WWW.LIVELAW.IN



**Court No. - 1**

**(1) Case :-** MISC. BENCH No. - 8293 of 2017
**Petitioner :-** Mohd. Mustafa & Ors.
**Respondent :-** Union Of India Thru. Secy. Ministry Health & Family Welfare
**Counsel for Petitioner :-** Anoop Kumar Bajpai,Brijesh Kumar Singh
**Counsel for Respondent :-** C.S.C.,A.K.Verma,A.S.G.,Dheeraj Srivastava,Jaibind Singh Rathour,Sanjay Tripathi,Shailendra Singh Chauhan

**(2) Case :-** MISC. BENCH No. - 6871 of 2017
**Petitioner :-** Saeed Ahmad
**Respondent :-** State Of U.P. Thru Prin.Secy.Urban Developmentt Lko. & Ors.
**Counsel for Petitioner :-** Anoop Kumar Bajpai
**Counsel for Respondent :-** C.S.C.,Dheeraj Srivastava

**(3) Case :-** MISC. BENCH No. - 6806 of 2017
**Petitioner :-** Lateef Kureshi & 5 Others
**Respondent :-** State Of U.P. Thru. District Magistrate , Bahraich & Others
**Counsel for Petitioner :-** Daya Shankar Yadav
**Counsel for Respondent :-** C.S.C.,Nazim Ali Siddique

**(4) Case :-** MISC. BENCH No. - 2599 of 2015
**Petitioner :-** Shahbuddeen & 9 Ors.
**Respondent :-** State Of U.P. Thru. Prin. Secy. Urban Development & 2 Ors.
**Counsel for Petitioner :-** Girish Chandra Sinha,Mayank Sinha
**Counsel for Respondent :-** C.S.C.,Shailendra Singh Chauhan,Surendra Singh

**(5) Case :-** MISC. BENCH No. - 7768 of 2017
**Petitioner :-** Bhura & Ors.
**Respondent :-** State Of U.P. Thru. Prin. Secy. Urban Development & Others
**Counsel for Petitioner :-** Pankaj Gupta
**Counsel for Respondent :-** C.S.C.,Anuj Kumar Srivastava

**(6) Case :-** MISC. BENCH No. - 7684 of 2017
**Petitioner :-** Mohd. Jeeshan
**Respondent :-** State Of U.P. Thru. Prin. Secy. Urban Development & Ors.
**Counsel for Petitioner :-** Pankaj Gupta
**Counsel for Respondent :-** C.S.C.,Anuj Kumar Srivastava

**(7) Case :-** MISC. BENCH No. - 7687 of 2017
**Petitioner :-** Faij Mohammad & Ors.
**Respondent :-** State Of U.P. Thru. District Magistrate, Bahraich & Ors.

WWW.LIVELAW.IN



**Counsel for Petitioner :-** Daya Shankar Yadav
**Counsel for Respondent :-** C.S.C.,Nazim Ali Siddique

**(8) Case :-** MISC. BENCH No. - 8378 of 2017
**Petitioner :-** Munvvar Ali
**Respondent :-** State Of U.P. Thru. Prin. Secy. Home & Ors.
**Counsel for Petitioner :-** Shakeel Ahmad Khan,Munni Lal Yadav
**Counsel for Respondent :-** C.S.C.

**(9) Case :-** MISC. BENCH No. - 8539 of 2017
**Petitioner :-** Imran & Anr.
**Respondent :-** State Of U.P. Thru. Prin. Secy. Home Deptt. & Ors.
**Counsel for Petitioner :-** Firoz Ahmad Khan
**Counsel for Respondent :-** C.S.C.,Rajeev Narayan Pandey

**(10) Case :-** MISC. BENCH No. - 8542 of 2017
**Petitioner :-** Mohd. Saleem
**Respondent :-** State Of U.P. Thru. Prin. Secy. Home Deptt. & Ors.
**Counsel for Petitioner :-** Firoz Ahmad Khan,R.A. Khan
**Counsel for Respondent :-** C.S.C.

**(11) Case :-** MISC. BENCH No. - 8785 of 2017
**Petitioner :-** Ahmad Ali & Ors.
**Respondent :-** State Of U.P.Thru. District Magistrate Distt.Bahraich & Ors.
**Counsel for Petitioner :-** Ajey Singh
**Counsel for Respondent :-** N.A. Siddiqui

**(12) Case :-** MISC. BENCH No. - 8713 of 2017
**Petitioner :-** Zahid Ali & Ors.
**Respondent :-** State Of U.P.Thru. Prin. Secy. Food Safety & Drug Adminstrat
**Counsel for Petitioner :-** Abhishek Dixit
**Counsel for Respondent :-** C.S.C.,Ashish Kumar Agarwal

**(13) Case :-** MISC. BENCH No. - 9015 of 2017
**Petitioner :-** Munavvar Ali & Anr.
**Respondent :-** State Of U.P. Thru. Prin. Secy. Home Deptt. & Ors.
**Counsel for Petitioner :-** Firoz Ahmad Khan
**Counsel for Respondent :-** C.S.C.,Rajeev Narayan Pandey,Shakeel Ahmad Khan

**(14) Case :-** MISC. BENCH No. - 9018 of 2017
**Petitioner :-** Mohd. Sarvar & Ors.
**Respondent :-** State Of U.P. Thru. Prin. Secy. Home Deptt. & Ors.
**Counsel for Petitioner :-** Firoz Ahmad Khan
**Counsel for Respondent :-** C.S.C.

WWW.LIVELAW.IN



**(15) Case :-** MISC. BENCH No. - 9270 of 2017
**Petitioner :-** Mohd. Jakir & Anr.
**Respondent :-** State Of U.P. Thru. Secy.Nagar Vikas & Ors.
**Counsel for Petitioner :-** Shishir Pradhan
**Counsel for Respondent :-** C.S.C.,Sudheer Tripathi

**(16) Case :-** MISC. BENCH No. - 9132 of 2017
**Petitioner :-** Mohd. Ahmad
**Respondent :-** State Of U.P. Thru. Prin. Secy. Home & Ors.
**Counsel for Petitioner :-** Farooq Ayoob
**Counsel for Respondent :-** C.S.C.,Aftab Ahmad

**(17) Case :-** MISC. BENCH No. - 9134 of 2017
**Petitioner :-** Mohd. Shafeeq & Anr.
**Respondent :-** State Of U.P. Thru. Prin. Secy. Home & Ors.
**Counsel for Petitioner :-** Farooq Ayoob
**Counsel for Respondent :-** C.S.C.,Aftab Ahmad

**(18) Case :-** MISC. BENCH No. - 9114 of 2017
**Petitioner :-** Muheed & Ors.
**Respondent :-** State Of U.P. Thru. Prin. Secy. Home Deptt. & Ors.
**Counsel for Petitioner :-** Firoz Ahmad Khan
**Counsel for Respondent :-** C.S.C.,Rajeev Narayan Pandey

**(19) Case :-** MISC. BENCH No. - 9129 of 2017
**Petitioner :-** Mohd. Rasheed & Anr.
**Respondent :-** State Of U.P. Thru. Prin. Secy. Home Deptt. & Ors.
**Counsel for Petitioner :-** Firoz Ahmad Khan
**Counsel for Respondent :-** C.S.C.,Rajeev Narayan Pandey

**(20) Case :-** MISC. BENCH No. - 9497 of 2017
**Petitioner :-** Shallahuddin & Ors.
**Respondent :-** State Of U.P. Thru. Prin. Secy. Urban Development & Ors.
**Counsel for Petitioner :-** Mohammad Riyaz,Prabhat Kumar
**Counsel for Respondent :-** C.S.C.,Ajay Kumar Singh"Raj",Ram Raj

**(21) Case :-** MISC. BENCH No. - 9778 of 2017
**Petitioner :-** Mohd. Naseem @ Naseem
**Respondent :-** State Of U.P. Thru. Prin. Secy. Urban Development & Others
**Counsel for Petitioner :-** Zubair Hasan,Abhijeet Singh
**Counsel for Respondent :-** C.S.C.,Shailendra Singh Chauhan

**(22) Case** :- Misc. Bench No. 9792 o9f 2017
**Petitioner :-** Mohd. Shadab
**Respondent :-** State Of U.P. Thru. Prin. Secy. Home Deptt. & Ors.
**Counsel for Petitioner :-** Firoz Ahmad Khan
**Counsel for Respondent :-** C.S.C.,Rajeev Narayan Pandey

WWW.LIVELAW.IN



**(23) Case :-** P.I.L. CIVIL No. - 9740 of 2017
**Petitioner :-** Arshad Jamal & Anr.
**Respondent :-** State Of U.P. Thru. Prin. Secy. Nagar Vikas & Ors.
**Counsel for Petitioner :-** Brijesh Kumar Singh
**Counsel for Respondent :-** C.S.C.,A.S.G.,Ashok Kumar Verma

**(24) Case :-** MISC. BENCH No. - 10032 of 2017
**Petitioner :-** Shamshad Ahmed & Anr.
**Respondent :-** State Of U.P. Thru. Prin. Secy. Urban Development & Others
**Counsel for Petitioner :-** Avinash Kumar Srivastava
**Counsel for Respondent :-** C.S.C.,Dr. Dinesh Chandra Awasth

**(25) Case :-** MISC. BENCH No. - 10171 of 2017
**Petitioner :-** Mohd. Akram
**Respondent :-** State Of U.P. Thru. Prin.Secy.Urban Development & Ors.
**Counsel for Petitioner :-** Zubair Hasan,Sheikh Wali-Uz Zaman
**Counsel for Respondent :-** C.S.C.,Shailendra Singh Chauhan

**(26) Case :-** P.I.L. CIVIL No. - 10163 of 2017
**Petitioner :-** Ramjan Ali & Anr.
**Respondent :-** State Of U.P. Thru. Prin. Secy. Nagar Vikash Deptt. & Ors.
**Counsel for Petitioner :-** Brijesh Kumar Singh
**Counsel for Respondent :-** C.S.C.

**(27) Case :-** MISC. BENCH No. - 10279 of 2017
**Petitioner :-** Mujeeb @ Mohd. Mujeeb & Ors.
**Respondent :-** State Of U.P. Thru. Prin. Secy. Urban Development & Ors.
**Counsel for Petitioner :-** Zubair Hasan,Mohammad Danish
**Counsel for Respondent :-** C.S.C.,Shalendra Singh Chauhan

**Hon'ble Amreshwar Pratap Sahi,J.**
**Hon'ble Sanjay Harkauli,J.**

This bunch of writ petitions raises a challenge to State Action in respect of shutting down of abattoirs and slaughter houses throughout the State, which in the opinion of the State Government were running unlawfully without complying with the provisions of the Prevention of Cruelty to Animals Act, 1960 read with the Prevention of Cruelty to Animals (Slaughter House) Rules, 2001, the provisions of the Food Safety and Standards Act, 2006 and the Rules, Regulations and orders relating thereto, the directions issued by the Hon'ble Apex Court in the case of ***Laxmi Narain Modi Vs. Union of India and Ors. – Writ Petition (C) No.309 of 2003*** and the orders passed finally in

WWW.LIVELAW.IN



***Writ Petition (C) No.330 of 2001 (Common Cause Vs. Union of India & Ors.) on 17.02.2017*** and the directions issued by the National Green Tribunal (N.G.T.).

The State Government under the exercise of its executive powers issued a Government Order on 22nd of March, 2017 containing directions to all administrative and police authorities as well as the local bodies concerned, as a consequence whereof several slaughter houses throughout the State which according to the State were running unlawfully and were either unregistered or unlicensed were shut down and sealed. The same resulted in directly affecting those who were involved in the trade and profession of slaughtering as well as selling meat. The present bunch of writ petitions have arisen on account of the contingency aforesaid where various reliefs have been claimed; primarily to renew such licenses that were existing prior to the issuance of the Government Order by the respective local bodies and local self-government in the State, and for a further mandamus restraining the respondents not to interfere or create any hindrance in their trade and profession of either slaughtering or selling meat. Most of the writ petitions are by meat shop owners who are either engaged in the selling of buffalo meat or such bovines and others are venders of goat meat and poultry. Since, the writ petitions relating to the said relief are in majority, we would like to further mention that Writ Petition No.8293(M/B) of 2017 – Mohd. Mustafa & 2 Ors. Vs. State of U.P. & Ors., has another prayer; praying for a mandamus to the Union of India and the Food Safety and Standards Authority to amend the IVth Schedule of the Food Safety and Standards Licensing and Registration of Food Business Regulations, 2011 with a further relief to construct requisite number of slaughter houses for facilitating the production and sale of meat and chicken throughout the State in rural and urban areas. The said writ petition impleads some of the Local Bodies in the State, the District Administration, the Union of India and the other authorities of the State.

WWW.LIVELAW.IN



There is one writ petition which has been filed with a slightly different relief framed as a Public Interest Litigation (P.I.L.) praying for quashing of the minutes of the meeting of the Committee chaired by the Chief Secretary of the State dated 27th30th of March, 2017 being Writ Petition No.10163 (P.I.L. Civil) of 2017 – Ramjan Ali Vs. State of U.P. & Ors.

Another P.I.L. has been filed being Writ Petition No.9740 (PIL) of 2017 – Arshad Jamal and Anr. Vs. State of U.P. and Ors., in relation to the slaughter house known as 'Saarhu Slaughter House' in the Nagar Palika Parishad, Mau Nath Bhanjan, District – Mau, Uttar Pradesh, where the prayer is that the State Government should be directed to release and sanction the amount as per the project report for commencing the operation of the said slaughter house that has already been constructed, but the delay is being caused on account of non-release of funds by the State Government inspite of the fact that other slaughter houses throughout the State that had been funded have been allowed to be set up by the State itself. A plea of discrimination has also been taken therein.

We may at the very outset point out that the writ petitions that were initially filed and form bunch of this writ petition were in relation to renewal of licenses and for a mandamus restraining the respondents – State from interfering in the running of the meat shops and the vending of meat by the various petitioners either involved in the selling of buffalo meat or goat meat. All these petitions relate to various municipal areas either being in the cities within the Municipal Corporation Limits or within the Municipalities of similar cities or within the Zila Panchayat or Kshetra Panchayat in the sub-urban areas.

The arguments had been advanced and keeping in view the fact that the issuance of the Government Order dated 22nd of March, 2017 had affected their right to freedom of trade and

WWW.LIVELAW.IN



business and had also affected urban, semi-urban and rural life due to imposition of such rules and regulations and supply of meat to consumers. We had therefore passed a detailed composite order on 3rd of April, 2017 in Writ Petition No.6871 (M/B) of 2017 – Saeed Ahmad Vs. State of U.P. that is reproduced hereinunder:-

"This writ petition prays for a direction to the Nagar Palika Parishad, Lakhimpur Kheri to allow the petitioner to let his retail meat shop run and to renew the petitioner's license for the said purpose for the year 2017-18 that has come to an end on 31.3.2017. The petitioner is earning his livelihood by selling goat meat catering to the food choice of the consumer public at large.

The petitioner was possessing a license already for the said purpose but it appears that in view of the recent Government Orders dated 22.3.2017, 24.3.2017, 27.3.2017 and 28.3.2017, the Nagar Palika Parishad is not taking any action as there is a drive to shut down unlawful slaughterhouses that were being operated throughout the State.

Learned Counsel submits that so far as the petitioner is concerned, he had a valid license in terms of the provisions of the Municipal Corporations Act, 1959 read with U.P. Municipalities Act, 1916 and consequently, the petitioner being the holder of a valid license for retailing meat, he cannot be restrained from carrying out his activities and the respondents cannot prohibit the running of his business under the garb of an inaction of non-renewal which is presumably a result of the recent drive undertaken. The petitioner's license is confined to the selling of goat meat only.

The dispute has it's foundation in the issue of the running of unlawful slaughterhouses that came under scrutiny of the State Government about which the Government Orders referred to here-in-above were issued. This immediate action has resulted in directly affecting the retail vendors who on account of non-availability and sudden closure of facilities of slaughtering are compelled to face the abrupt curtains drawn on their means of livelihood. Coupled with this is the inaction of renewal of license as involved in the present case.

A perusal of the Government Orders indicates a reference to the directions issued by the Apex Court in the case of ***Laxmi Narain Modi v. Union of India and others, Writ Petition (Civil) No.309 of 2003,*** alongwith the orders passed on 17.2.2017 by a Three Judges Bench of the Apex Court while hearing Writ Petition (Civil) No. 330 of 2001, *Common Cause v. Union of India and others*. The order is extracted hereunder:-

*"Pursuant to our orders dated 26.09.2016 and*

WWW.LIVELAW.IN



*28.10.2016, a compendium of the Indian Standards has been prepared along with all relevant material in consultation with all the stake-holders.*

*The Union of India is directed to print the compendium in sufficient numbers and circulate it to all the State Governments and Union Territories for compliance. The Union of India will comply with our orders within six weeks from today.*

*In the event there is non-compliance with the Indian Standards, other rules and regulations, the petitioners are entitled to approach the concerned District Collector or the judicial authorities, as the case may be in a given specific instance.*

*Learned counsel for the petitioner in W.P. (C) No.44 of 2004 seeks leave to withdraw the petition.*

*W.P. (C) No.44 of 2004 is dismissed as withdrawn.*

*W.P. (C) No.330 of 2001 is disposed of.*

*Pending applications, if any, are disposed of."*

A perusal thereof indicates that directions have been issued by the Apex Court to all the State Governments and the Union Territories for compliance of the Indian Standards prescription. The Apex Court has under the order quoted above circulated two compilations for compliance of the standards that have been prescribed and which have to be followed including the issue of standards for running of slaughterhouses.

The background in which these directions have been issued is required to be referred to as this issue had been engaging the attention of the Apex Court in the case of ***Laxmi Narain Modi (supra)*** since the year 2003.

Orders came to be passed beginning with the order dated 23.8.2012 that has relevance to the controversy reported in ***(2014) 2 SCC page 417***. This was followed by several other orders passed therein which are reported as follows:-

(1) **(2013) 10 SCC page 227**

(2) **(2014) 1 SCC pages 241, 243, 612 and 614**

WWW.LIVELAW.IN



All these directions were issued vis-a-vis the status of slaughterhouses that were to be brought in line with the provisions relating to setting up of and running of such slaughterhouses as also the Rules framed under the Prevention of Cruelty to Animals Act, 1960, and the Prevention of Cruelty to Animals (Slaughter House) Rules, 2001 coupled with the registration and licensing provisions now necessary in terms of the Food Safety and Standards Act, 2006.

It will be apt to mention at this stage that the Constitution under the 7th Schedule empowers the State Legislatures under List – II exclusively to deal with the matters of local governance and the powers and authorities of Municipal Corporations, Local Authorities, Local Self-Government and Village Administration. Entry – 5 of List – II coupled with Entry – 6 also takes care of public health and sanitation. The State Legislature has the power to legislate on the subject of Agriculture under Entry – 14 and under Entry – 15, the preservation, protection and improvement of stock and prevention of animals, diseases, veterinary training and practice is also within it's powers. The issue of fisheries is also within the exclusive domain of the State Legislature under Entry – 21 of List – II.

At the same time, the concurrent list, i.e., List – III enlists the prevention of cruelty to animals as the area of law under which both the Centre and State can legislate. Adulteration of foodstuffs is the subject matter under Entry – 18 of List – III and the Trade, Commerce and the production, supply and distribution of foodstuffs is within Entry – 33 (b) of the said List.

Consequently, the said provisions relating to Prevention of Cruelty to animals and the Food Safety and Standards Act, 2006 being subject matter of List – III, appropriate legislation has been framed by the Parliament and which holds the field.

At the same time, keeping in view the exclusive subject matters as referred to here-in-above, in the State List, the State Legislature has famed the U.P. Panchayat Raj Act, 1947 and the U.P. Kshettra Panchayats & Zila Panchayats Adhiniyam, 1961 whereby such regulations in relation to local bodies in the rural areas are regulated by the aforesaid laws. In the urban areas, the U.P. Municipal Corporations Act, 1959 and the U.P. Municipalities Act, 1916 stand in place which all make provisions for the location of slaughterhouses and the issuance of licenses for the purpose of running a private slaughterhouse as also for retailing and selling foodstuffs having animal origin.

It may be pertinent to mention that after the directions which were issued in the case of ***Laxmi Narain Modi (supra)*** the State Government earlier had issued Government Orders on 30.6.2014 followed by the Government Order dated 26.11.2014 wherein Committees were constituted for the purpose of providing facilities as contemplated in various directions issued by the Supreme Court from time to time. The said Government

WWW.LIVELAW.IN



Orders have been placed before the Court making proposals for setting up of projects with modern facilities so as to comply with the directions issued by the Supreme Court from time to time.

