But the share of income from farming of animals was the one that grew the most, from 4.3 per cent to 11.9 per

cent, while the contribution from both non-farm business and wages & salaries declined over this period. Thus, the highest growth was registered in receipts from livestock farming. And this was true, especially in states that showed overall higher real income growth rates.”

69. The State Government should also implement the Pradhan Mantri Krishi Sinchayee Yojana (PMKSY) in letter and spirit in order to ensure water to every farm (“har khet ko paani”).

70. The Court has also directed to constitute the State Agriculture Commission. It has been specifically undertaken in the affidavit that the same is under active consideration of the State Government. The Chief Secretary to the State of Himachal Pradesh is directed to ensure that the State Agriculture Commission is constituted, notified and made functional within a period of three months positively.

71. The State Government is also directed to implement Pradhan Mantri Fasal Bima Yojana (PMFBY) in letter and spirit to provide better insurance cover. The State Government has only covered Maize and Paddy in Kharif and Wheat and Barley in Rabi under the cover. The other crops be also included in Pradhan Mantri Fasal Bima Yojana (PMFBY). The State Government is also directed to scrupulously implement Weather Based Crop Insurance Scheme (WBCIS) for all the crops in the State of Himachal Pradesh. The Pradhan Mantri Fasal Bima Yojana (PMFBY) is laudable step and must be implemented in letter and spirit to mitigate the hardship faced by the farmers.

72. Now, as far as waiver of loans to the small and marginal farmers is concerned at least up to Rs. 50,000/- (rupees Fifty thousand)

according to the affidavit filed, the directions were issued to General Manager and Convener State Level Bankers Committee (SLBC) on 21.4.2016. The Convener Bank informed that the meeting was likely to be held in the month of June, 2016. The General Manager and Convener State Level Bankers Committee (SLBC) is directed to decide the issue within a period of three months from today, if not already decided.

73. This Court has also suggested the Union of India to enact the law prohibiting slaughtering of cow/calf, import or export of cow/calf, selling of beef or beef products, in its wisdom, at national level within three months. The Union of India has filed an affidavit. According to the averments made in the reply/affidavit, the subject falls within entry No. 15 of the State List. It is also stated in the reply/affidavit that the only five States and one Union Territory have no legislation on the subject, however, Union of India has not taken into consideration entry No. 17 and 17B of the Concurrent List. It is open for the Union of India to enact law at the national level prohibiting slaughtering of cow/calf, import or export of cow/calf, selling of beef or beef products under entry No. 17 of the Concurrent List. Accordingly, the directions issued by this Court on 14.10.2015 to Union of India to enact law prohibiting slaughtering of cow/calf, import or export of cow/calf, selling of beef or beef products, at the national level, are reiterated. The necessary steps be taken within six months from today. A copy of this order be also sent to the National Law Commission for its kind perusal.

74. The Chief Secretary to the Government of Himachal Pradesh is directed to ensure release of sufficient funds for the construction of gausadans.

75. The Writ Petition is disposed of with the mandatory directions issued hereinabove. The directions issued by this Court from time to time on 7.10.2014, 8.1.2015, 2.5.2015, 14.10.2015 and 2.3.2016, shall also form integral part of this judgment. Pending application(s), if any, shall stand disposed of.

76. The description of farmer has aptly been described by the American Poet Edwin Markham's poem "***The Man with the Hoe***". This poem was called "the battle-cry of the next thousand years" and translated into 37 languages. We quote:

".....Bowed by the weight of centuries he leans
Upon his hoe and gazes on the ground,
The emptiness of ages in his face,
And on his back the burden of the world....."

"The cow and the working bullock have on their patient back the whole structure of Indian agriculture." (Report on the Marketing of Cattle in India, p. 20).

गौर अहन्या भवति/ न हिंसितव्या/ न हिंसितव्या/
यः कश्चिद् गां हिनस्ति महापातकी भवति/

(Rajiv Sharma),
Judge.

July 29, 2016,
(karan)

(Sureshwar Thakur),
Judge.