It is in this background that the Government Orders have been issued and the slaughterhouses which were unlawfully running without proper registration and licenses or complying with the provisions of the relevant Rules and Regulations that action has been taken. The Government Orders dated 22.3.2017, 24.3.2017, 27.3.2017 and 28.3.2017 are reproduced hereunder:-

**संख्या–760/नौ–8–2017–29 ज/2017**

प्रेशक

राहुल भटनागर,
मुख्य सचिव,
उत्तर प्रदे ा भासन।

सेवा में,

1–समस्त मण्डलायुक्त, उत्तर प्रदेश।
2–समस्त पुंलिस महानिरीक्षक/ पुलिस उप महानिरीक्षक,उत्तर प्रदेश।
3–समस्त जिलाधिकारी, उत्तर प्रदेश।
4–समस्त वरिश्ठ पुलिस अधीक्षक/पुलिस अधीक्षक, उत्तर प्रदेश।
5–समस्त नगर आयुक्त, नगर निगम, उत्तर प्रदे ा।

नगर विकास अनुभाग–8 लखनऊः दिनांक 22 मार्च, 2017

विशयः प्रदेश में संचालित अवैध पशुवधशालाओं को बन्द किये जाने एवं यान्त्रिक पशुवधशालाओं पर प्रतिबन्ध लगाये जाने के सम्बन्ध में।

महोदय,

अवगत कराना है कि प्रदेश में संचालित अवैध पशुवधशालाओं को बन्द किये जाने एवं यान्त्रिक पशुवधाालाओं पर प्रतिबन्ध लगाया जाना वर्तमान सरकार की प्राथमिकताओं में है। उक्त के दृश्टिगत मुझे यह कहने का निदेश हुआ है कि प्रदेश के समस्त जनपदों में स्थित पशुवधशालाओं का निरीक्षण किया जाय तथा अवैध रूप से संचालित पशुवधशालाओं को तत्काल प्रभाव से बन्द कराने की कार्यवाही सुनिश्चित की जाए तथा दोशी व्यक्तियों के विरुद्ध अधिनियमों/नियमों के सुसंगत प्रावधानों के अनुसार दण्डात्मक कार्यवाही भी सुनिश्चित की जाय।

2– उल्लेखनीय है कि प्रदेश के अन्तर्गत पशुवधशालाओं के संचालन तथा पशुवधशालाओं में अवैध रूप से हो रहे प्यु वध को रोके जाने के सम्बन्ध में शासनादेश संख्या–1645/नौ–8–2014–2सी.एस./2012 दिनांक 30.06.2014 (छायाप्रति संलग्न) द्वारा विस्तृत दिशा निर्देश पूर्व में निर्गत किये गये हैं। तत्क्रम में पशुवधशालाओं में अवैध रुप से हो रहे पशु वध को रोके जाने हेतु जिलाधिकारी के अध्यक्षता मे निम्नानुसार एक समिति का गठन किया जाय :–

| **क्रमांक** | **सम्बन्धित विभाग/अधिकारी** | **पदनाम** |
|---|---|---|
| 1 | जिलाधिकारी | अध्यक्ष |
| 2 | वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक | सदस्य |
| 3 | क्षेत्रीय अधिकारी, उ0प्र0 प्रदूषण अधीक्षक | सदस्य |

WWW.LIVELAW.IN



| | | |
|---|---|---|
| 4 | मुख्य पशुचिकित्साधिकारी | सदस्य |
| 5 | संभागीय परिवहन अधिकारी/सहायक संभागीय परिवहन अधिकारी | सदस्य |
| 6 | श्रम प्रवर्तन अधिकारी | सदस्य |
| 7 | जिला पंचायत राज अधिकारी | सदस्य |
| 8 | मुख्य चिकित्साधिकारी | सदस्य |
| 9 | खाद्य सुरक्षा एवं औषधिक प्रशासन के विहित प्राधिकारी | सदस्य |
| 10 | सम्बन्धित नगर आयुक्त/अधिशाषी अधिकारी, नगर पालिका परिषदें/नगर पंचायतें/जिला पंचायत | सदस्य |

3– उक्त समिति द्वारा जनपद में संचालित पशुवधशालाओं में प्रतिदिन होने वाले पशुओं की पशुवध संख्या, वहां पर पशुधन की उपलब्धता का वास्तविक एवं अद्यतन आंकड़ों के परिप्रेक्ष्य आंकलन करते हुए, पशुवधशालाओं के विषय में निर्गत विभिन्न शासनादेशों, अधिनियमों, नियमों तथा दिशा–निर्देशों के आधार पर, पशुवधशालाओं के संचालन में पायी गयी कमियों, के परिप्रेक्ष्य में निरीक्षण आख्या/स्पष्ट संस्तुति जिलाधिकारी के माध्यम से शासन को 07 दिन के अन्दर उपलब्ध करायी जायेगी। विभिन्न विभागों के निरीक्षण के लिए सुलभ सन्दर्भ हेतु कुछ सुसंगत अधिनियमों एवं प्राविधानों के सुसंगत अंश **संलग्नक–1** पर उपलब्ध है।

4– कृपया यह भी सुनिश्चित करें कि किसी भी दशा में गोवंश पशुओं का वध व तस्करी न हो। निरीक्षण के समय यह भी देखा जाय कि उक्त प्रकार की पशुवधशालायें आबादी या धार्मिक स्थलों के निकट न हो। यह भी सुनिश्चित किया जाय कि सार्वजनिक मार्गो के किनारे खुले रुप से या अवैध रुप से वधशालाओं का संचालन बिल्कुल न होने पाये।

उक्त के परिप्रेक्ष्य में सम्बन्धित जिलाधिकारी की अध्यक्षता में गठित समिति द्व ारा पशुवधशालाओं के निरीक्षण के दौरान संलग्नक–1 में उल्लिखित अधिनियमों का संज्ञान लेते हुए, उक्त के अतिरिक्त सम्बन्धित विभागों के सुसंगत प्राविधानों का संज्ञान भी, यदि वांछित हो, तो लिया जाय। यदि निरीक्षण के समय ऐसी कमियां, अनियमिततायें या उल्लंघन पाये जाय, जिनमें कोई दण्डात्मक या अभियोजन की कार्यवाही वांछित हो, तो इसे तत्काल किया जाय।

5– पशुवधशालों के निरीक्षण के समय समस्त वरिष्ठ पुलिस अधीक्षक/ पुलिस अधीक्षक द्वारा आवश्यकतानुसार पुलिस बल उपलब्ध कराना सुनिश्चित किया जाए।

6– सन्दर्भित मामले में सम्बन्धित समस्त अपर मुख्य सचित/प्रमुख सचिव/सचिव से यह अपेक्षा है कि अपने–अपने विभागों हेतु नोडल अधिकारी, नामित करते हुए तद्नुसार नामित नोडल अधिकारी के नाम, पदनाम, मोबाइल नम्बर एवं आवासीय पता आदि का विवरण पर्यावरण/नगर विकास विभाग को तत्काल उपलब्ध कराया जायें, ताकि नामित नोडल अधिकारी से आवश्यकतानुसार सूचनायें प्राप्त की जा सकें।

7– कृपया उक्त निर्देशों के क्रम मे किये गये निरीक्षणों की सूचना का सारांश प्रतिदिन पूर्वान्ह 11.00 बजे तक अपर मुख्य सचिव/प्रमुख सचिव, पर्यावरण विभाग तथा प्रमुख सचिव/सचित, नगर विकास विभाग को निम्नलिखित ई–मेल/फैक्स पर उपलब्ध कराया जाना सुनिश्चित किया जाय :–

| | |
|---|---|
| अपर मुख्य सचिव/ प्रमुख सचिव, पर्यावरण विभाग | ई–मेल– psforest2015@gmail.com<br>फैक्स नं0– 0522–2235206 |

WWW.LIVELAW.IN



| | |
|---|---|
| प्रमुख सचिव/सचिव, नगर विकास विभाग | ई–मेल– cc.urbandev@gmail.com<br>फैक्स नं0– 0522–2238263/2237585 |

**संलग्नक–उपरोक्तानुसार।**

भवदीय,

(राहुल भटनागर)
मुख्य सचिव

संख्या– 760(1)/ नौ–8–2017 तद्दिनांक

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :–

1– अपर मुख्य सचिव/प्रमुख सचिव/ सचिव, गृह/ पर्यावरण/ पशुधन/ पंचायतीराज/ चिकित्सा एवं स्वास्थ्य/परिवहन/श्रम/खाद्य सुरक्षा एवं औषधि प्रशासन विभाग उत्तर प्रदेश शासन।
2– पुलिस महानिदेशक, उत्तर प्रदेश।
3– निदेशक, स्थानीय निकाय, उत्तर प्रदेश लखनऊ।
4– सदस्य सचिव, उ0प्र0 प्रदूषण नियंत्रण बोर्ड, गोमतीनगर, लखनऊ।
5– समस्त अधिशाषी अधिकारी, नगर पालिका परिषदें/नगर पंचायतें, उत्तर प्रदेश (द्वारा निदेशक, नगरीय निकाय, उ0प्र0 लखनऊ) ।
6– गार्ड फाइल/कम्प्यूटर सेल नगर विकास विभाग।

आज्ञा से,

**(श्री प्रकाश सिंह)**
सचिव।

**शासनादेश संख्या–760/नौ–8–2017–29ज/2017 दिनांक 22 मार्च, 2017 का संलग्नक–1**

| Sr. No. | STATUS/STANDARD/GUIDELING |
|---|---|
| 1 | Prevention of Cruelty to Animals Act, 1960 [Relevant Sections : Sections 3 (p.3), 9 (b)) (p.6), Section 9 (c) (p.6), 11 (p.7, 8) and 38 (p. 15, 16) |
| 2 | Transport of Animals Rules, 1978 (as amended in 2001 and 2009 |
| 3 | Prevention of Cruelty to Animals (Transport of Animals of Food) Rules 2000 |
| 4 | Prevention of Cruelty to Animals (Slaughter House) Rules 2001 |
| 5 | Performa for Ante and Post Mortem Fitness Certificates to be issued by the veterinary Doctor after examining the animal before and after slaughter of animals as per Rule 4 (3) of the Prevention of Cruelty to Animals (Slaughter House) Rules 2001 [Relevant documents : Letter from AWBI to Director/Commissioner, Municipal Administration of all States and Union Territories, dated 17.10.2016 (p.49), Letter from AWBI to CEO Food Safety & Standards Authority, dated 17.10.2016 (p.50): Letter from FSSAI to |

WWW.LIVELAW.IN



| | |
|---|---|
| | all Central Licensing Authorities and Commissioners of food Safety of all States/Ut's (p.51)] |
| 6 | Draft Prevention of Cruelty to Animals (Regulation of livestock market) Rules 2016 |
| 7 | Central Motor Vehicles (Eleventh Amendment) Rules, 2015 [Relevant Rules : Rule 125 E (p.69) |
| 8 | Central Motor Vehicles (13th Amendment) Rules, 2016 [Relevant Rules : Rule 125 E (p.71)] |
| 9 | Food Safety and Standards Act 2006 [Relevant Sections – Section 92 p. 118, 119] |
| 10 | Food Safety and Standards (Licensing and Registration of food Business) Regulations 2011 [Relevant regulations – Part IV (p.161-178)] |
| 11 | Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 [Relevant regulations – Regulation 2.5 (p.265)] |
| 12 | Agriculture and Processed Food Product Export Development Authority (Amendment) Act 2009 [Relevant Sections – section 4 (p.344) and section 12 (p.349)] |
| 13 | Environment Protection Act, 1986 [Relevant Section – 6 & 25 (p.356)] |
| 14 | The Environment (Protection) Rules, 1986 [Relevant Rules – Effluent Discharge Standards. S.No.50 (p.357) |
| 15 | (Revised Draft) Effluent Discharge Standards for Slaughter House to be notified by The MoEF [Relevant Rules – Effluent Discharge Standards. S. No. 50 (p.360) |
| 16 | The Water (Preservation and Control of Pollution) Act, 1974 [Relevant section 24 (p.373, 374) 25 (p.374), 26 (p.375), 27 (p.375, 376), 28 (p.376) & 33B (p.378) |
| 17 | The Water (Preservation and control of pollution) Rules 1975 [Relevant Rules : Form XIII (p.410)] |
| 18 | The Air [Prevention and Control of Pollution] Act 1981 [Relevant Section – 21 (p.441), 22A (p.443), 23 (p.443), 24 (p.443, 444), 31A (p.446), 31B (p.446), 37 (p.448), 40 (p.448, 449) & 41 (p.449)] |
| 19 | The Municipal Solid Wastes (Management & Handling) Rules 2000 [Relevant Rules – 7 (p.456), Schedule – II – S.No.1 (iii), 4 (p.458), 4 (p.459), 5 (p.459, 460), 6 (p.460), Form II Clause 6 (ii) (p.472)] |
| 20 | The National Green Tribunal Act 2010 [Relevant sections 14 (p.482), 16 (p.483)] |
| 21 | IS 8895:2015 Handling Storage and Transport of Slaughter house by-products Guidelines (First Revision) |
| 22 | IS 1982:2015 Ante Mortem and post mortem inspection of meat animals – Code of practice (second revision) |
| 23 | IS 4393:2016 Basic Requirement of an Abattoir (second revision) |

WWW.LIVELAW.IN



| | |
|---|---|
| 24 | [Revised] Standards for Discharge of Effluents from Slaughter houses, Meat Proassing Units and Sea Food Industry. |

"संख्या 19/2017/380/अटठासी –17–34 खा0/16

प्रेषक,

हेमन्त राव,
प्रमुख सचिव
उ0 प्र0 शासन ।

सेवा में,

समस्त अभिहित अधिकारी,
उत्तर प्रदेश ।

खाद्य सुरक्षा एवं औषधि प्रशासन अनुभाग लखनऊ : दिनांक 24 मार्च, 2017

विषय : पशुवधशालओं (स्लाटर हाउस) से सम्बन्धित विभिन्न बिन्दुओं के सम्बन्ध में रिट याचिका (सिविल) संख्या – 330/2001 कामन काज बनाम भारत संघ व अन्य, रिट याचिका (सी) – 44/2004, अवमानना याचिका (सिविल) संख्या – 124/2015 एवं रिट याचिका (सिविल) संख्या – 309/2003 लक्ष्मी नारायण मोदी बनाम यूनियन आफ इण्डिया व अन्य को सम्बद्ध करते हुए मा0 उच्चतम न्यायालय, नई दिल्ली द्वारा पारित आदेश दिनांक 17.02.2017 का अनुपालन कराये जाने के सम्बन्ध में ।

महोदय,

उपरोक्त विषयक आयुक्त, खाद्य सुरक्षा एवं औषधि प्रशासन, उ0प्र0 लखनऊ के पत्र संख्या – एफ. एस. डी. ए./ खाद्य /2017/2069, दिनांक 22.03.2017, जिसके द्वारा मांस तथा मांस उत्पादी व स्लाटर हाअस के सम्बन्ध में विहित विधिक प्राविधानों एवं विनियमों को प्रवर्तित किये जाने के सम्बन्ध में निम्नलिखित बिन्दुओं पर कार्यवाही किये जाने के निर्देश निर्गत किये गये हैं, का कृपया सन्दर्भ ग्रहण करने का कष्ट करें :–

(क) ऐसे स्लाटर हाउस एवं मांस उत्पादन इकाईयॉ, जो बिना लाइसेन्स प्रचलित हैं, उन पर नियमानुसार विधिक कार्यवाही करते हुए तत्काल बन्द कराना सुनिस्चित करें ।

(ख) ऐसे स्लाटर हाउस एवं मांस उत्पादन इकाईयॉ, जिन्हें खाद्य लाइसेन्स निर्गत किया गया हो, उन पर प्रभावी / नियमित निरीक्षण कार्यवाही कर यह

WWW.LIVELAW.IN



सुनिस्चित किया जाय कि उनके द्वारा खाद्य सुरक्षा एवं मानक (खाद्य कारोबार की अनुज्ञापित एवं पंजीकरण) विनियम, 2011 के शिड्यूल –IV में उल्लिखित सेनिटेशन एवं हाइजीन के समस्त प्राविधनों का पालन किया जा रहा है अथवा नहीं।

(ग) निरीखण में जिन स्लाटन हाउस एवं मांस उत्पादन इकाईयों द्वारा शिड्यूल – IV में उल्लिखित सेनिटेशन एवं हाइजीन के समस्त प्राविधनों का पूर्णतः पालन न किया जा रहा हो, उन पर नियामुनसार विधिक कार्यवाही करते हुए लाइसेन्स निलम्बन/ निरस्तीकरण की कार्यवाही सुनिस्चित की जाए।

(घ) निरीक्षण के समय भारतीय खद्य संरक्षा एवं मानक प्राधिकरण, नई दिल्ली के पत्र संख्या – 5 (1) 2016/CLA-DO Delhi/RC-FSSAI दिनांक 09.03.2017 द्वारा मांस एवं मांस उत्पादों तथा स्लाटर हाउस के सम्बन्ध में निर्गत संशोधित निरीक्षण प्रोफार्मा के अनुसार सभी मापदण्डों पर सघन निरीक्षण किया जाय ।

(ड़) कृत कार्यवाही से आयुक्त कार्यालय को निम्नलिखित प्रारूप पर प्रत्येक माह की 05 मारीख तक उपलब्ध करायी जाय :–

| क्र सं. | जनपद का नाम | स्लाटर हाउस / मांस उत्पाद यूनिट की संख्या | किये गये निरीक्षणों की संख्या | मानकों के अनुरूप पाये गये स्लाटर हाउस की संख्या | मानकों के अनुरूप नहीं पाये गये स्लाटर हाउस की संख्या | कृत कार्यवाही | | | अभ्युक्ति |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | निर्गत सुधार सूचना | लाइसेन्स / पंजीकरण का निलम्बन / निरस्तीकरण | अन्य कार्यवाही | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |

2– इस सम्बन्ध में मुझे भी यह कहने का निदेश हुआ है कि मा0 उच्चतम न्यायालय द्वारा उक्त निभिन्न याचिकाओं में दिनांक 17.02.2017 को निम्नलिखित आदेश पारित किये गये हैं :–

> "*Pursuant to our orders dated 26.09.2016 and 28.10.2016, a compendium of the Indian Standards has been prepared along with all relevant material in consultation with all the stake-holders. The Union of India is directed to print the compendium in sufficient numbers and circulate it to all the State Governments and Union Territories for compliance. The Union of India will comply with our orders within six weeks from today. In the event there is non-compliance with the Indian Standards, other rules and regulations, the petitioners are entitled to approach the concerned District Collector or the judicial authorities, as the case may be in a given specific instance.*"

3– मा0 उच्चतम न्यायालय के उक्त आदेश के अनुपालन में विभिन्न विभागों द्वारा जारी अधिनियमों, दिशा – निर्देरों/शासनादेशों का अनुपालन

WWW.LIVELAW.IN



कराया जाना आवश्यक है । अतः अनुरोध है कि मा0 उच्चतम न्यायालय द्वारा पारित उपरोक्त आदेश के अनुपालन में खाद्य सुरक्षा एवं मानक आधिनियम, 2006, (खाद्य कारोबार का अनुज्ञापन एवं पंजीकरण) विनियम, 2011 तथा सुरक्षा एवं मानक (खाद्य उत्पाद मानक एवं खाद्य सहयोज्य) विनियम, 2011 के प्राविधानों के अन्तर्गत त्वरित एवं प्रभावी कार्यवाही करने का कष्ट करें ।

4— उपरोक्त निर्देशों का कड़ाई से अनुपालन सुनिस्चित किया जाय।

भवदीय
हेमन्त राव
प्रमुख सचिव

संख्या—19/2017/380(1)/अटठासी —17, तददिनांक ।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषितः—

(1) सचिव नगर विकास विभाग, उ0प्र0 शासन को उनके पत्र संख्या—04—भा. स./नौ—8—2017—2 सी.एस./2012, दिनांक 22.03.2017 के सन्दर्भ में ।

(2) आयुक्त, खाद्य सुरक्षा एवं औषधि प्रशासन, उ0प्र0 लखनऊ ।

(3) समस्त मण्डलायुक्त, उत्तर प्रदेश।

(4) समस्त जिलाधिकारी, उत्तर प्रदेश।

(5) समस्त सहायक आयुक्त (खाद्य), उत्तर प्रदेश।

(6) गार्ड बुक ।

आज्ञा से
कृपा शंकर सिंह
उप सचिव ।"

संख्या—838/नौ—8—2017—29ज/2017

प्रेषक

राहुल भटनागर,
मुख्य सचिव,
उत्तर प्रदेश शासन।

WWW.LIVELAW.IN



सेवा में,

1–समस्त मण्डलायुक्त, उत्तर प्रदेश।
2–समस्त पुलिस महानिरीक्षक/पुलिस उप महानिरीक्षक, उत्तर प्रदेश।
3–समस्त जिलाधिकारी, उत्तर प्रदेश।
4–समस्त वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक, उत्तर प्रदेश।
5–समस्त नगर आयुक्त, नगर निगम, उत्तर प्रदेश।

नगर विकास अनुभाग–8 लखनऊः दिनांक 27 मार्च 2017

विषयः प्रदेश में संचालित अवैध पशुवधशालाओं को बन्द किये जाने एवं यान्त्रिक पशुवधशालाओं पर प्रतिबन्ध लगाये जाने के सम्बन्ध में।

महोदय,

प्रदेश में संचालित अवैध पशुवधशालाओं को बन्द किये जाने एवं यान्त्रिक पशुवधशालाओं पर प्रतिबन्ध लगाये जाने विषयक शासनादेश संख्या–760/नौ–8–2017–29ज/2017 दिनांक 22 मार्च, 2017 एवं तत्क्रम में निर्गत पत्र संख्या–826/नौ–8–17–29ज/2017 दिनांक 24 मार्च, 2017 का कृपया सन्दर्भ ग्रहण करने का कष्ट करें।

2– उक्त सन्दर्भित शासनादेश दिनांक 22 मार्च, 2017 एवं 24 मार्च, 2017 में उल्लिखित ''**यान्त्रिक पशुवधशालाओं पर प्रतिबन्ध**'' का आशय उन यान्त्रिक पशुवधशालाओं से है, जो शासनादेश संख्या–760/नौ–8–17–29ज/2017 दिनांक 22 मार्च, 2017 के **संलग्नक–1** में उल्लिखित विभिन्न अधिनियमों एवं प्राविधानों मे वर्णित निर्धारित मापदण्डों को पूरा नहीं करती हैं।

3– अतः इस सम्बन्ध में मुझे यह कहने का निदेश हुआ है कि कृपया उक्त आशय का संज्ञान लेते हुए उक्त निर्गत शासनादेश संख्या–760/नौ–8–17–29ज/2017 दिनांक 22 मार्च, 2017 एवं संख्या–826/नौ–8–17–29ज/2017 24 मार्च, 2017 के आदेशों का शीर्ष प्राथमिकता पर अनुपालन सुनिश्चित कराने का कष्ट करें।

भवदीय,

(राहुल भटनागर)
मुख्य सचिव।

संख्या–(1)/नौ–8–2017 तद्दिनांक

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषितः–

1– अपर मुख्य सचिव/प्रमुख सचिव/ सचिव, गृह/पर्यावरण/पशुधन/पंचायतीराज/चिकित्सा एवं स्वास्थ्य/परिवहन/श्रम/खाद्य सुरक्षा एवं औषधि प्रशासन विभाग उत्तर प्रदेश शासन।
2– पुलिस महानिदेशक, उत्तर प्रदेश।
3– निदेशक, स्थानीय निकाय, उत्तर प्रदेश लखनऊ।
4– सदस्य सचिव, उ0प्र0 प्रदूषण नियंत्रण बोर्ड, गोमतीनगर, लखनऊ।
5– समस्त अधिशाषी अधिकारी, नगर पालिका परिषदें/नगर पंचायतें, उत्तर प्रदेश (द्वारा निदेशक, नगरीय निकाय, उ0प्र0 लखनऊ) ।
6– गार्ड फाइल/कम्प्यूटर सेल नगर विकास विभाग।

आज्ञा से,

**(कुमार कमलेश)**
प्रमुख सचिव।

WWW.LIVELAW.IN



महत्वपूर्ण / समयबद्ध

संख्या–841 / नौ–8–2017–29ज / 2017

**प्रेषक**

**कुमार कमलेश,**
**प्रमुख** सचिव,
उत्तर प्रदेश शासन।

सेवा में,

1–समस्त मण्डलायुक्त, उत्तर प्रदेश।
2–समस्त पुलिस महानिरीक्षक / पुलिस उप महानिरीक्षक, उत्तर प्रदेश।
3–समस्त जिलाधिकारी, उत्तर प्रदेश।
4–समस्त वरिष्ठ पुलिस अधीक्षक / पुलिस अधीक्षक, उत्तर प्रदेश।
5–समस्त नगर आयुक्त, नगर निगम, उत्तर प्रदेश।

नगर विकास अनुभाग–8 लखनऊः दिनांक 28 मार्च 2017

**विषयः प्रदेश में संचालित अवैध पशुवधशालाओं को बन्द किये जाने एवं यान्त्रिक पशुवधशालाओं पर प्रतिबन्ध लगाये जाने के सम्बन्ध में।**

**महोदय,**

उपर्युक्त विषयक शासनादेश संख्या–760 / नौ–8–2017–29ज / 2017 दिनांक 22 मार्च, 2017, शासनादेश संख्या–826 / नौ–8–17–29ज / 2017 दिनांक 24 मार्च, 2017 तथा अन्तिम पत्र संख्या–838 / नौ–8–2017–29ज / 2017 दिनांक 27 मार्च, 2017 को कृपया सन्दर्भ ग्रहण करने का कष्ट करें, जिसके माध्यम से दिये गये निर्देशों के क्रम में कृत कार्यवाही की सूचना नियमित रुप से शासन में उपलब्ध नहीं हो पा रही है।

2– अतः इस सम्बन्ध में मुझे यह कहने का निदेश हुआ है कि कृपया उक्त संदर्भित शासनादेश संख्या–760 / नौ–8–2017–29ज / 2017 दिनांक 22 मार्च, 2017, शासनादेश संख्या–826 / 9–8–2017–29ज / 2017 दिनांक 24 मार्च, 2017 तथा अन्तिम पत्र संख्या–838 / नौ–8–2017–29ज / 2017 दिनांक 27 मार्च, 2017, के क्रम मे अवैध पशुवधशालाओं के सम्बन्ध में की गयी कार्यवाही की जनपद वार सूचना निम्न प्रारुप पर प्रतिदिन 11.00 बजे तक निदेशक, नगरीय निकाय के ई–मेल– directptlocalbodies@gmail.com,diruplcup.nic.inपर उपलब्ध कराने का कष्ट करेंः–

| जनपद का नाम | प्रदेश में कुल कितनी पशु वधशालाएं क्रियाशील है। | कितनी पशु वधशालाएं लाइसेंसी है। | कितनी पशु वधशालाओं के खिलाफ नियमों के उल्लंघन में कार्यवाही की गयी है (सील किया गया है) |
|---|---|---|---|
| 1 | 2 | 3 | 4 |

कृपया इसे शीर्ष प्राथमिकता प्रदान की जाय।

भवदीय,

WWW.LIVELAW.IN



(कुमार कमलेश)
प्रमुख सचिव।"

Thus, the question of setting up of a slaughterhouse, it's running as well as the consequential impact thereof on the meat trade has now spiralled to this level that petty retailers like the petitioner who are seeking renewal of their existing licenses for retailing meat are stuck up and their licenses have not yet been considered or renewed.

The matter had been taken up by this Court earlier on 27.3.2017 in relation to two other cases being Writ Petition Nos.2599 (MB) of 2015 and 6806 (MB) of 2017 and the State Government had been called upon to clarify it's stand in the matter whereafter the learned Counsel for the State has placed before the Court the aforesaid entire material for the assistance of the Court.

It has been informed by the learned Additional Chief Standing Counsel that the entire issue is in all likelihood to be taken-up for consideration by a High-Powered Committee as, the issue of slaughtering, and issue of licenses to retailers in the urban areas, will have to be considered in detail in order to execute the directions issued as per the laws that are applicable on the strength of the material on record so that there is no breach of compliance of the directions given by the Supreme Court or the National Green Tribunal.

The communication dated 1.4.2017 addressed to the learned Additional Chief Standing Counsel has been placed indicating that this meeting is to shortly take place under the Chairmanship of the Chief Secretary, Government of Uttar Pradesh.

It is in this context that this Court would like to direct the State Government to firstly delve into the issues of these petty problems including the renewal of licenses to petty retailers and meet sellers like the petitioner. The issues relating to the status of animals, meat whereof has to be traded, namely, bovine, goat, poultry, fish and the retailing of such other items have also to be taken into consideration to make provisions vis-a-vis the different methods and essentials for slaughtering and selling of meat of different category of animals. Apart from this, the issue of non-availability of any such facilities for the slaughtering of animals is the major concern that has given rise to this problem. In the absence of any facilities having been provided by the Municipal Corporations, the local bodies or the Zila Panchayats, such trade or profession may *prima facie* face complete prohibition and affect the livelihood of those involved in this trade and profession thereby impinging their Fundamental Rights guaranteed under Article 19 of the Constitution of India. Not only this the same is also coupled with the issues relating to their livelihood apart from their trade and profession, that would also impinge Article 21 of the Constitution of India.

WWW.LIVELAW.IN



This being on the part of the traders the same also affects public life in general particularly the consumers of such foodstuffs that are not being now made available on account of imposition of stringent policing without making any provision for slaughtering or such facilities that are necessary for the continuance of such trade and business. Thus, it is the private life of an individual that is also affected who may desire to have such foodstuffs as his private choice of consumption.

We may put on record that such rights have been recognized by the Apex Court as against the authority of the State to regulate the same and to refer to one of the decisions, we may cite Two-Judges decision in the case of ***Hinsa Virodhak Sangh v. Mirzapur Moti Kuresh Jamat and others [(2008) 5 SCC 33].*** The issue of restrictions and the reasonableness thereof has been dealt with in detail vis-a-vis various shades of the Fundamental Rights and the Directive Principles of State Policy have been taken into account for interpreting such situations that have arisen in the past in the following cases:-

(1) **AIR 1958 SC 731, Mohd. Hanif Quareshi and others v. State of Bihar**

(2) **AIR 1961 SC 448, Abdul Hakim Quraishi and others v. State of Bihar**

(3) **1969 (1) SCC 853, Mohd. Faruk v. State of Madhya Pradesh and others**

(4) **1986 (3) SCC pages 12 and 20, Municipal Corporation of the City of Ahmedabad and others v. Jan Mohammed Usmanbhai and another**

(5) **1996 (4) SCC 391, Hashmattullah v. State of M.P. and others**

(6) **2004 (3) SCC 402, Om Prakash and others v. State of U.P. and others**

(7) **2005 (8) SCC 534, State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat and others**

and

(8) **the directions contained in the case of Laxmi Narain Modi (supra)**

The Court has also come across the decision of a Division Bench of the Bombay High Court in ***Writ Petition No.5731 of 2015, Shaikh Zahid Mukhtar v. The State of Maharashtra and others*** decided on 6.5.2016 against which SLP No. 25017 of 2016 has been filed before the Apex Court alongwith other connected SLPs that are still pending consideration wherein

WWW.LIVELAW.IN



orders were passed on 28.11.2016 issuing notices. The aforesaid judgments have also to be taken into consideration alongwith the orders passed by the National Green Tribunal for maintaining standards in relation to running of such slaughterhouses and the pollutants emitting therein. One such order is ***Maruf v. State of U.P. and others, Original Application No.173 of 21015*** decided on 10.12.2015. There are other orders as well in this regard relating to other States that have also to be noticed.

Thus, at this stage, what appears is that the State does not appear to have issued any direction for prohibition of the sale of any such foodstuff except for the fact that the slaughterhouses that were running unlawfully should not be allowed to run, and only such licensed slaughterhouses would operate which comply with the terms and conditions as referred to in the Government Order dated 22.3.2017 read with other Government Orders dated 24.3.2017, 27.3.2017 and 28.3.2017 as indicated above. The communication to the learned Additional Chief Standing Counsel about the meeting being convened with the Chief Secretary as it's Chairman has been placed before us.

We direct the State Government to convene the meeting forthwith for such consideration and take up this matter in right earnest to resolve the said issue that by and large are interconnected with each other and directly impinge upon not only the trade and profession of those who are involved in it but also directly affect the consumers and the public at large. The competing rights of trade, profession, health safety as well as consumption and the obligation of the State to make facilities available are issues that may be addressed to. The inaction of the State Government in the past should not be a shield for imposing a state of almost prohibition. To provide an immediate check on unlawful activity should be simultaneous with facilitating the carrying of lawful activity, particularly that relating to food, food habits and vending thereof that is undisputedly connected with the right to life and livelihood. Food that is conducive to health cannot be treated as a wrong choice and it is for this reason that provisions are obligated on the State to be made available for maintaining the requirement of supply of healthy foodstuff.

Health, Culture, Personal food habits, the socio-economic status of the society, the availability of foodstuff at affordable prices, the convenience of availability, the contents, quality and strength of foodstuff essential to life, and a balance of such competing rights under the secular umbrella of the Constitution are all issues that need a deliberation before any overt or covert action is taken. It should not appear to be abrupt for those who are at the receiving end and should not be legally unconstitutional. Food habits in this State have flourished and are an essential part of life as an element of the secular culture that has come to exist and is common amongst all sections of the Society. Compliance of law should not end in deprivation,

WWW.LIVELAW.IN



the cause whereof may be attributable to the inaction of the State.

We have put on record the above indicators so that the State while taking decisions does not loose sight of the dimensions and repercussions of the consequences that are likely to follow and affect the public at large. This will also aid the State in informing the Court about the measures it proposes to take in this regard.

We may also point out specifically that so far as the rural areas are concerned, the activities of petty meat shop sellers in villages, hats and bazars are currently regulated by the provisions under the bye-laws framed by the Zila Panchayat keeping in view the provisions of Section 197 of the U. P. Kshettra Panchayats & Zila Panchayats Adhiniyam, 1961 which categorically provides and obliges a place to be specified for slaughtering within a radius of 2 miles. The rural areas and their local biweekly or daily markets have a different concept of functioning and catering to the local needs as against urban areas. The State has therefore to assess this aspect of local issues including remote and far flung areas where availability of even basic facilities is still a mirage. Retail selling by local vendors in rural areas include those who themselves own and farm goatery, fishery, poultry and the like, they vend their own products. Such activities are promoted and permissible under the local laws like the U.P. Revenue Code 2006, it's regulation under the U.P. Kshettra Panchayat and Zila Panchayat Adhiniyam, 1961 and other allied laws. Thus, the operation and the manner in which such facilities that are to be provided for compulsorily, if at all are totally absent in the rural areas, then the State Government has to consider the continuance of the sale and retail of such petty vendors who earn their livelihood and cater to the needs of the local population by such exercise on day to day basis.

So far as the present petitioner is concerned, we direct the respondent-Nagar Palika Parishad, Lakhimpur Kheri to forthwith consider his request for grant of renewal of his existing license and pass an appropriate order within one week from today and inform the Court about the same by filing an appropriate affidavit.

The State Government is expected to convene the meeting not later than 10 days from today and place any such deliberations that may be the result and outcome of such deliberations by the next date fixed.

The said exercise be therefore undertaken as directed here-in-above and an appropriate affidavit be filed by the State Government/ respondent No.1 by the next date fixed.

The matter shall come up on ***13.4.2017***."

WWW.LIVELAW.IN



This was followed with the passing of another order on 27th of April, 2017 in a connected Writ Petition No.8293 (M/B) of 2017 – Mohd. Mustafa and Ors. Vs. Union of India - that is extracted hereunder:-

> *Heard Sri B. K. Singh learned counsel for the petitioners and the other learned counsel for the petitioners. Sri S. B. Pandey, learned counsel for the Union of India and the learned Advocate General and Dr. L.P. Mishra assisted by Sri Abhinav N. Trivedi learned counsel for the State as well as Ms. Madhulika Yadav, learned counsel for the Zila Panchayat Lakhimpur Kheri.*
>
> *Sri B. K. Singh, learned counsel for the petitioners has advanced his submissions contending that the State is under an obligation to provide such measures so as to ensure the security of livelihood as well as supply of food by making provisions for slaughter houses as per the various municipal laws that are applicable and for that he has invited the attention of the Court to the provisions of Section 7(1)(h) of the U.P. Municipalities Act, 1916 read with sections 237, 238 and 241 thereof. He has then invited the attention of the Court to Section 114(xx) of the U.P. Municipals Corporation Act, 1959 read with Chapter 14 and Sections 421 and 422 of the said Act to substantiate his submissions.*
>
> *The next statute mentioned by him are the provisions of Section 197, 198 and Section 239-D of the U.P. Kshetra Panchayat and Zila Panchayat Adhiniyam, 1961. He submits that these laws have been framed under the various entries of list-II of the Seventh Schedule of the Constitution and therefore, the provisions that are contained exclusively under the law legislated by the State under list-II cannot be affected in any way by the provisions of the Food Safety and Standards Act, 2006 and the various regulations framed thereunder.*
>
> *He has then invited the attention of the Court to the Prevention of Cruelty to Animals (Slaughter House) Rules, 2001 particularly the definition of the word 'slaughter house' as contained in Rule 2(c) read with Rule 7 thereof and also the provisions in relation to the structuring and status of a slaughter house as contained in Schedule IV of the Food Safety and Standards (Licensing and Registration of Food Businesses) Regulation, 2011.*

WWW.LIVELAW.IN



*He has urged that the Act was enforced on 05.08.2011 and according to him, the State Government has failed to provide the infrastructure for implementing the provisions of the said Act including the availability of designated officers for licensing or for registration and other facilities indicated therein for regulating this business. Hence, the imposition of the Government Order as also the refusal of the concerned authorities to grant license has resulted in deprivation of the livelihood of the petitioners and has also deprived consumers of the availability of such animal food products that are subject to slaughtering.*

*He has also urged that not only this, apart from the obligations cast under the Act and Rules, the Central Government also has not been able to enforce the relevant regulations for the purpose of ameliorating the conditions of the running of such slaughter houses and their functioning nor any steps have been taken to remove the difficulties inspite of the statutory power available to the Central Government. Hence, in such a situation, where the right of livelihood of the petitioners and regular food supply is being directly affected, the Court should intervene and issue necessary directions in this regard.*

*Learned Advocate General for the State has urged that there is no statutory obligation cast on the State Government to construct slaughter houses and it is only to abide by the rules and regulations framed by the Central Government inasmuch as, in view of the provisions of Section 97 (2) of the 2006 Act, all such Acts containing provisions that are corresponding to the provisions of the 2006 Act would stand impliedly as well as expressly repealed. He, therefore, submits that under the repealed provisions of the State Acts, there cannot be any obligation cast on the State, and even otherwise there is no provision under the 2006 Act casting any such obligation on the State to provide slaughter houses to those who are involved in the trade and profession of meat and meat food processing. He, therefore, has urged that in sum and substance keeping in view the provisions of the 2006 Act, unless a person obtains a license from the competent authority, he cannot compel the Government to act contrary to the said Rules and Regulations enforced through a Central Law.*

WWW.LIVELAW.IN



*The contention, therefore, is that the State Government is not called upon to perform any such obligation, as is being urged by the petitioners except to grant licenses or registration under the Rules for which it is always open to the petitioners to apply and obtain the same provided they fulfill the conditions prescribed therein.*

*Learned Advocate General may also inform the court about any deliberations having been made on the issues raised by the High Powered Committee as referred to in the earlier orders.*

*The arguments could not conclude today.*

*Put up tomorrow i.e. 28.04.2017."*

When these petitions were being heard, Dr. L.P. Mishra, learned counsel had been engaged as a special counsel by the State in three writ petitions namely Writ Petition Nos. 6871 (M/B) of 2017, 6806 (M/B) of 2017 & Writ Petition No. 2599 (M/B) of 2015. Later on with the recent change in Government in the State of U.P., Shri Raghvendra Pratap Singh, Advocate General appeared for the State and after hearing Shri Singh, we had passed the following order on 4th of May, 2017:-

*"Heard learned counsel for the petitioners and Sri Raghvendra Pratap Singh the learned Advocate General for the State as well as Dr. L.P. Mishra, who have advanced their submissions in the matter.*

*Reference be had to the orders dated 03.04.2017 passed in Writ Petition No.6871 (MB) of 2017 and the order dated 27.04.2017 in this petition.*

*Learned Advocate General has invited the attention of the Court to the various provisions of the Food Safety and Standards Act, 2006 as well as the 2011 Regulations relating to Slaughter Houses. Dr. L.P. Mishra has also in three of the writ petitions namely Writ Petition No.6871 (MB) of 2017; Writ Petition No.6806 (MB) of 2017 and Writ Petition No.2599 (MB) of 2015 advanced his submissions contending that none of these petitions have in effect pleaded the issue relating to the obligation on the part of the State to provide Slaughter Houses, even though, Dr. L.P. Mishra has invited the attention of the Court to the various provisions of the local Acts as well as the Food Safety*

WWW.LIVELAW.IN



*and Standards Act, 2006 to contend that the registering and licensing provisions now completely substitute any of the corresponding provisions that were existing in the local Acts that have been brought to the notice of the Court. In such circumstances, it is now under the 2006 Act that an exclusive authority has been conferred which can only be followed by the State Government.*

*Dr. Mishra then contends that so far as the local bodies are concerned, their limited rights and obligations under the local Acts may be available for the purpose, as is being urged that are not covered by the 2006 Act and the Regulations framed thereunder.*

*It may also be noticed that a fresh writ petition in the nature of Public Interest Litigation has been filed in relation to the District of Mau being writ petition No.9740 (MB) of 2017 where an issue relating to the obligations of the State Government has been raised bringing on record the Government Order dated 26.11.2014 as well as the budgetary allocations made by the Government of India in the year 2015-2016 coupled with the same having been implemented in some other districts of the State for constructing and maintaining modern Slaughter Houses as per the standards under the 2006 Act and the 2011 Regulations. The contention, therefore, appears to be that such obligations have been discharged by the State selectively in respect of other districts leaving behind the District of Mau.*

*Since no time is left today, the matter will proceed further.*

*On the request of learned Advocate General, let the matter come up immediately after fresh on 09.05.2017.*

*Learned counsel for the parties are also requested to examine the issues raised from the point of view of the ratio in the light of the decision of the Supreme Court in the case of* ***Brihan Mumbai Mahanagar Palika and another vs. Willingdon Sport Club and others; 2013 (16) SCC 260*** *as well as the competence of the State itself to discharge its liabilities or by framing such laws exclusively as per the List II of the Seventh Schedule of the Constitution of India vis-a-vis any laws made in this regard that may have an overlapping effect keeping in view the entries under List III of the Constitution."*

WWW.LIVELAW.IN



We heard the matter at length when arguments were concluded at the admission stage by all the learned counsel for the petitioners, the learned Advocate General on behalf of the State, Dr. L.P. Mishra alongwith Shri Abhinav Narain Trivedi and Shri Amitabh Ray also for the State, Shri S.B. pandey, learned Assistant Solicitor General of India for the Union of India and also the respective counsel for the local bodies who had put in appearance as recorded earlier in our orders.

It may be pointed out that a short counter affidavit had already been filed in relation to one of the connected matters namely Writ Petition No.2599 (M/B) of 2015 which was a writ petition filed praying for renewal of license but the matter had not been heard and during the course of the hearing of this bunch was also included in the present bunch where Mr. G.C. Sinha, Advocate was heard for the petitioner and all the learned counsel for the respondents - State as mentioned above.

In the short counter affidavit filed on behalf of the State, the order passed by a Division Bench of this Court in Writ Petition No.1774 (M/B) of 2015 has been brought on record. The order dated 11th of March, 2015 being relevant for the present controversy is extracted hereinunder:-

> *"The grievance in the petition which has been filed in public interest is in regard to the conduct of a slaughterhouse by the Nagar Nigam, Lucknow at Moti Jheel. On 3 July 2013, the U.P. Pollution Control Board issued a notice under Section 33A to show cause calling upon the Nagar Nigam to explain why, in exercise of powers conferred by Section 33A of the Water (Prevention and Control of Pollution) Act 1974, the activities of the slaughterhouse should not be closed down. The notice was based on an inspection which was carried out on 24 September 2012 which indicated that steps had not been taken by the Nagar Nigam for the proper disposal of pollutants from the slaughterhouse, which is situated in a densely populated residential area. No response was submitted by the Nagar Nigam, Lucknow to the notice*

WWW.LIVELAW.IN



*to show cause. On 22 August 2013, an order of closure was issued by the U.P. Pollution Control Board under Section 33A of the Act. That order has not been vacated or modified.*

*The Supreme Court has been monitoring the activities of slaughter houses in* ***Laxmi Narain Modi vs. Union of India and others*** *in Writ Petition (C) No. 309 of 2003. By an order dated 23 August 2012, the Supreme Court took notice of a decision of the Ministry of Environment and Forests dated 26 April 2012 requiring the State Governments to constitute State Committees for slaughterhouses to oversee modernization, relocation of slaughterhouses which are located within or in close proximity of residential areas and to recommend appropriate measures for dealing with solid waste and pollutants. The order of the Supreme Court dated 23 August 2012 is reported in (2014) 2 SCC 417. The proceedings are being monitored by the Supreme Court in pursuance of which further directions were issued on 9 July 2013, reported in (2014) 1 SCC 241.*

*In the present case, it is undisputed that the State Pollution Control Board has issued orders for closure under Section 33A of the Act on 22 August 2013. Despite this, it has been stated before the Court by the learned counsel appearing on behalf of the Lucknow Nagar Nigam that the Nagar Nigam is continuing with the activities of slaughtering in the slaughterhouse. This is nothing but a brazen violation of law by a local authority which is impermissible. Once a competent statutory authority has issued directions for closure, those directions must be strictly observed. So long as those directions continue to subsist, the action of the Nagar Nigam in operating the slaughterhouse is in clear violation of law and cannot be countenanced.*

*We, accordingly, direct that the respondents shall duly ensure that the order of closure passed on 22 August 2013 is strictly observed. The State Pollution Control Board and the district administration shall ensure that there is no breach on the part of the Nagar Nigam. A copy of this order shall be brought to the notice of the Municipal Commissioner forthwith for compliance. The petition is, accordingly, disposed of. There shall be no order as to costs."*

WWW.LIVELAW.IN



The arguments on behalf of the petitioners was led by Shri B.K. Singh, Advocate who has urged that the State Government has virtually brought the entire business of selling meat to a stand-still on account of the aforesaid Government Order dated 22nd of March, 2017 and further on account of their stated resolution dated 27th of March, 2017/30th of March, 2017 i.e., annexure - 1 to Writ Petition No.10163 (P.I.L. Civil) of 2017. The said resolution that has been made the bone of contention to urge that the State has in a determined way executed a political agenda is extracted hereinunder for ready reference:-

पत्रांकः /एम0एस0 कैम्प/20
दिनांक 30.03.2017

प्रदेश के अंतर्गत पशुवधशालाओं के संचालन एवं पशुवधशालाओं में अवैध रूप से हो रहे पशु वध को रोके जाने के सम्बन्ध में मुख्य सचिव, उ0प्र0 शासन की अध्यक्षता में आयोजित बैठक दिनांक 21.03.2017 की कार्यवृत्त।

बैठक में उपस्थित अधिकारियों की सूची संलग्न है।

मुख्य सचिव महोदय द्वारा बैठक में उपस्थित समस्त अधिकारियों को यह अवगत कराया गया कि **लोक कल्याण संकल्प पत्र–2017 में संकल्प दिया गया है** कि सभी अवैध कत्लखानों को पूरी कठोरता से बन्द किया जायेगा और सभी यान्त्रिक कत्लखानों पर प्रतिबन्ध लगाया जायेगा।

इस सम्बन्ध में मुख्य सचिव द्वारा यह जिज्ञासा की गयी थी किन अधिनियमों/नियमों, गाइडलाइन्स एवं मानकों का अनुपालन पशुवधशाला संचालन की अनुमति प्रदान करने में किया जाता है। यह भी जिज्ञासा की गयी कि यदि कोई आवेदनकर्ता पशुवधशाला के संचालन के लिए आवेदन करता है तो क्या उसे पशुवध संचालन की अनुमति देना आवश्यक है अथवा राज्य स्तरीय समिति को अनुमति देने या नहीं देने का अधिकार है?

उपरोक्त जिज्ञासा के क्रम में सचिव, नगर विकास विभाग द्वारा इस सम्बन्ध में पूरी प्रक्रिया के बारे में विस्तृत प्रकाश डाला गया। उनके द्वारा यह अवगत कराया कि मा0 उच्चतम न्यायालय के आदेशों के अनुपालन में उ0प्र0 राज्य के अन्तर्गत राज्य सरकार द्वारा पशुवधशालाओं के संचालन से सम्बन्धित विषयों के कियान्वयन हेतु कार्यालय ज्ञाप दिनांक 11.09.2012 द्वारा प्रमुख सचिव/सचिव नगर विकास विभाग की अध्यक्षता में एक राज्य स्तरीय समिति का गठन किया गया है। उक्त राज्य स्तरीय समिति के दायित्वों से भी अवगत कराया गया।

मुख्य सचिव द्वारा यह जिज्ञासा की गयी कि क्या स्थानीय मीट–आपूर्ति की आवश्यकता का आंकलन भी राज्य स्तरीय समिति द्वारा किया जाता है? इस सम्बन्ध में सचिव नगर विकास विभाग द्वारा अवगत कराया गया कि जिलाधिकारी द्वारा की गयी संस्तुतियों के आधार पर ही राज्य स्तरीय समिति निर्णय लेती है। यह भी अवगत कराया गया कि राज्य

WWW.LIVELAW.IN



स्तरीय समिति की पशुवधशाला संचालन के लिये जिलाधिकारी की संस्तुति पर अनापत्ति प्रमाण पत्र स्वीकृत करने की कोई बाध्यता नहीं है।

एक प्रश्न यह भी उत्पन्न हुआ कि नगर विकास विभाग की राज्य स्तरीय समिति नगर निकायों में पशुवधशाला संचालन के लिये अनापत्ति प्रदान करती है, इस ग्रामीण क्षेत्रों में अनापत्ति प्रमाण पत्र किसके द्वारा प्रदान किया जाता है? इस सम्बन्ध में पंचायती राज विभाग के उपस्थित अधिकारियों द्वारा यह अवगत कराया गया कि जिला पंचायत अधिनियम,1961 की धारा–3 के अन्तर्गत जिला पंचायत द्वारा लाइसेंस प्रदान किये जाते हैं। पंचायती राज विभाग द्वारा जनपद सहारनपुर, सिद्धार्थनगर, देवरिया, बाराबंकी एवं बरेली में ग्रामीण क्षेत्रों में पशुवधशाला के संचालन हेतु लाइसेन्स निर्गत किये गये हैं।नगर निगम/नगर विकास क्षेत्रों में पशुवधशाला के लाइसेंस सम्बन्धित नगर निगम/नगर निकाय द्वारा निर्गत किये जाते हैं।

बैठक में उपस्थित अधिकारियों द्वारा यह भी अवगत कराया गया कि पशुवधशाला के संचालन हेतु लाइसेन्स 01 वर्ष के लिए प्रदान किया जाता है। जिसका प्रतिवर्ष नवीनीकरण कराया जाना अनिवार्य है।

अवैध पशुवधशाला के संचालन एवं पशुओं के प्रति क्रूरता के लिये दोषी व्यक्तियों के विरूद्ध दण्डात्मक कार्यवाही किये जाने के बारे में उपस्थित अधिकारियों द्वारा यह अवगत कराया गया कि नगर पालिका अधिनियम 1916/नगर निगम अधिनियम 1918 एवं नगर निगम अधिनियम 1959 में अवैध पशुवधशाला संचालन के लिये किसी भी अधिनियम में दण्ड का कोई प्रावधान नहीं है। विचार–विमर्श के उपरान्त यह निर्णय लिया गया कि अवैध पशुवध कार्य को संज्ञेय अपराध घोषित करने के लिए न्याय विभाग द्वारा विभिन्न अधिनियमों का परिशीलन कर उचित कार्यवाही हेतु प्रस्ताव/परामर्श अतिशीघ्र प्रस्तुत किया जाये।

(कार्यवाही–न्याय विभाग)

सचिव, नगर विकास विभाग द्वारा यह भी अवगत कराया गया कि पशुवधशालाओं के संचालन की जिला स्तर पर समिति गठित कर निरीक्षण कराये जाने हेतु समस्त सम्बन्धित विभागों को शासनादेश प्रेषित किया जा रहा है। मुख्य सचिव महोदय द्वारा यह निर्देश दिये गये कि प्रस्तावित आलेख्य में अपेक्षित संशोधन करके पत्रावली आलेख्य पर अनुमोदन हेतु प्रस्तुत करें।

(कार्यवाही– नगर विकास विभाग)

समस्त सम्बन्धित विभाग के अधिकारियों को यह निर्देश दिये गये कि पशुवधशालाओं संचालन के बारे में अपने अधीनस्थ जनपद स्तरीय अधिकारियों को चेकलिस्ट भेजकर अधिनियम/नियम में उल्लिखित व्यवस्थाओं का कड़ाई से अनुपालन सुनिश्चित करने हेतु एवं चेक लिस्ट के आधार पर सम्बन्धित जिलाधिकारी के माध्यम से राज्य स्तरीय समिति को प्रेषित किये जाने हेतु तत्काल निर्देश प्रसारित कर दें।

(कार्यवाही– समस्त सम्बन्धित विभाग)

बैठक में यह भी निर्देश दिये गये कि समस्त सम्बन्धित विभागों के जनपद स्तरीय अधीनस्थ अधिकारियों द्वारा चेकलिस्ट के आधार पर पशुवधशालाओं के बारे में निरीक्षण

WWW.LIVELAW.IN



रिपोर्ट/संस्तुति जिलाधिकारी को प्रस्तुत की जायेगी। जिलाधिकारी द्वारा समस्त जनपद स्तरीय विभागों की संकलित रिपोर्ट/प्रमुख सचिव/सचिव नगर विकास विभाग की अध्य क्षता में गठित राज्य स्तरीय समिति को पशुवधशालाओं के संचालन की अनुमति पर पुर्नविचार हेतु संदर्भित की जायेगी। राज्य स्तरीय समिति उक्तानुसार प्राप्त प्रस्तावों का रिव्यू करके पशुवधशालाओं के संचालन हेतु पूर्व में निर्गत अनापत्ति पर यथोचित निर्णय लेगी।

(कार्यवाही नगर विकास विभाग/समस्त जिलाधिकारी)

अन्त में बैठक सधन्यवाद सम्पन्न हुई।

राहुल भटनागर
मुख्य सचिव

उत्तर प्रदेश शासन
पर्यावरण अनुभाग–1
संख्या–549/35 पर्या. 2112–51/17–टी0सी0
लखनऊ दिनांक 27, मार्च 2017

प्रतिलिपि–

निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित–

1. अपर मुख्य सचिव/प्रमुख सचिव/सचिव न्याय, गृह, पंचायती राज, पशुपालन, श्रम, नगर विकास, परिवहन, खाद्य, सुरक्षा एवं औषधि प्रशासन विभाग, उ0प्र0 शासन।
2. समस्त जिलाधिकारी, उत्तर प्रदेश।
3. निदेशक, पर्यावरण विभाग, उ0प्र0, लखनऊ।
4. सदस्य सचिव, उ0प्र0 प्रदूषण नियंत्रण बोर्ड, लखनऊ।
5. निजी सचिव, मुख्य सचिव, उ0प्र0, शासन।
6. निजी सचिव, अपर मुख्य सचिव/विशेष सचिव, पर्यावरण विभाग, उ0प्र0 शासन।
7. गार्ड फाईल।

आज्ञा से
ह0अ0
(उमेश चन्द्र)
अनु सचिव

The argument of Shri B.K. Singh is that this exercise which has been undertaken by the State is in violation of the constitutional provisions and by enforcing the 2006 Act read with Regulations and Rules framed thereunder, the State under the garb of these provisions is virtually negating its own authority and obligations for allowing such business to prosper unhindered, inasmuch as, according to Shri Singh, the regulation of such business being the prime responsibility of the State and the local bodies is clearly visible from the constitutional empowerment to frame laws on this subject under List – II of the VII$^{th}$ Schedule of the Constitution. The reference to the entries have already been made in our earlier order dated 3$^{rd}$ of April, 2017 extracted hereinabove. Shri Singh, therefore, contends

WWW.LIVELAW.IN



that by taking recourse to Entry – 18 and Entry – 33b of List – III, the State under the garb of 2006 Act with its Rules, Regulations and orders read with the 1960 Act cannot refuse to discharge their obligations on the pretext that the said acts have an overriding effect and that the corresponding provisions under the local laws framed by the State under List – II stood repealed. He, therefore, submits that any attempt on the part of the State to resile from its discharge of duties and obligations under the Constitution and the laws made thereunder would be a failure of constitutional duty ultimately resulting in trenching upon the fundamental rights of the petitioners to carry on their trade, business and profession. It also directly affects human life by virtually curtailing the right of the choice of food of the citizens of this State by indirectly prohibiting the slaughtering, sell and vending of animal food in general.

He submits that this cannot be done in the name of implementing a political manifesto that was released before the elections, inasmuch, as a political manifesto cannot be a subject matter of executive implementation. He submits that the subject matter cannot be a matter of discussion by the Government which is in power and a policy can be decided which can take the shape of law to be implemented by the executive, but the same should have a foundation under the Constitution and the laws framed thereunder. A political manifesto cannot be a basis of imposing law in the manner in which it has been done through the impugned deliberations of the minutes that are recorded in the meeting of the Committee dated 27th/30th of March, 2017.

He then contends that the ingredients of the impugned Government Order dated 22nd of March, 2017 register the directions issued by the Hon'ble Supreme Court in the case of *Laxmi Narain Modi* ***(Supra),*** the directions of the National Green Tribunal and the various provisions of the laws that have been referred to as 24 items in the Government Order dated 22nd of

WWW.LIVELAW.IN



March, 2017 read with the Government Order dated 24th of March, 2017 and the other G.O's issued thereafter. He submits that the directions of the Hon'ble Apex Court in the case of *Laxmi Narain Modi* ***(Supra)*** and that of the National Green Tribunal do not direct the State Government not to discharge its obligations but are rather directions to implement the said directions in conformity with law indicated therein. The State Government instead of implementing the same has virtually clamped a prohibition that too even without understanding the practical implications of the implementation of such directions right from the urban areas up to the rural areas.

He has then urged that the respondent-State being obliged to comply with the said directions, infact had proceeded to implement the said directions even though partially but that had been done by the predecessor government of the present government that has come into power. He contends with the aid of various Government Orders issued from time to time by the State Government as also the steps taken for establishing slaughter houses that the funding by the Central Government, by the State Government and the issuance of guidelines together with the entire regulating law on the subject establishes that there is no intention whatsoever either under the 2006 Act and rules and regulations framed thereunder or any other law for the time being in force to abruptly prohibit all such activities or any action being taken in haste to put this entire activity which is meant to provide food to the citizens to a stand-still that is detrimental not only to the society but is also causing a massive loss of revenue to the State. He contends that a mere implementation of a political manifesto without carrying out any exercise of such assessment either on the legal, social or economic plane by the State Government was too hasty an exercise putting in jeopardy not only the livelihood of the petitioners but also a clear indication of blocking any development of modernisation and the running of such business

WWW.LIVELAW.IN



in terms of the law implemented or the directions issued either by the Hon'ble Apex Court or by the National Green Tribunal.

He has then urged that this has also resulted in the individual infringement of the rights of the consumer citizens impinging upon his rights of choice of food by virtually making it non-available, inasmuch as, if there are no slaughter houses then it will be not possible to vend meat, consequently resulting in non-supply of any animal foodstuff. Thus, under the garb of regulation, the State is virtually prohibiting consumption that also violates Article – 21 of the Constitution of India.

He then submits that the action is also discriminatory in the sense that even if the predecessor government had undertaken some steps, and may have failed in taking further steps, yet the process of providing facilities for setting up of modern slaughter house had already commenced and had been implemented in many districts, the details whereof have been indicated in Writ Petition Nos.9740 (M/B) of 2017 & 10163 (M/B) of 2017. If the State Government has already undertaken the steps for discharging such duties then in that event to now immediately take an abrupt step of withholding of such lawful activity is failure to discharge obligations and is also violation of the directions issued by the Hon'ble Supreme Court. He, therefore, contends that the reliefs prayed for renewal of licences and further for restraining the respondents not to interfere with their right to freedom of trade, business and profession entails within it all the aforesaid issues as the same has been made the basis for the issuance of the impugned Government Order dated 22nd of March, 2017 and 24th of March, 2017 as well as the decision of the Committee dated 27th/30th of March, 2017. The consequential action of refusing the grant of licence by the respective local bodies or to entertain any such application clearly establishes that all local bodies have been virtually prevented from taking any steps for either issuance of licenses or permission to allow such activities in the garb of non-

WWW.LIVELAW.IN



availability of standards as per the 2006 Act. He, therefore, submits that if the provisions are such that are regulatory and are also punishable then in that event it is the corresponding obligation of the State to facilitate the setting up of slaughter houses and which obligation has already been set into motion by the predecessor in interest government. Any absolute denial or withholding of any such activity, therefore, is clearly unconstitutional and even in violation of the directions of the Hon'ble Apex Court under the garb whereof the respondents have virtually restrained such activities giving rise to filing of these writ petitions.

Shri Singh then contended that the State Government has virtually overlooked the social impact and the impact on self-employment to a large section of the community apart from affecting the food habits of its ordinary citizens. He submits that if a traditionally employed section of the society in a particular profession is put out of their job, the unrest and inconvenience would also have an impact not only on individuals but the families of a large number of people who are employed in the same. This also raises a reasonable apprehension in the mind about a rising graph of crimes or even frustration that may bring about a possible discontent and a loss of economy not only to individuals but also to the State.

Shri Singh has then invited the attention of the Court to the various provisions of Licensing and Registration under the 2006 Act and 2011 Regulations as well as the provisions of the Prevention of Cruelty to Animals Act, 1960 to compare it with the provisions of the U.P. Municipalities Act, 1961, the U.P. Municipal Corporations Act, 1959, the U.P. Kshetra Panchayat and Zila Panchayat Adhiniyam, 1961 and the provisions of the U.P. Panchayat Raj Act, 1947 to point out the distinction between the exclusive functions that are relatable to the framing of laws covering the field under List – III i.e., the concurrent list and under List – II i.e., the State list. He has made an attempt to

WWW.LIVELAW.IN



connect the powers of the local bodies under the aforesaid acts to urge that since local self-governance is exclusively within the said list i.e., List - II, the same also attains another additional constitutional status after all local bodies and local self-governing institutions have been brought under Chapter - IX and Chapter – IX-A of the Constitution of India. His contention, therefore, is that any activity that is exclusively within the domain of the local bodies under the local acts cannot be overridden by any of the provisions of the Central Act framed under List – III, inasmuch as, these local acts having been framed under List-II and the entries relating thereto, will continue to operate and cannot be treated to have been repealed on the ground that there are certain corresponding provisions in these acts as compared to the provisions of the 2006 Act in terms of Section - 89 and Section – 97(2) of the 2006 Act.

One of the contentions of Shri Singh is that on the one hand the State takes no responsibility of any obligation to be discharged by it but on the other hand for the implementation of the 2006 Act and the regulations for running and establishing slaughter houses and vending of meat food require regulations to be enforced for ensuring that such business is carried out with a proper infrastructure, the regulation whereof is to be monitored under the aforesaid provisions through scientific methods. This requires proper facilities including the existence of laboratories, executing agencies, designation of officers and the availability of basic facilities like electricity which are totally absent. He submits that these are such obligations under the statutes that are infrastructural inputs in order to make the provisions of the said Act workable and executable. If they are absent then the State is definitely under an obligation to provide such facilities.

It is urged that such activity percolates up to the interior most rural areas and if no such facilities are available conveniently then the State itself will not be able to enforce the

WWW.LIVELAW.IN



provisions of the 2006 Act and the rules and regulations framed thereunder effectively. This, therefore, is also an obligation on the part of the State to provide such facilities that will fulfill the objective of modernisation of this entire mechanism of regulating the slaughtering and vending of animals and animal food respectively.

The State is under an obligation to undertake all activities of hygiene, ensuring good health and supply of safe foods. For this it has been pointed out that after the directions issued by the Hon'ble Apex Court in the case of *Laxmi Narain Modi* ***(Supra),*** this exercise had been undertaken, and a petition had been filed on behalf of an association earlier, whereby an offer had been made by those involved in such business to allow them to construct slaughter houses at their own cost particularly in the city of Lucknow but even that has not been given effect to. The contention is that even if the State had undertaken this exercise to modernise the existing slaughter houses for which it had appointed an exclusive agency of M/s. ATK Engineering Services for planning out the modernisation of slaughter houses in the State, then in that event it is no longer open for the respondents to now avoid this obligation and refuse to discharge its responsibility merely on account of change of government.

It has been pointed out particularly with the aid of affidavits filed in Writ Petition No.6871 (M/B) of 2017 where the Nagar Palika Parishad had rejected the renewal of license of the petitioner therein vide order dated 07.04.2017 reciting therein that in the absence of any slaughter house available and running it was not possible to grant any license, but during the course of hearing of this writ petition itself the aforesaid document that has been brought on record through the short counter affidavit dated 13.04.2017, has been contradicted by filing another supplementary counter affidavit by the same person on behalf of the Nagar Palika Parishad, Lakhimpur Kheri bringing on record the clarification by the Chairman dated 08.05.2017 that the said

WWW.LIVELAW.IN



order dated 07.04.2017 was erroneous which was being recalled with a recital that there is already a designated authority under the 2006 Act read with the 2011 Regulations who is competent to do so and therefore, the Nagar Palika Parishad was not competent to renew the license. Shri Singh urges that this turn in events also establishes that the Government is making all efforts to coerce the local bodies to refrain from discharging their statutory obligations which action also explains the obvious malafide intentions of the State Government. It may be noted that the facts of the said affidavit were brought to the notice of the State Government during the course of hearing whereafter the fresh supplementary counter affidavit was filed on 09.05.2017.

Shri Singh has taken us through the various provisions that have also been brought to our notice by the learned counsel for the respondents and therefore, they shall be mentioned after noting the arguments of the respondents hereinafter.

At the time of the conclusion of his submissions Shri Singh had also invited the attention of the Court to such a policy being followed in the State of Maharashtra and in the State of Madhya Pradesh which facts have been brought on record through annexures in Writ Petition No.10163 (P.I.L.) of 2017. Elaborating his submissions Shri Singh has invited the attention of the Court to the steps taken by these Governments particularly the Madhya Pradesh Government where the construction of slaughter houses has been undertaken to be an obligation of the State and the same is being discharged through the various Municipal Corporations by inviting tenders for setting up of modernised slaughter houses completely aided and financed by the Central Government, the State Government as well as the own resources of the respective local bodies. He, therefore, submits that such models can be adopted by the respondent - State Government and which process had commenced but according to the impugned resolutions and Government Orders

WWW.LIVELAW.IN



as referred to hereinabove, the State Government appears to have taken a decision not to proceed at all and give a quietus to this trade and profession so that it may die its own death. His submissions in essence are that creating of suffocating conditions through executive fiats ultimately results in the throttling of the business and confining it to its minimum thereby causing deprivations resulting in violation of the fundamental rights guaranteed under the Constitution as indicated above.

Controverting the aforesaid allegations and contentions, the arguments on behalf of the State have been led by the learned Advocate General who points out that the licences as prayed for by the petitioners cannot be renewed by the local bodies as the licensing provisions under the 2006 Act including registration are now within the exclusive domain of the Designated Authority under the said Act and as such, a mandamus that has been prayed for cannot be granted as none of the petitioners have either applied for renewal before the Designated Authority nor have they made any effort to obtain licenses under the provisions of the 2006 Act and the rules and regulations framed thereunder. He has invited the attention of the Court to Section - 89 and Section 97(2) of the Food Safety and Standards Act, 2006 to contend that the said Act having come into force coupled with the directions of the Hon'ble Apex Court in the case of *Laxmi Narain Modi* ***(Supra)*** and that of the National Green Tribunal coupled with the latest orders of the Hon'ble Supreme Court dated 17.02.2017 provide for the registration and licenses of such activity as is being claimed as a profession by the petitioners and if they have not applied or they do not have any such facilities, then there is no obligation on the part of the State to make any such provisions, inasmuch as, after the enforcement of the 2006 Act and the rules and regulations, there is no such obligation for setting up slaughter houses by the State. The local bodies now cannot also do so in view of the express and implied repeal of all such corresponding

WWW.LIVELAW.IN



laws together with the overriding effect of the 2006 Act and the rules and regulations framed thereunder.

He submits that now there is an existence a single statute and it is for the authorities defined under this statute who are empowered to regulate and enforce the said laws without there being any obligation pointed out therein for making provisions for the running of slaughter houses by the State. He submits even otherwise that there is no such provision in any other law that obliges even the local bodies to construct a slaughter house and provide it for the running of such business. The provisions of all the local acts mentioned hereinabove have been read out alongwith the provisions under the Food Safety and Standards Act, 2006 and the rules and regulations framed thereunder together with the provisions of the Prevention of Cruelty to Animals Act, 1960 to contend that a combined reading of all the provisions clearly establishes that there is no such obligation on the part of the State or the local bodies that may compel them to construct and offer a running slaughter house for the business of the petitioners.

To the contrary if such provisions exist or are require to be implemented then it is open to such business operators to set up their own premises in conformity with the norms so prescribed that can be regulated by issuing registrations or licences as the case may be for the said business and the designated authority shall take care to provide such registration certificates and licences for the running of the said business to the extent the State authorities are empowered under the 2006 Act and the rules and regulations framed thereunder.

He has vehemently urged that by the issuance of the Government Orders on 22.03.2017 & 24.03.2017, no prohibition has been created rather it has been made known to all engaged in this business at large that they are entitled to seek license but they cannot be permitted to continue slaughtering activities in

WWW.LIVELAW.IN



unlicensed and unlawful slaughter houses that have been operating throughout the State. He submits there are 41 slaughter houses that are duly licensed throughout the State and about 200 registrations have also been made and licenses granted to those who have applied and have complied with the terms and conditions of the 2006 Act and the rules and regulations framed thereunder. Thus, the charge of the petitioners that the State is indirectly trying to prohibit such business is absolutely incorrect and to the contrary, the unregulated trade and business of animal food is now sought to be controlled by imposing and implementing the relevant provisions referred to hereinabove as per law.

He has invited the attention of the Court to the detailed order passed by the Hon'ble Supreme Court in the pending proceedings in Laxmi Narain Modi & other cases on 06.02.2015 to contend that so far as Writ Petition No.309 of 2003 is concerned, the Hon'ble Supreme Court noted the fact that the petitioner in that writ petition namely Laxmi Narain Modi had passed away, therefore, the said writ petition was disposed off but the submissions raised therein were allowed to be continued in Writ Petition No.330 of 2001 (Common Cause Vs. Union of India) that has now finally been disposed off by the order of the Hon'ble Apex Court on 17.02.2017.

Not only this, the Central Government through its Ministry of Health and Family Welfare has been issuing notifications extending the last date for all such operators to obtain licences from the designated authority who were earlier operating under the licences of the local bodies. The last letter extending the time up to 04.08.2016 through the order dated 24.05.2016 has also been pointed out by him to urge that all these petitioners who claimed that they had earlier licences through the local bodies, which have expired, had the opportunity to apply before the designated authority but having failed to do so they cannot now turn around and seek a relief contrary to law.

WWW.LIVELAW.IN



The supplementary counter affidavit filed on behalf of the State dated 14.04.2017 and an affidavit to the same effect in Writ Petition No.2599 (M/B) of 2015 has been brought on record to buttress the submissions. He submits that apart from the Government Orders dated 22.03.2017 & 24.03.2017, two other directions were issued on 27.03.2017 & 28.03.2017 clarifying that the Government Order dated 22.03.2017 does not create a complete ban of running of mechanised slaughter houses and the purport is to ban only the running of such slaughter houses that do not conform to the provisions as mentioned in Annexure - 1 appended to the Government Order dated 22.03.2017. The State Government has on 28.03.2017 issued directions for providing information to the Director, Local Bodies to give information as to how many slaughter houses are running, how many of them are licensed and against how many unlawful slaughter houses, action has been taken. He submits that this obligation of the State is being discharged in conformity with the rules and regulations that was not being strictly adhered to by the authorities and the old system was allowed to continue unabated thereby violating the provisions of law as well as the directions of the Hon'ble Supreme Court and the National Green Tribunal. He, therefore, contends that apart from this there are no pleadings raised on the constitutional plane or even on the legal plane for which submissions had been advanced and nothing has been pointed out specifically by the petitioners that has been advanced during the course of the arguments. He, therefore, submits that all these writ petition seeking the relief of grant or renewal of license are misconceived and misdirected and therefore, they should all be dismissed. The State has taken full care to protect the interest of those who are lawfully engaged in this business and it in no way affects or impinges upon either the professional rights of the petitioners nor does it violate any of the fundamental rights of an individual to consume such animal food obtained through proper methods. Consequently, with the aid of the provisions of the Constitution and the statutory enactments referred to herein with which we

WWW.LIVELAW.IN



shall delineate hereinafter, the learned Advocate General has prayed for refusal of the reliefs as framed by the petitioners.

The aforesaid submissions of the learned Advocate General have been further crystalised and placed before us in a consolidated and precise form appropriately tabulating the respective provisions that have been canvassed at the bar extensively by Dr. L.P. Mishra, learned special counsel for the State in three of the writ petitions as referred to hereinabove assisted by Shri Abhinav Narain Trivedi and Shri Amitabh Ray. The Court puts on record its appreciation for this effort on their part as it has made our task easier and more convenient to deliver our orders promptly today. Ably assisting the Court Dr. L.P. Mishra has framed six of the legal issues on the queries that were raised by the Court right at the inception while passing the initial order dated 03.04.2017 extracted hereinabove and the subsequent orders extracted above. The issues framed by Dr. L.P. Mishra are as follows:-

***THE ISSUES REQUIRING CONSIDERATION BY THIS HON'BLE COURT:-***

i. *What are the matters which were earlier covered by different State Acts or Central Act/Acts are now exclusively covered by 2006 Act and Regulation framed there under?*
ii. *What are the mattes not exclusively covered by 2006 Act and Regulations framed there under but are still covered or have been stated to be covered by 2006 Act and Regulations framed there under by the State Act or Central Act/Acts.*
iii. *Whether State of U.p. is obliged by Law to construct the Slaughter Houses or Meat Shops?*
iv. *Whether is there any obligation on the part of the Local Bodies/Local Authorities to construct, establish and to run and maintain the Slaughter Houses and Meat Shops?*
v. *Legislative competent of respective Legislating Authorities i.e. Parliament and State Legislation.*
vi. *Whether has the State of U.P. acted in any manner to inroad into the food or right to have choice of food which may form part of right to life guaranteed under Article 21 of the Constitution of India?*

WWW.LIVELAW.IN



He has then referred to the relevant constitutional provisions which according to him would be relevant for assistance of this Court which are as follows:-

***RELEVANT CONSTITUTIONAL PRESCRIPTIONS:***

*Article 21 of the Constitution of India.*

*Article 48 of the Constitution of India.*

*Article 51-A (g) of the Constitution of India.*

***LIST-I -- UNION LIST:***

A) *List - 1 of VIIth Schedule --*

*Entry-41 - Trade and Commerce with Foreign Countries:*
*Entry-42 - Inter-State Trade and Commerce:*
*Entry-57 - Fishing and Fisheries beyond Territorial Waters.*

B) ***List - II - State List:***
*Entry-5. Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.*
*Entry-6. Public health and sanitation; hospitals and dispensaries.*
*Entry-14. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases.*
*Entry-15. Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice.*
*Entry-21. Fisheries.*
*Entry-26. Trade and commerce within the State subject to the provisions of Entry 33 of List III.*
*Entry-27. Production, supply and distribution of goods subject to the provisions of Entry 33 of List III.*

C) ***List - III - Concurrent List:***
*Entry-7. Contracts including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land.*
*Entry-8. Actionable wrongs.*
*Entry-17. Preservation of cruelty to animals.*
*Entry-18. Adulteration of foodstuffs and other goods.*
*Entry-33(b). Foodstuffs, including edible oilseeds and oils;*

He has then placed before the Court a chart of the relevant provisions of the local acts and the Central Acts to have a birds eye view of the provisions that are contained in the local acts corresponding to the provisions under the 2006 Act and the regulations framed thereunder as also under the Prevention of Cruelty to animals Act, 1960. The relevant charts with the noted

WWW.LIVELAW.IN



headings that are relevant for the purpose are extracted hereinunder:-

**Standards to be maintained by Slaughter Houses and Meat Shops**

| **Food Safety and Standards Act 2006 and Registrations framed thereunder.** | **Municipalities Act, 1916** | **Municipal Corporation Act, 1959** | **Kshetra Panchayat and Zila Panchayat Adhiniyam, 1961** | **U.P. Punchaya t Raj Act, 1947** | **Prevention of Cruelty to Animals Act, 1960** |
|---|---|---|---|---|---|
| **Slaughter House**<br>**Clause (c) of Regulation 2.5** of the Food Safety and Standards (Food Products Standards and Food Addi9tives) Regulations, 2011 defines "Slaughter House". | Slaughter House not defined | Slaughter House not defined | Slaughter House not defined | Slaughter House not defined | Prevention of Cruelty to Animals (Slaughter House), Rules 2001:<br>**Rule 2 (c)** provides *"Slaughter house" means a slaughter house wherein 10 or more than 10 animals are slaughtered per day and is duly licensed or recognised under a Central, State or Provincial Act or any rules or regulations made thereunder.* |
| **Regulation 2.1.2 (1) (5) of Food Safety and Standards (Licensing and Registration Regulations), 2011** [hereinafter referred as 'Regulations 2011'] provides for complying conditions of license as provided in Annexure 3 of Form B in **Schedule II** and Safety Sanitary and Hygienic requirements provided in **Schedule IV**.<br><br>**Part IV** prescribes the hygienic and sanitary practices to be followed by Food Business Operators engaged in manufacture, processing, storing and selling of Meat and Meat Products, including place of premises etc.<br><br>**Paragraph A of Part IV** governs the condition to be followed by Slaughter Houses.<br>**Meat Shops**<br>Meat Shop not defined.<br><br>**Regulation 1.2 (4)** of Regulations 2011 defines "Petty Food Manufacturers" and includes retailers hawkers, etc.<br>**Regulation 2.1.1. (2):** Petty Food Manufacturers shall follow basic hygiene and safety requirements of **Part-I of Schedule IV.**<br><br>**FOOD BUSINESS OPERATORS**<br>**Section 3 (0)** defined *"Food Business Operators":* Clause (n) | **No** provision prescribing for the manner and mode of maintaining hygiene and sanitary conditions of Slaughter House.<br><br>Meat Shop not defined<br>NO Standards prescribed. | No provision prescribing for the manner and mode of maintaining hygiene and sanitary conditions of Slaughter House.<br><br>Meat Shop not defined<br>NO Standards prescribed. | No provision prescribing for the manner and mode of maintaining hygiene and sanitary conditions of Slaughter House.<br><br>Meat Shop not defined<br>NO Standards prescribed. | No provision prescribing for the manner and mode of maintainin g hygiene and sanitary conditions of Slaughter House.<br><br>Meat Shop not defined NOStandar ds prescribed. | Liberal/Less provisions prescribing for the manner and mode of maintaining hygiene and sanitary conditions of Slaughter House.<br><br>Meat Shop not defined<br><br>NO Standards prescribed.<br><br>**NO** prescription. |

WWW.LIVELAW.IN



| | | | | | |
|---|---|---|---|---|---|
| defines *"food business"* and Clause (j) defines *"Food"*.<br>**Regulation 2.1.21 (5):** *Food Business Operators* shall comply the requirements given in different **PARTS** of **Schedule IV** depending on nature of business. | **NO** prescription. | **NO** prescription. | **NO** prescription. | **NO** prescription. | |

## PROCEDURE FOR GRANT OF LICENSE

| Act of 2006/Licensing and Registration Regulation 2011 | Act of 1916 | Act of 1959 | Adhiniyam 1961 | Act of 1947 |
|---|---|---|---|---|
| Regulation 2.1.2 prescribes for grant of license for Food business.<br>The application for license is to be preferred in Form B of Schedule 2 along with declaration provided in Annexure 1 and copies of documents mentioned in Annexure 2 of Schedule 2 along with fee prescribed in Schedule 3.<br><br>Clause (1) of Regulation 2.1.2 provides for Licensing Authority to determine the advisability of applying any specific condition keeping in view the need to ensure safety of food and public interest.<br><br>Regulation 2.1.6 provides that an application may commence his food business if from the date of making the complete application, a license is not issued within 60 days or the applicant has not received any intimation of inadequacy under Regulation 2.1.4 (2) or Inspection Report from the concerned Licensing Authority under Regulation 2.1.4(4) | Municipality is the Competent Authority to grant license in terms of the procedure prescribed in the bye-laws framed by the respective Municipalities. | Municipal Commissioner is the Competent Authority to grant license in terms of the procedure prescribed in the bye-laws framed by respective Municipal Corporations. | Nagar Panchayat is the Competent Authority to grant license in terms of the procedure prescribed in the bye-laws framed by respective Nagar Panchayats. | Gram Panchayat is the Competent Authority to grant license in terms of the procedure prescribed in the bye-laws framed by respective Gram Panchayats. |
| Under Clause 5 of Regulation 1.2.1 of Licensing and Registration Regulations 2011 the Designated Officer as per Section 36 of the Act of 2006 is the Registering Authority.<br><br>Under Regulation 2.1.1, a Petty Food Business Operator has to seek registration by submitting application in prescribed Form A of Schedule 2 along with Fee as per Schedule 3.<br><br>Regulation 2.1.1 prescribes for grant of license for Food business. | No provision for securing a separate registration certificate. | No provision for securing a separate registration certificate. | No provision for securing a separate registration certificate. | No provision for securing a separate registration certificate. |

WWW.LIVELAW.IN



# OBLIGATION OF LOCAL BODIES TO ESTABLISH/MAINTAIN SLAUGHTER HOUSES/PREMISES/MEAT SHOPS

| **Food Safety and Standards Act 2006 and Registrations framed thereunder.** | **Municipalities Act 1916** | **Municipal Corporation Act 1959** | **Kshetra Panchayat and Zila Panchayat Adhiniyam 1961** | **U.P. Panchayat Raj Act 1947** | **Prevention of Cruelty to Animals Act 1960** |
|---|---|---|---|---|---|
| **NO Obligation upon the State Government to Establish/maintain Slaughter house/Premises and /or Meat Shops** | **NO** obligation to establish Slaughter Houses OR Meat Shops<br><br>**Section 7(h)-**Duties of Municipality **to make reasonable provision** for constructing, altering and maintaining Markets and Slaughter Houses.<br><br>**Section 237-** Municipality may with the approval of District Magistrate, **fix premises** for slaughter of animals for sale.<br><br>**Section 238-** Municipality may by public notice with previous sanction of the District Magistrate fix premises for slaughter of animals not for sale. this provision is not applicable on slaughtering of animals for religious purposes.<br>**Section 239-** for preservation of public peace or order, the District Magistrate, subject to the control of the Prescribed Authority prohibit or regulate slaughter of animals for purposes other than sale and prescribed the mode and root by which such animal be brought and | **Section 114(xxi)-** Municipal Corporation **make reasonable and adequate provisions** for construction, maintenance and regulation of Slaughter Houses and markets<br><br>**Section 421-** Provides for Corporation Markets and Corporation Slaughter Houses and Private Markets and Private Slaughter Houses.<br><br>**Section 423-** Establishment and maintenance of private Slaughter Houses.<br><br>**Section 430 & 431-** Municipal Commissioner and District Magistrate respectively may permit slaughtering not for sale or for religious purpose. | **NO** obligation to establish Slaughter House or Meat Shop<br><br>**Section 197-** Kshetra Panchayat with the approval of District Magistrate fix premises in a controlled rural area for slaughter of animals for sale.<br><br>**Section 198** empowers District Magistrate to prohibit or regulate slaughter of animals not meant for sale, if it is necessary for preserving public peace or order.<br>**Section 239-Heading-D:** Zila Panchayat make bye laws for place of Slaughtering and establishment of Slaughter Houses and Markets. | No procedure prescribed | Prevention of Cruelty to Animals (Slaughter House) Rule 2001: **Rule 2(c)** provides *"Slaughter House" means a slaughter house wherein 10 or more than 10 animals are slaughtered per day and is duly licensed or recognized under a Central, State or Provincial Act or any rules or regulations made thereunder.*<br><br>**Rule 3(3)** of Prevention of Cruelty to Animals (Slaughter House) Rules 2001:- municipal or local authorities specified by Central Government to determine maximum number of animals to be slaughtered in a day.<br><br>**No** provision prescribing for the manner and mode of maintaining hygiene and sanitary conditions of Slaughter House. |

WWW.LIVELAW.IN



| | | | | | |
|---|---|---|---|---|---|
| | meet be conveyed.<br><br>**Section 298-List-I, Heading;** Municipality can make bye-laws for use of any place as Slaughter House. | | | | |

Apart from this, he has prepared an effective chart in relation to the writ petitions that are being heard in this bunch that are extracted hereinunder:-

## RESPECTIVE WRIT PETITIONS RELATING TO SLAUGHTER HOUSES/MEAT SHOPS

| Writ Petition No. | Respondents | Subject Matter | Prayers |
|---|---|---|---|
| **2599[MB] of 2015- Shahbudeem Vs State of U.P & Others** | 1.State of U.P through Principal Secretary Urban Development<br>2.Nagar Nigam Lucknow<br>3.SSP, Lucknow | Renewal of license for slaughtering and sale of meat | i) To issue a writ, order or direction in the nature of Mandamus commanding the Opposite Party No.2 to renew the licenses of the petitioners as well as the other Members of the Qureshi community, who are dealing with the slaughtering of animals and selling of the meat , without any delay.<br>ii) To issue a writ, order or direction in the nature of Mandamus commanding the Opposite Party No.2 to renew the licenses of the petitioners as well as the other Members of the Qureshi community, who are dealing with the slaughtering of animals and selling of the meat , without any delay.<br>iii) To issue a writ of prohibition against the Opposite Party No.3 for not making any obstruction in the business of the petitioners until the license of the petitioners are being renewed by the Opposite Party No.2.<br>iv) To pass such other order of direction , which this Hon'ble Court deems it fit and proper under the circumstances of the case.<br>v) To allow the Writ Petition with costs in favour of the petitioner. |
| **6871[MB] of 2017- Saeed Ahmad Vs State Of U.P & Others** | 1.State of U.P through Principal Secretary Urban Development<br>2.Nagar Palika Parishad Lakhimpur Kheri<br>3.SP, Lucknow<br>4. DM ,Lakhimpur Kheri | Renewal of license of goat meat shop | i) To issue a writ, order or direction in the nature of Mandamus commanding the Opposite Parties concerned not to restrain the petitioner to run his goat meat shop on his aforesaid meat shop licenses as contained in Annexure No.2 to the Writ Petition.<br>ii) To issue a writ , order of direction in the nature of Mandamus commanding the Opposite Party No.2 to renew the meat shop of goat of the petitioner for next year 2017-18, and also direct the Opposite Parties concerned not to interfere in the running of the aforesaid meat shop of th petitioner in any manner.<br>iii) To issue any other writ, order or direction |

WWW.LIVELAW.IN



| | | | |
|---|---|---|---|
| | | | which this Hon'ble Court may deem just and proper be passed in favour of the petitioner.<br>iv) Allow writ petition costs. |
| **7687[MB] of 2017- Faiz Mohammad Vs State of U.P & Others** | 1.State of U.P through D.M, Bahraich<br>2.Adhyaksh Zila Pacnchayat Bahraich<br>3.Station House Officer, PS-Fakharpur, District Bahraich | Renewal of license of buffalo meat shop | i) To issue a writ , order or direction in the nature of mandamus to direct the Opposite Parties to allow the petitioners to run their shop for selling the buffalos meat without any hindrance.<br>ii) To issue a writ , order of direction in the nature of Mandamus to direct the Opposite Parties to not interfere the business of the petitioners.<br>iii) To issue a writ , order or direction in the nature of Mandamus to direct the Opposite Parties to give benefit of the orders passed by this Hon'ble Court earlier.<br>iv) Any other order which is deemed just and appropriate in the nature and circumstances of the case also passed in favour of the petitioners in the interest of justice along with cost this Writ Petition. |
| **7768[MB] of 2017- Bhura & 11 Others Vs State of U.P & Others** | 1.State of U.P through Principal Secretary Urban Development<br>2.Collector , Hardoi<br>3.Superintendent of Police, Hardoi<br>4.Station Officer, PS Bilgram, Hardoi<br>5.Nagar Palika Parishad, Bilgram, Hardoi | Renewal of license of meat shop | i. To issue a writ , order or direction in the nature of Mandamus commanding the Opposite Parties to renew the license of meat shops of the petitioners and Opposite Party No.5 further command to decide the applications for renewal pending before him, as contained in Annexure No.1 to the Writ Petition.<br>ii. Any other order or direction which this Hon'ble Court may deem just and proper in the circumstances of the case.<br>iii. To allow the Writ Petition with costs.<br>iv. |
| **8293[MB] of 2017- Mohd Mustafa & 2 others Vs Sate of U.P & Others** | 1.Union of India through its Secretary, Ministry of Health and Welfare, New Delhi.<br>2.Food Safety and Standards Authority of India, F.D.A Bhawan, Kotla House , New Delhi through its Chairperson/Chief Executive Officer.<br>3.Chief Secretary, State of U.P, Bapu Bhawan, Lucknow<br>4.State of U.P through its Principal Secretary,Food Safety and Drug Administration , Civil Secretariat Lucknow<br>5.Commissioner, Food Safety , U.P, 9 Jagat Narain Road Lucknow<br>6.Designated Officer, Food Safety, Lucknow<br>7. Designated Officer, Food Safety, Lakhimpur Kheri<br>8.Designated Officer, Sultanpur | Renewal/grant of licenses/registrations for petty food business | i. To issue a writ , order or direction in the nature of Mandamus commanding the Respondents No.1 and 2 to amend Schedule IV of Regulation 2.1.2[1][5] Food Safety and Standards [Licensing and Registration of Food Business] Regulations 2011 relating to the specific hygienic and sanitary practices to be followed by food business operators engaged as manufacture, processing, storing and selling of meat and meat products for the petty shopkeepers.<br>ii. Issue a writ order or direction in the nature of Mandamus commanding the Respondents to construct requisite number of the Slaughterhouses, modern meat and chicken sops throughout State in the Rural and Urban areas.<br>iii. Issue a writ order or direction in the nature of Mandamus commanding the Respondents to renew/grant licenses/registrations to the petitioners forthwith to run their petty food business.<br>iv. Issue a writ order or direction in the nature of Certiorari quashing the Order dated 7.4.2017 passed by the Chairman, Nagar Palika Parishad Lakhimpur Kheri, contained in Annexure No.16 to the Writ Petition.<br>v. Such any other order or direction under the |

WWW.LIVELAW.IN



| | | | |
|---|---|---|---|
| | 9.Commissioner, Lucknow Division Lucknow<br>10.Principal Secretary, Finance, Civil Secretariat Lucknow<br>11.Secretary, Nagar Vikas Civil Secretariat Lucknow<br>12.Secretary, Ministry Welfare, Civil Secretariat Lucknow<br>13.Director, Local Bodies, U.P Indira Bhawan Lucknow<br>14.Director General of Police, U.P Lucknow<br>15.District Magistrate Lucknow<br>16.District Magistrate, Lakhimpur Kheri<br>17.District Magistrate Sultanpur<br>18.Lucknow Nagar Nigam Lalbagh through its Municipal Commissioner<br>19.Nagar Palika Parishad , Lakhimpur Kheri through its Chairman<br>20.Nagar Palika Parishad, Sultanpur through its Chairman<br>21.Kshetra Panchayat, District Sultanpur through its Chairman<br>22.Kshetra Panchayat, District Lakhimpur Kheri<br>23.Zila Panchayat District Lucknow<br>24.Uttar Pradesh Pollution Control Board , PICUP Chawan, Vibhuti Khand Gomtinagar Lucknow through its Member Secretary | | circumstances of the case also be passed in favour of the petitioner.<br>vi. Allow the petition of the petitioners with costs. |
| **8539[MB] of 2017- Imran and another Vs State of U.P. & Others** | 1.State of U.P through Principal Secretary Home Department<br>2.District Magistrate, Faizabad<br>3.SSP, Faizabad<br>4.Station House Officer, PS Patranga, District Faizabad<br>5.Zila Panchayat Faizabad | Slaughtering and selling of Buffalo meat. | i. To issue a writ , order or direction in the nature of Mandamus commanding the Opposite Parties to allow the petitioners to run their shop for selling the buffalo meat without any hindrance forthwith.<br>ii. To issue a writ , order or direction in the nature of Mandamus to direct the Opposite Parties not to interfere in the business of the petitioners.<br>iii. To issue a writ , order or direction in the nature of Mandamus to direct the Opposite Parties to give benefit of the orders passed by this Hon'ble Court earlier.<br>iv. Issue any other suitable order or direction which this Hon'ble Court may deem fit, just and proper under the circumstances of the case in favour of the petitioners. |

WWW.LIVELAW.IN



| | | | |
|---|---|---|---|
| | | | v. Allow the instant Writ Petition of the Petitioners with costs. |
| **8542 [MB] of 2017-Mohd Saleem Vs State of U.P. & Others** | 1.State of U.P through Principal Secretary Home Department<br>2.District Magistrate Lakhimpur Kheri<br>3.Superintendent of Police, Lakhimpur Kheri<br>4.Station House Officer, PS- Nighasan<br>Distt Lakhimpur Kheri<br>5.Zila Panchayat Lakhimpur Kheri | Slaughtering and selling of Buffalo meat.<br>However, prayer for running shop for selling Buffalo Meat | i) To issue a writ , order or direction in the nature of Mandamus commanding the Opposite Parties to allow the petitioner to run his shop for selling the buffalo meat without any hindrance forthwith.<br>ii) To issue a writ , order or direction in the nature of Mandamus to direct the Opposite Parties not to interfere in the business of the petitioner.<br>iii) To issue a writ , order or direction in the nature of Mandamus to direct the Opposite Parties to give benefit of the orders passed by this Hon'ble Court earlier.<br>iv) To issue a writ , order or direction in the nature of Mandamus to direct the Opposite Parties to give benefit of the orders passed by this Hon'ble Court earlier.<br>v) Allow the instant Writ Petition of the Petitioner with costs. |
| **8713[MB] of 2017-Zahid Ali and 22 others Vs State of U.P & Others** | 1. State of U.P through its Principal Secretary,Food Safety and Drug Administration<br>2.Chief Secretary Govt of U.P<br>3.District Magistrate Hardoi<br>4.Sub Divisional Magistrate,Tehsil Sandila Distt Hardoi<br>5.Executive Officer, Nagar Palika Parishad Tehsil Sandila District Hardoi | Renewal of license for slaughtering of buffalo | i) To issue a writ , order or direction in the nature of Mandamus thereby directing the Opposite Parties to renew the slaughtering licenses of the petitioners after fulfillment of the required documents by the Opposite Parties.<br>ii) To issue a writ , order or direction in the nature of Mandamus thereby directing the Opposite Parties to open the Slaughter house situated at Nagar Palika Parishad, Sandila District Hardoi forthwith.<br>iii) To issue a writ , order or direction in the nature of Mandamus thereby directing the Opposite Parties to take legal decision on the representations pending before them in accordance with law [Annexure No.2] to the Writ Petition.<br>iv) Any other writ, order or direction be passed which this Hon'ble Court may deem just and proper under the facts and circumstances of the case. |
| **8785[MB] of 2017-Ahmad Ali and 11 others Vs State of U.P & Others** | 1. State of U.P. through District magistrate Bahraich<br>2. Adyaksh Zila Panchayat Bahraich<br>3. Station House Officer, PS-Fakharpur District Bahraich. | Issue license for slaughtering and selling of buffalo meat. | i) To issue a writ, order or direction in the nature of Mandamus thereby directing the Opposite Parties to issue the license of slaughtering and selling of buffalos meat situated at Village Khalidpur [Pakharpur] Tehsil Kaiserganj, P.S. Pakharpur District Bahraich without any hindrance.<br>ii) To issue a writ, order or direction in the nature of Mandamus to direct the Opposite Parties to not interfere in the business of the petitioners.<br>iii) Issue any other writ, order or direction as this Hon'ble Court may deem just fit and proper in the circumstances of the case.<br>iv) Allow the cost of the Writ Petition in favour of the petitioner. |
| **9015 [MB] of 2017-Munavvar Ali and another** | 1. State of U.P. through Principal Secretary | Slaughtering and selling of Buffalo meat. However, | i) To issue a writ, order or direction in the nature of Mandamus to direct the Opposite |

WWW.LIVELAW.IN



| | | | |
|---|---|---|---|
| **Vs. State of U.P. and Others** | Home Department<br>2. District Magistrate Faizabad<br>3. Sr. Superintendent of Police Faizabad<br>4. Station House Officer of PS Rudauli, Distt Faizabad.<br>5. Zila Panchayat Faizabad | prayer for running show for selling Buffalo Meat | Parties to allow the petitioners to run their shop for selling the buffalo meat without any hindrance forthwith.<br>ii) Issue a writ order or direction in the nature of mandamus to direct the Opposite Parties not to interfere in the business of the petitioners.<br>iii) Issue a writ order or direction in the nature of mandamus to direct the Opposite Parties to give benefit of the orders passed by this Hon'ble Court earlier.<br>iv) Issue any other suitable order or direction which this Hon'ble Court may deem, fit, just and proper under the circumstances of the case in favour of the petitioners.<br>v) Allow the instant Writ Petition of the Petitioners with costs. |
| **9018 [MB] of 2017-Mohd Sarvar and 2 others Vs. State of U.P. & Others** | 1.State of U.P. through Principal Secretary Home Department<br>2.District Magistrate Faizabad<br>3.Sr. Superintendent of Police Faizabad<br>4.Station House Officer of PS Kotwali BIkapur, Distt Faizabad<br>5.Zila Panchayat Faizabad. | Permission for Slaughtering or selling of Buffalo meat.<br>However, prayer for running show for selling Buffalo Meat. | i) To Issue a writ, order or direction in the nature of Mandamus to direct the Opposite Parties to allow the petitioners to run their shop for selling the buffalo meat without any hindrance forthwith.<br>ii) Issue a writ order or direction in the nature of mandamus to direct the Opposite Parties not to interfere in the business of the petitioners.<br>iii) Issue a writ order or direction in the nature of mandamus to direct the Opposite Parties to give benefit of the orders passed by this Hon'ble Court earlier.<br>iv) Issue any other suitable order or direction which this Hon'ble Court may deem, fit, just and proper under the circumstances of the case in favour of the petitioners.<br>v) Allow the instant Writ Petition of the Petitioners with costs. |
| **9114 [MB] of 2017-Muheed and 2 others Vs State of U.P. & Others** | 1.State of U.P. through Principal Secretary Home Department<br>2.District Magistrate Faizabad<br>3.Sr. Superintendent of Police Faizabad<br>4.Station House Officer of PS Rudauli, Distt Faizabad<br>5.Zila Panchayat Faizabad. | Buffalo Meat Shop | i) To issue a writ, order or direction in the nature of mandamus to direct the Opposite Parties to allow the petitioners to run their shop for selling the buffalo meat without any hindrance forthwith.<br>ii) Issue a writ order or direction in the nature of mandamus to direct the Opposite Parties not to interfere in the business of the petitioners.<br>iii) Issue a writ order or direction in the nature of mandamus to direct the Opposite Parties to give benefit of the orders passed by this Hon'ble Court earlier.<br>iv) Issue any other suitable order or direction which this Hon'ble Court may deem, fit, just and proper under the circumstances of the case in favour of the petitioners.<br>v) Allow the instant Writ Petition of the Petitioners with costs. |
| **9129 [MB] of 2017-Mohd. Rasheed and another Vs State of U.P. & Others** | 1.State of U.P. through Principal Secretary Home Department<br>2.District Magistrate Faizabad | Permission for Slaughtering or selling of Buffalo meat.<br>However, prayer for running shop for selling | i) To issue a writ, order or direction in the nature of Mandamus to direct the Opposite Parties to allow the petitioners to run their shop for selling the buffalo meat without any hindrance forthwith. |

WWW.LIVELAW.IN



| | | | |
|---|---|---|---|
| | 3.Sr. Superintendent of Police Faizabad<br>4.Station House Officer of PS Patranga, Distt Faizabad<br>5.Zila Panchayat Faizabad. | Buffalo Meat. | ii) Issue a writ order or direction in the nature of mandamus to direct the Opposite Parties not to interfere in the business of the petitioners.<br>iii) Issue a writ order or direction in the nature of mandamus to direct the Opposite Parties to give benefit of the orders passed by this Hon'ble Court earlier.<br>iv) Issue any other suitable order or direction which this Hon'ble Court may deem, fit, just and proper under the circumstances of the case in favour of the petitioners.<br>v) Allow the instant Writ Petition of the Petitioners with costs. |
| **9132 [MB] of 2017-Mohd. Ahmad a Vs State of U.P. & Others** | 1.State of U.P. through Principal Secretary Home Department<br>2.District Magistrate Barabanki<br>3.Sr. Superintendent of Police Barabanki<br>4.Executive Officer, Nagar Palika Parishad Nawabganj, Barabanki | Slaughtering and selling of Buffalo Meat | i) To issue a writ, order or direction in the nature of Mandamus commanding Opposite Parties not to disturb the peaceful functioning of slaughtering house of petitioner for cutting and selling the meat, while the petitioner is a valid license, inspite of this the Opposite Parties are creating hindrance in peaceful functioning of the petitioner.<br>ii) Issue any other order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case may also be passed in favour of the petitioners.<br>iii) Allow the instant Writ Petition of the Petitioners with costs. |
| **9134 [MB] of 2017- Mohd. Shafeeq and another Vs State of U.P. & Others** | 1.State of U.P. through Principal Secretary Home Department<br>2.District Magistrate Barabanki<br>3.Sr. Superintendent of Police Barabanki<br>4.Executive Officer, Nagar Palika Parishad Nawabganj, Barabanki | Slaughtering and selling of Buffalo Meat | i) To issue a writ, order or direction in the nature of Mandamus commanding Opposite Parties not to disturb the peaceful functioning of slaughtering house of petitioner for cutting and selling the meat, while the petitioner is a valid license, inspite of this the Opposite Parties are creating hindrance in peaceful functioning of the petitioner.<br>ii) To issue a writ, order or direction in the nature of Mandamus commanding Opposite Parties to renew the license of slaughtering house of the petitioners which has been expired on 12.4.2017.<br>iii) Any other order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case may also be passed in favour of the petitioners.<br>iv) Allow the instant Writ Petition of the Petitioners with costs. |
| **9270 [MB] of 2017- Mohd Jakir and another Vs State of U.P. & Others** | 1. State of U.P. through Secretary Nagar Vikas<br>2. District Magistrate Barabanki<br>3. Chief Medical Officer/Local Health Officer, District Barabanki | Sale of Buffalo Meat Reliance placed on U.P. Municipal Corporation Act 1959 | i) To issue a writ, order or direction in the nature of Mandamus thereby commanding and direction to the Opposite Parties No.5 not to interfere or harass the petitioners in any manner whatsoever for doing the business of selling and cutting of buffalo meat in the shop situate in Village Khinjhna, Tehsil Fatehpur, Police Station Baddupur, District Barabanki.<br>ii) To issue a writ, order or direction in the nature of Mandamus thereby commanding and direction to the Opposite Parties No.2 and 3 to decide the representation of petitioners for renewal of license for selling and cutting of buffalo meat in the shop situate in Village Khinjhna, Tehsil Fatehpur, |

WWW.LIVELAW.IN



| | | | |
|---|---|---|---|
| | | | Police Station Baddupur, District Barabanki.<br>iii) Issue such other order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case in favour of the petitioners.<br>iv) allow the instant Writ Petition of the Petitioners with costs. |
| **9497 [MB] of 2017-Salehuddin and 5 others Vs State of U.P. & Others** | 1.State of U.P. through Principal Secretary Urban Development<br>2District Magistrate Sultanpur<br>3.Zila Panchayat Sultanpur<br>4.Nagar Panchayat Dostpur through Executive Officer, Tehsil Kadipur, District Sultanpur | Sale and cutting of Buffalo Meat<br>No Government Slaughter House<br>Reliance placed on Section 197 of U.P. Kshetra Panchayat and Zila Panchayat Adhiniyam 1961.<br>Quashing Order dated 23.03,2017, vide which the Executive Officer has cancelled the license of Slaughtering and selling of Buffalo Meat due to non availability of Slaughter House. | i) To issue a writ in the nature of Certiorari quashing the Order dated 23-3-2017 [Annexure No.1] of Writ Petition passed by Executive Officer, Nagar Panchayat Dostpur, District Sultanpur.<br>ii) Issue a writ in the nature of mandamus commanding the Opposite Parties to renew petitioners' license for 2017-2018 and not to disturb their business.<br>iii) Issue any other writ, order or direction in favour of the petitioners as this Hon'ble Court may deem fit and appropriate in the nature and circumstances of the case.<br>iv) Allow this Writ Petition with costs. |
| **9778 [MB] of 2017-Mohd Naseem Vs State of U.P. & Others** | 1.State of U.P. through Principal Secretary Urban Development<br>2.Nagar Nigam Lucknow<br>3District Magistrate Lucknow<br>4.Sr. Superintendent of Police, Lucknow | Sale of Buffalo Meat | i) To issue a writ, order or direction in the nature of Mandamus commanding the respondents to renew the license of the petitioner granted him earlier and renewed it till 30.03.2015.<br>ii) To issue a writ, order or direction in the nature of Mandamus commanding the respondents to allow the petitioner to run his buffalo meat shop properly and smoothly.<br>iii) Issue any other suitable order or direction which this Hon'ble Court may deem fit, just and proper under the circumstances of the case in favour of the petitioner.<br>iv) Allow the Writ Petition of the petitioner with costs. |
| **9792 [MB] of 2017-Mohd Shadab Vs State of U.P. & Others** | 1.State of U.P. through Principal Secretary Home<br>2District Magistrate Faizabad<br>4.Sr.Superintendent of Police, Faizabad<br>5.Station House Officer of P.S.-Raunahi, District Faizabad<br>6.zila Panchayat Faizabad | Permission for slaughtering and selling of Buffalo Meat.<br>Reliance on Orders of Hon'ble High Court with regard to no interference in petitioner's business of slaughtering and selling of Buffalo meat in absence of any statutory rules. | i) To issue a writ, order or direction in the nature of Mandamus commanding the Opposite Parties to allow the petitioner to run his shop for selling the buffalo meat without any hindrance forthwith.<br>ii) Issue a writ, order or direction in the nature of mandamus to direct the Opposite Parties not to interfere in the business of the petitioner.<br>iii) Issue a writ order or direction in the nature of mandamus to direct the Opposite Parties to give benefit of the orders passed by this Hon'ble Court earlier.<br>iv) Issue any other writ, order or direction which this Hon'ble Court may deem fit, just and proper in the circumstances of the case in favour of the petitioner.<br>v) Allow the Writ Petition with cost. |

WWW.LIVELAW.IN



| | | | |
|---|---|---|---|
| **10171 [MB] of 2017-Mohd Akram Vs State of U.P. & Others** | 1.State of U.P. through Principal Secretary Urban Development<br>2Nagar Nigam Lucknow<br>3District Magistrate Lucknow<br>4.Sr. Superintendent of Police, Lucknow | Buffalo Meat Shop License not renewed since 31.03.2002 | i) To issue a writ, direction or order in the nature of mandamus commanding the respondents to renew the license of the petitioner granted him earlier and renewed till 31.03.2002.<br>ii) To issue a writ, direction or order in the nature of mandamus commanding the respondents to allow the petitioner to run his buffalo meat shop properly and smoothly.<br>iii) Allow the petition of the petitioner with costs. |
| **[MB] of 2017-Mujeeb and 4 others Vs State of U.P. & Others** | 1.State of U.P. through Principal Secretary Urban Development<br>2.Nagar Nigam Lucknow<br>3.District Magistrate Lucknow<br>4.Sr. Superintendent of Police, Lucknow | Buffalo Meat Shop License not renewed since 2007, 3013 and 2015 respectively. | i) To issue a writ, direction or order in the nature of mandamus commanding the respondents to renew the license of the petitioners granted their earlier and renewed all of them.<br>ii) To issue a writ, direction or order in the nature of mandamus commanding the Respondents to allow the petitioners to run their buffalo meat shops properly and smoothly without any hindrance.<br>iii) Issue any other writ or direction as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.<br>i) Allow the petition of the petitioner with cost. |
| **10163 [PIL] of 2017-Ramjan ali Vs State of U.P. & Others** | 1.State of U.P. through its Principal Secretary, Nagar Vikas Department, Civil Secretariat Lucknow<br>2.Chief Secretary, State of U.P. Lucknow<br>3.Director Local Bodies, U.P. Lucknow<br>4.Commissioner, food Safety and Drugs Administration, U.P. Lucknow<br>5.Nagar Palika Parishad, District Mirjapur through its Executive Officer. | | i) To issue a writ, order or direction in the nature of Certiorari quashing the minutes of the Meeting/G.O. dated 27.03.2017 passed by Opposite Party No.2 contained as Anenxure No.1 to Writ Petition.<br>ii) Issue a writ, order or direction in the nature of mandamus commanding the respondents to provide alternate arrangement for slaughtering till construction of modern Slaughter Houses as per the decision dated 07.01.2015 through the scientific manner for disposal of the slaughter waste contained as Annexure No.4 to the Writ Petition.<br>iii) Such any other order or direction under the circumstances of the case also be passed in favour of the petitioner.<br>iv) Allow the petition of the petitioner with costs. |
| **9740 [MB] of 2017-Arshad Jamal and another Vs State of U.P. & Others** | 1.State of U.P. through its Principal Secretary, Nagar Vikas<br>2.Chief Secretary, State of U.P. Lucknow<br>3.Food Safety and Standards Authority of India, F.D.A. Bhawan, Kotla House, New Delhi through its Chairperson/Chief | | i) To issue a writ, order or direction in the nature of Mandamus commanding the respondents to sanction the DPR of Rs.492.87 lacs for construction of Service Oriented Modern Slaughter House namely Saarhu Slaughter House for the Nagar Palika Parishad Maunath Bhanjan District Mau and further be pleased to release the fund forthwith.<br>ii) to issue a writ, order or direction in the nature |

WWW.LIVELAW.IN



| | | | |
|---|---|---|---|
| | Executive Officer.<br>4.Uttar Pradesh, Pollution Control Board, Vibhuti Khand, Gomtinagar Lucknow through its Member Secretary.<br>5. Nagar Palika Parishad, Mau Nath Bhanjan Dutt Mau through its Executive Officer. | | of Mandamus commanding the respondents to make an inquiry as to why the High Level Committee is adopting pick and choose policy for sanctioning and releasing the fund for construction of the modern slaughter houses in State of House.<br>iii) To issue a writ, order or direction int he nature of Mandamus commanding the Opposite Parties not to construct any shop in the park in question.<br>iv) Such any other order or direction under the circumstances of the case also be passed in favour of the petitioner.<br>v) allow the petition of the petitioners with costs. |
| **2599[MB] of 2015- Shahbudeem Vs State of U.P & Others** | 1.State of U.P through Principal Secretary Urban Development<br>2.Nagar Nigam Lucknow<br>3.SSP, Lucknow | Renewal of license for slaughtering and sale of meat | vi) To issue a writ, order or direction in the nature of Mandamus commanding the Opposite Party No.2 to renew the licenses of the petitioners as well as the other Members of the Qureshi community, who are dealing with the slaughtering of animals and selling of the meat , without any delay.<br>vii) To issue a writ, order or direction in the nature of Mandamus commanding the Opposite Party No.2 to renew the licenses of the petitioners as well as the other Members of the Qureshi community, who are dealing with the slaughtering of animals and selling of the meat , without any delay.<br>viii) To issue a writ of prohibition against the Opposite Party No.3 for not making any obstruction in the business of the petitioners until the license of the petitioners are being renewed by the Opposite Party No.2.<br>ix) To pass such other order of direction , which this Hon'ble Court deems it fit and proper under the circumstances of the case.<br>x) To allow the Writ Petition with costs in favour of the petitioner. |
| **6871[MB] of 2017- Saeed Ahmad Vs State Of U.P & Others** | 1.State of U.P through Principal Secretary Urban Development<br>2.Nagar Palika Parishad Lakhimpur Kheri<br>3.SP, Lucknow<br>4.DM ,Lakhimpur Kheri | Renewal of license of goat meat shop | v) To issue a writ, order or direction in the nature of Mandamus commanding the Opposite Parties concerned not to restrain the petitioner to run his goat meat shop on his aforesaid meat shop licenses as contained in Annexure No.2 to the Writ Petition.<br>vi) To issue a writ , order of direction in the nature of Mandamus commanding the Opposite Party No.2 to renew the meat shop of goat of the petitioner for next year 2017-18, and also direct the Opposite Parties concerned not to interfere in the running of the aforesaid meat shop of th petitioner in any manner.<br>vii) To issue any other writ, order or direction which this Hon'ble Court may deem just and proper be passed in favour of the petitioner.<br>viii) Allow writ petition costs. |

WWW.LIVELAW.IN



With the aid of the aforesaid documents Dr. L.P. Mishra has substantiated the submissions of the learned Advocate General by urging that there is neither any constitutional obligation nor any statutory obligation of the State to provide slaughter houses or such facilities nor is there any such corresponding duty now left to be performed by the local bodies to the extent; the area is now covered under the act 2006 Act and the rules and regulations framed thereunder. Thus, his contention is also to the same effect that the State is under no such obligation nor are the local bodies enjoined with any such responsibility to construct slaughter houses or make provisions for the same.

He further submits that adherence to the directions of the Hon'ble Supreme Court and the National Green Tribunal is a compulsion for the State and the State cannot afford to deviate from the same, lest it should bring about any contentious situation. He therefore submits that obedience to the said directions is to be ensured and the action taken by the State Government is perfectly in conformity with the same. He urges that the State can always frame a policy, and can or may establish a slaughter house or even otherwise the local bodies are free to do so but in accordance with the acts and statutes now applicable. However the same does not obligate either the State or the local authorities to make such provisions compulsorily and offer it to the petitioners.

He further submits that there is no trenching upon the powers of the local authorities or the State Government under the State Act by any of the provisions of the Central Act of 1960 or the 2006 Act and the rules and regulations framed thereunder. They operate in their respective fields, inasmuch as, local self-governance is available to all the local bodies under the respective State Acts namely the U.P. Kshetra Panchayat and Zila Panchayat Act 1961, the U.P. Municipalities Act, 1916 and the U.P. Municipal Corporations Act, 1959. These local bodies therefore continue to retain their authority to exercise all such

WWW.LIVELAW.IN



powers that are available to them to the exclusion of the corresponding provisions now available under the 2006 Act and the rules and regulations framed thereunder. Even otherwise there is no conflict arising, inasmuch as, as pointed out by the State Government through the affidavit in Writ Petition No.6871 (M/B) of 2017 and Writ Petition No.2599(M/B) of 2015, the concerned local body ceases to have any jurisdiction to grant license or registration for slaughtering or vending of any such animal foodstuff even though as pointed out by him, a simple no objection is required from the local body keeping in view the fact that the local body or the authorities under the State enactments have an obligation to earmark the place of slaughtering, but this by itself does not oblige either the State or the local bodies to compulsorily construct a slaughter house and provide it for the business of the petitioners. This is the choice of the petitioners or any other interested person including the local body itself or for that matter the State to set up a slaughter house in accordance with the 2006 Act. He reiterates that there is no such obligation or responsibility of the State to provide for a slaughter house. The power to regulate under the legal provisions does not include the obligation to construct and provide a slaughter house.

While answering the issues framed by him, he submits that none of these issues as a matter of fact have been appropriately pleaded and in the absence of any such pleadings the application of law would be of no avail as no default either on the part of the Government or on the part of the local bodies has been pointed out so as to issue a mandamus in favour of the petitioners for either grant or renewal of a license or even registration under the 2006 Act. He has also expressed his concern about the manner in which the implementation of the scheme if at all was being under taken had not been appropriately handled by the predecessor government. He submits that if budgetary allocations had been inappropriately spent in the past, the same cannot be a ground for the petitioners to contend that the State

WWW.LIVELAW.IN



is under an obligation to keep on spending money for modernisation of slaughter houses in the manner as desired by the petitioners. He has particularly invited the attention of the Court to Writ Petition No.9740 of 2017 which is a public interest litigation filed by a former Chairman of the local body to contend that this is a sponsored litigation without bringing correct facts on record and the said public interest litigation that has been filed complaining of discrimination and non-implementation of the scheme as compared to other slaughter houses in the State has a totally incorrect foundation as the proposal for setting up the slaughter house at Mau Nath Bhanjan had already been rejected by the Pollution Control Board on 11.11.2013.

Coming to the local acts, he has in particular invited the attention of the Court to the provisions of Sections - 35 & 36 of the U.P. Municipalities Act, 1916, to the provisions of Section - 533 of the U.P. Municipal Corporations Act, 1959 and to the provisions of Sections - 197, 229, 230 of the 1961 Act read with Schedule - IV thereof to urge that there is a provision under the local acts that where the local bodies fail to perform their duties and obligations under the said acts, it is the State Government that can take action in any emergent situations on account of non-performance of such obligations and duties by the local bodies respectively. However, this residuary power in the State cannot travel beyond the scope of the provisions of the act nor the same creates an obligation on the State to take such action, that is presently involved, on its own.

He has then taken the Court through the definitions of the word "Slaughter House", the phrase "Local Authority" and "Local Area" occurring in the different provisions to contend that upon an extensive search of all these provisions no liability or obligation has been created on the State to make any such provision as claimed by the petitioners for establishing and running a slaughter house.

WWW.LIVELAW.IN



He submits that the allegations made in Writ Petition No.10163 (PIL) of 2017 about such activities being promoted in the neighbouring State of Madhya Pradesh do not give rise to any issue of breach of fundamental rights either on the ground of discrimination or any obligation of the State. This being a State subject, it is for the respective State to take a decision and not for the petitioners to claim any such parity. He submits that this unlawful trade in animal foodstuff and the unhygienic existing methods of slaughtering had to be curbed for which effective steps have been taken and the action of the State Government that is sought to be impugned in some of the writ petitions is neither unconstitutional, illegal or even arbitrary so as to construe that the State is attempting to prohibit the sale and consumption of animal foodstuff. He urges that if the predecessor government had taken decisions in conformity with the law it does not necessarily mean that any error earlier made cannot be rectified by the successor government even if it is obliged to carry out the policies and obligations by the earlier government. Consequently, the State Government now is taking all effective steps for discharging its obligation in accordance with law and the writ petitions must fail and deserve to be dismissed.

Shri S.B. Pandey, learned Assistant Solicitor General of India has also adopted the arguments on behalf of the State and has further vehemently urged that so far as the Union of India is concerned it has framed a comprehensive law, the provisions whereof are not under challenge. The prayer made in one of the writ petitions namely Writ Petition No.8293 (M/B) of 2017 to amend Schedule - IV of the regulations namely Food Safety and Standard (Licensing and Registration of Food Businesses) Regulation, 2011 is misconceived, inasmuch as, no mandamus can issue to perform a legislative act by the Central Government. The code is a complete code and the provisions for registration are simpler for petty food manufacturers and even the licensing provisions are effective to the extent that if after an application

WWW.LIVELAW.IN



is moved, and the same is not attended to, then after an expiry of a reasonable period as provided under the rules, the license is deemed to have been granted. On rejection there is a provision of appeal and further remedies under the Act and the regulations, as such, none of the provisions are such so as to create any hindrance or difficulty for which a hue and cry has been raised before this Court attempting to use it as a platform to raise a demand by sloganeering.

In rejoinder Shri B.K. Singh for the petitioners and the other learned counsel have reiterated their submissions made earlier and have urged that the pleadings have been made complaining of the violation of fundamental rights and for preventing the respondents from taking such State action that impinges upon the right of the petitioners to carry on their age-old trade and profession, and also on the rights of the individuals for consuming the food of their choice. He submits that this is a clear invasion of even the individual rights under Article 21 of the Constitution of India. In the specific case of Mau Nath Bhanjan in Writ Petition No.9740 (PIL) of 2017, he urges that the letter which has been produced by Dr. L.P. Mishra being the refusal of the Pollution Control Board to continue the project of the slaughter house, is clearly contradicted with the documents on record particularly the District Level Committee constituted for the said purpose where a decision was taken on 30.03.2016 for continuing with the said project that was also attended by the Regional Pollution Control Board Officer of Azamgarh. The said document is annexure - 6 to the aforesaid writ petition and he therefore submits that any decision conveyed earlier on 11.11.2013 was either not known to the Regional Pollution Control Board Officer or inspite of having knowledge of the same, the decision was consciously taken, as such, any earlier indication of not giving permission by the Pollution Control Board is of no avail.

WWW.LIVELAW.IN



He has reiterated all his earlier submissions and has urged that by making no provision, by giving no facilities and by denying access directly and indirectly, the action taken by the State in undue haste has resulted in this situation and therefore, the writ petitions deserve to be allowed for which appropriate directions can always by this Court by moulding the reliefs as prayed for. He submits that the pleadings in essence are already in the shape of the invasion of the rights as experienced by the petitioners that have been supplemented through the legal arguments at the bar under the relevant provisions and therefore, the argument on behalf of the respondents that the petitions should be dismissed for want of pleadings is an argument only to avoid the obligations which the State has failed to discharge. He therefore contends that appropriate directions be issued for which the petitioner shall ever pray.

Having heard learned Counsel for the parties and having traversed the aforesaid facts and the provisions that have been placed before us as well as the decisions and directions of the Apex Court and this Court, there are certain undisputed areas that may be set at rest at the very outset involved in these petitions. It is not the case of the State that it is making any attempt to either prohibit slaughtering or vending of animal food. The stand taken by the State Government is clearly to the effect that it is regulating this business and vending for ensuring lawful methods to be adopted and unlawful methods being prevented for carrying of such trade and business. There is no dispute that the food supply should conform to the basics of hygiene and cleanliness and food safety. There is also no dispute that such trade and business can be regulated including that through licensing provisions. There is also no dispute of the fact that such trade and business has been permitted by the appropriate regulations under the relevant laws even prior to the enforcement of the 2006 Act and the Rules and Regulations framed thereunder. Thus in the absence of any such plea on behalf of the State to impose prohibition of such trade and business which also is not directly reflected in the impugned

WWW.LIVELAW.IN



Government Orders, there cannot be any assumption or presumption of such prohibition or else that would violate constitutional rights and the fundamental rights guaranteed under the Constitution of India.

It is the issue of implementation of codified law through the respective authorities and it's practical implementation that has brought to the fore the filing of these writ petitions giving a cause of apprehension in the minds of the petitioners that they will be rendered unemployed and would be loosing their livelihood. This also gives rise to a consequential apprehension that it would affect an individual to consume food of his own choice resulting in breach of Article 21 of the Constitution of India. Thus it is the implementation part and the obligations, duties and responsibilities to be discharged by the State and local bodies and any alleged failure on their part that has given rise to these petitions. The claim of rights and the corresponding obligations therefore being a matter of assessment under the relevant laws and then it's effective implementation appears to be the core issue on which the action or cause on behalf of the petitioners would fail or succeed. It is correct that there are some deficiencies in the pleadings on facts and figures including the defaults and the nature of the obligations for which the reliefs have been prayed for but after filing of the initial petitions the same appears to have been gradually improved upon with additions by filing of two Public Interest Litigations (PILs) and a couple of miscellaneous petitions about which reference has been made here-in-above. Thus, during the course of the pendency of these proceedings, the relevant Government Orders and the measures undertaken by the predecessor Government for implementing the law in order to modernize and set-up slaughterhouses has been brought on record. One can say that the initial defects pointed out by the respective counsel were removed by filing subsequent petitions but not to the full satisfaction of the respondent-State or the Union of India who have consistently maintained that in the absence of appropriate

WWW.LIVELAW.IN



pleadings the writ petitions deserves to be dismissed. In spite of this, learned Counsel for the petitioners have made their efforts to bring forward whatever relevant material they had been able to gather in this regard but the issues have been more ably assisted by the learned Advocate General, the learned Assistant Solicitor General of India and the learned Special Counsel for the State and his team who have in the real sense come to the aid of the Court in crystallizing the issues that deserve to be answered in these petitions.

The situation could have been more comfortably dealt with if the State itself would have undertaken an extensive exercise in assessing all such issues that have now been raised before the Court before taking any precipitate action by issuing Government Orders. For this we had on the previous occasions noted the submissions in our orders on behalf of the State that the matter is being looked into and studied by a High-Powered Committee for taking appropriate steps and declaring the policy of the Government under the law for the time being in force but in spite of this information having been given to the Court, the only affidavit which has been filed on behalf of the state in two of the writ petitions referred to above in the shape of supplementary counter affidavits is that the said Committee is making all endeavours to do the needful. Nothing has been brought before us after passing of such orders before this Court what deliberations have been made and what action has been taken by the State Government to study the entire issue in the constitutional, the legal and the practical aspects of implementation of the 2006 Act, the Rules and the Regulations framed thereunder as well as the other provisions in this regard. We may put on record that had this effort been made by the State Government more appropriately before taking any precipitate action the same could have been appreciated by this Court and could have been an aid in resolving the issue more effectively.

WWW.LIVELAW.IN



That having not been brought before us in any form, we had to call upon the learned Advocate General and Dr. L. P. Misra on behalf of the State to assist us with whatever material including the legal provisions they had to proceed in the matter. The learned Advocate General also during the course of his submissions has urged that if need be detailed counter affidavits can be filed in the event the matter has to be heard any further if the Court comes to the conclusion that the writ petitions deserve to be entertained. It is in this background that the Court is now proceeding with these cases.

To understand the conflict that has been raised, the relevant entries of List III and List II of the 7th Schedule to the Constitution have already been extracted here-in-above. A comparison of these two lists would leave no room for doubt that so far as trade and commerce in food stuffs are concerned, the same falls within the entry 33 (b) of List III of the 7th Schedule to the Constitution of India. Thus, the Union Government was empowered to frame the law in relation to the subject matter and consequently, the 2006 Act was framed the provisions whereof are not under challenge before us either on the ground of competence or otherwise. In the absence of any such challenge raised, we proceed on the presumption that the said provisions are attracted in the controversy.

The main thrust of the arguments of the respondents is to the effect that whatever corresponding laws existed at the time of the enactment of the 2006 Act, they all stood repealed either expressly or impliedly and this Act has an overriding effect as per the provisions of Section 89 and Section 97 (2) thereof. The said provisions are extracted hereunder:-

> *"89.* ***Overriding effect of this Act over all other food related laws*** *-- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act."*

WWW.LIVELAW.IN



> *"92 (2) If there is any other law for the time being in force in any State, corresponding to this Act, the same shall upon the commencement of this Act, stand repealed and in such case, the provisions of Section 6 of the General Clauses Act, 1897 (10 of 1897) shall apply as if such provisions of the State law had been repealed."*

This has to be viewed in the light of the arguments as to the obligations of the State and the Local Bodies to be discharged under the relevant Act and Rules. It is no doubt true that the 2006 Act and the Regulations framed thereunder are a complete Code and being framed under the relevant entry within the concurrent list are binding on the state and it's authorities. Thus, the registration and the licensing provisions under the said Act being a corresponding law vis-a-vis the licensing of such trade in animal food and slaughtering of animals would cover the field. The question is, as to whether it is the total exclusion of the Local Acts and the bye-laws framed thereunder by the respective local bodies or there is some power left to be exercised by the local bodies and the State in this regard. For this, if we compare the provision in relation to the respective obligations and duties cast under the Local Bodies, we find that apart from the issue of licensing, the said Acts also provide for establishing and maintaining slaughterhouses and also regulating the premises of meat shops. For this we may refer to the chart extracted here-in-above under the heading "Obligation of Local Bodies to establish/maintain slaughterhouse/ premises/meat shops. What we find is that the Municipal Corporation Act, 1959, that is applicable to Municipal Corporations, like for example in Lucknow Section 114 (xxi) read with Sections 421 and 423 clearly indicate that the Municipal Corporation is obligated to establish and maintain slaughterhouses apart from regulating private slaughterhouses. Chapter XVI of the 1959 Act contains Section 422 and Sub-Section (a) thereof clearly obliges the Municipal Commissioner to construct a slaughterhouse upon being authorized by the Corporation. The aforesaid Section has been omitted from being mentioned in Chart - 4 referred to here-in-above and is extracted hereunder:-

WWW.LIVELAW.IN



> *"422. **Municipal Commissioner powers in respect of Corporation markets and slaughter-houses, etc.** -- Subject to the provisions of this Act and the rule and bye-laws framed thereunder the Municipal Commissioner shall have the power --*
>
> *(a) upon being authorized by the Corporation in that behalf, **to construct,** purchase, take on lease or otherwise acquire any building of land for the purpose of establishing a Corporation market or a Corporation **slaughter-house** or stockyard within, and with the prior sanction of the State Government, without the limits of the Corporation and of extending or improving any existing Corporation market or **slaughter-house**;"*

A conjoint reading of Sections 421 upto 439 of the U.P. Municipal Corporations Act, 1959 leaves no room for doubt that a Municipal Corporation is under an obligation to discharge such duties. This is further fortified by clause (b) of Section 422 which is extracted hereunder:-

> *"(b) from time to time, **to build and maintain** such Corporation markets, **slaughter-houses** and stockyards and such stalls, shops, sheds, pens and other buildings or conveniences as may be deemed necessary for the use of the persons carrying on trade or business in, or frequenting, such Corporation markets, **slaughter-houses** or stockyards;"*

It is thus clear that the aforesaid provisions were made and did exist obliging the setting up of such slaughterhouses by the Local Bodies under the U.P. Municipal Corporations Act, 1959. There is no such corresponding provision under the 2006 Act so as to treat the aforesaid obligation to have been repealed.

Similarly Section 7 (1) (h) of the U.P. Municipalities Act, 1916 defines the duties of a Municipality under the 1916 Act to construct, alter and maintain other facilities including slaughterhouses. The same is extracted hereunder:-

> *"7 (1) (h) constructing, altering and maintaining public streets, culverts, markets, **slaughter-houses,** latrines, privies, urinals, drains, drainage works and sewerage works;"*

WWW.LIVELAW.IN



The Municipality has the power to make bye-laws in terms of Section 298 (2) List 1 (F) which is to the following effect:-

***"F-Markets, slaughter-houses, sale of food etc.***

*(a) prohibiting, subject to the provision of Section 241, use of any place as a slaughter-house, or as a market or shop for the sale of animals intended for human food or of meat or of fish, or as a market for the sale of fruit or vegetables, in default of a licence granted by the Municipality or otherwise than in accordance with the conditions of a licence so granted;*

*(b) prescribing the conditions subject to which and circumstances in which and the areas or localities in respect of which, licences for such use may be granted, refused, suspended or withdrawn;*

*(c) providing for the inspection of, and regulation of conduct of business, in a place used as aforesaid, so as to secure cleanliness therein or minimize any injuries, offensive or dangerous effect arising or likely to arise therefrom;*

*(d) providing for the establishment, and except so far as provision may be made by bye-laws under sub-head (c) for the regulation and inspection of markets and slaughter-houses, of livery stables, of encamping grounds of sarais, of flour-mils, of bakeries, of places for the manufacture, preparation or sale of specified articles of food or drink, or for keeping or exhibiting animals, for sale on hire or animals of which the produce is sold, and of places of public entertainment, or resort, and for the proper and cleanly conduct of business therein;*

*(dd) prescribing the conditions subject to which, and the circumstances in which, and the areas or locality in respect of which, licences for the purposes of sub-head (d) may be granted, refused, suspended or withdrawn, and fixing the fees payable for such licences, and prohibiting the establishment of business places mentioned in sub-head (d) in default of license granted by the Municipality or otherwise than in accordance with the conditions of a licence so granted; and*

*(e) in a municipal area, where a reasonable number of slaughter-houses has been provide or licensed by the Municipality, controlling and regulating the admission within limits of the*

WWW.LIVELAW.IN



> *municipal area, for purposes of sale, of the flesh other than cured or preserved meat and any cattle, sheep, goats or swine slaughtered at a slaughter-house or place not maintained or licensed under this Act."*

Similarly, once again Section 197 of the U.P. Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961, the District Magistrate is obliged to fix premises where such slaughtering can be carried out for sale. As regards rural areas, Section 197 of the 1961 Act is extracted hereunder:-

> *"197.* ***Place for slaughter of animals for sale*** *-- (1) The Kshettra Panchayat may, with the approval of the District Magistrate, fix premises in a controlled rural area for the slaughter of animals, or animals of any specified description for sale, and may, with the like approval, grant and withdraw licences for the use of such premises.*
>
> *(2) When such premises have been fixed, no person shall slaughter any such animal for sale at any other place within a radius of two miles from such premises.*
>
> *(3) Should any one slaughter for sale any such animal at any other place within the radius of two miles, he shall be liable on conviction to a fine which may extend to twenty rupess for every animal so slaughtered."*

Sections 197 and 198 of the 1961 Act are indicators fixing the responsibility on the concerned Local Body with the approval of the District Magistrate to locate and fix the premises for slaughtering of animals. This obligation therefore in the rural areas has also to be taken notice of unless there are any other contrary provisions under the U.P. Panchayat Raj Act, 1947 and the Rules framed thereunder. These obligations therefore also indicate the duties to be discharged for providing a space that are activities not covered by the 2006 Act.

A similar provision is there in Section 237 of the U.P. Municipalities Act, 1916.

WWW.LIVELAW.IN



Thus prior to 2006 Act, the said Acts were already in force and it did oblige the Municipal Corporations and the Municipalities to discharge the obligations. It therefore cannot be said that the Local Bodies were totally denuded of their obligations to perform any such function after the promulgation of the 2006 Act and the regulations. It therefore cannot be construed that they had no function to perform at all as an obligation to set-up a slaughterhouse. To the contrary, there are other penal provisions referred to in the chart extracted here-in-above which prohibit the slaughtering of animals at other places than fixed by the Local Body concerned.

The issue is, as to whether such function of the Local Body to provide a place earmarking a slaughterhouse or even setting up a slaughterhouse is not an obligation by virtue of the 2006 Act and the Regulations framed thereunder. A perusal of the provisions of 2006 Act and the Rules and Regulations thereunder leaves no room for doubt that the same have been framed for ensuring hygiene and food safety relating to the animal food stuff as well but the said provisions as is evident from the arguments advanced and the provisions pointed out, this area of providing a space where the slaughterhouse can be set-up is subject to '*No Objection*' from the local authority concerned. The '*No Objection*' is yet and still to be given by the local authority as is contained in the terms of the grant of license under the 2006 Act. This part of the Regulation is within the governance of the Municipal Corporation. The word '***local authority***' as such has not been defined under the 2006 Act. It is only the phrase '***Local Area***' that has been defined under Section 3 (1) (zb) of the 2006 Act. The word '***local authority***' has been defined under Section 2 (e) of the Prevention of Cruelty to Animals Act, 1960, and therefore aid can be taken therefrom to understand that no objection that has to be obtained from the local authority under the 2006 Act is in reference to the local Municipality, Municipal Corporation or such Local Body, like Kshettra Panchayat or Zila Panchayat that has control of local self-governance in the area concerned. It should not be forgotten

WWW.LIVELAW.IN



that these Local Bodies in matters of self-governance have now been given a constitutional status under Chapter IX and Chapter IX-A of the Constitution of India, and therefore their roles cannot be diminished in the matters of governance to the extent the laws permit them to do so. The Local Bodies are also enjoined with the duties of maintaining hygiene, sanitation or other local conditions congenial for human conditions to live. Thus a Local Body and it's authorities will continue to have this role to play in making a provision for providing space and for setting up of a slaughterhouse. To this extent, provisions of Sections 89 and 97 (2) of the 2006 Act and the Rules and Regulations framed thereunder do not have any overriding effect so as to denude the local authorities of such functions as indicated above.

It may not be forgotten that the respective laws relating to the subject of agriculture, that is relatable to Entries 14, 15 and 21 of List 2 of the 7th Schedule to the Constitution of India, is exclusively within the State and the Laws framed in this regard that exist, namely, the U.P. Zamindari Abolition and Land Reforms Act, 1950 (now repealed) and the U.P. Revenue Code, 2006 and the 2016 Rules framed thereunder read with the U.P. Panchayati Raj Act, 1947 and the Rules framed thereunder while provide for promotion of these dimensions of agriculture which includes pisiculture, poultry, frming, piggery and other veterinary related farming including goats and lambs. Such activities are directly connected with animal food consumption. The State therefore also has an obligation under these laws and it has been continuously promoting such activity the processing whereof particularly in the present context has to be facilitated. This is also in the case of dairies, horticulture and other activities and therefore it cannot be said that the State does not have any constitutional or legal obligation when it comes to make provisions for such facilities of running slaughterhouses or even for ensuring food safety and health standards. As has been urged by the petitioners, the State will also have to look into as to whether any adequate means of infrastructure including laboratory and such other facilities of testing animal food

WWW.LIVELAW.IN



products are within the easy reach of not only urban areas but remote rural areas for facilitating such business. The State therefore cannot wriggle out of it's responsibilities except for implementing the Rules, Regulations of Licensing and penal action.

The next comes the issue of the obligation of the State. If the Constitution gives power to frame laws, then correspondingly it also enjoins and obligates upon the State to implement laws without impinging upon the fundamental rights guaranteed under the constitution. A regulatory law if becomes prohibitory in effect has to be tested on the anvil of the fundamental rights guaranteed under Chapter III of the Constitution of India. The right to carry on trade and business in the present context is already acknowledged and is undisputed by the respondents themselves. The only dispute is about the obligations cast on the State as provided for and already implemented by the State. It is here that the petitioners have discharged their duty by bringing on record those Government Orders that were issued in the past by the State Government itself to implement the policy of modernizing and setting up slaughterhouses in compliance of the directions issued in the case of ***Laxmi Narain Modi (supra)*** and the directions of the Central Government while proceeding to enforce the same as also the provisions of the 2006 Act and the Rules and Regulations framed thereunder.

The State Government in compliance of the directions of the Supreme Court dated 2.7.2012 constituted a State Level Committee vide Government Order dated 11.9.2012. The said Government Order is Annexed with the Writ Petition Nos.9740 (PIL) of 2017 and Writ Petition No.10163 (MB) of 2017. The meeting that was convened on 17.12.2013 to assess the implementation of such directions has recorded in it's Minutes the action taken and also resolved to supplement the need of all Local Bodies for which project rates were to be prepared and financial assistance was to be obtained from the Central

WWW.LIVELAW.IN



Government. The said Minutes are on record as Annexure - 3 in Writ Petition No.9740 (PIL) of 2017.

The next argument which deserves mention and which reflects this obligation having been undertaken for being discharged by the State Government itself through the Local Bodies is the Government Order dated 26.11.2014. The same is also on record in both the aforesaid writ petitions. The same clearly provides for giving financial assistance not only for modernizing and granting licences but for setting up of such slaughterhouses under the PPP model as well. The said Government Order provides for setting up of a District Level Committee under the District Magistrate who has been made the Nodal Officer for implementation of the said Scheme. The Government Order categorically recites the directions issued by the Apex Court and the National Green Tribunal for setting up modernized plants and for rehabilitating slaughterhouses that have now fallen within the habitable areas with the avowed object of providing hygienic and safe food. Clauses 2 and 3 of the said Government Order clearly recite that the Scheme was being launched to modernize existing slaughterhouses and to establish modern slaughterhouses. The said clause is extracted hereunder in order to indicate that the said clause read with other clauses of the said Government Order would leave no room for doubt that the State Government has taken upon itself the responsibility of implementing the directions of the Supreme Court and the National Green Tribunal for modernizing and establishing slaughterhouses:-

**2. योजना का उद्देश्य :**

(1) पशुवध वैज्ञानिक एवं स्वास्थ्यप्रद तरीके से किया जाना।

(2) वधशाला से निकलने वाले अपशिष्ट/कचरे को आधुनिक तकनीक का उपयोग करते हुए उसका निस्तारण किया जाना एवं पर्यावरण प्रदूषण को नियंत्रित करना।

(3) मानवीय आधार अपनाते हुए पशु–वध में क्रूरता को रोकना।

(4) पशुओं के सुरक्षित परिवहन हेतु भारत सरकार/प्रदेश सरकार के दिशा निर्देशों तथा मा0 न्यायालय के आदेशों का पालन किया जाना।

WWW.LIVELAW.IN



(5) वधशाला से निकलने वाले उत्पाद को बेहतर बनाना तथा उसमें सुधार कर जन सामान्य को उपलब्ध कराया जाना।

(6) वधित पशु का माइक्रोबायलोजिकल क्षय रोकने हेतु चिलिंग फैसैल्टी/रेफ्रीजिरेशन की व्यवस्था करना।

(7) मीट एवं मीट उत्पाद को और अधिक स्वास्थ्यप्रद एवं सुरक्षित बनाना तथा रिटेल कोल्ड चेन प्रबन्धन।

(8) मीट एवं मीट उत्पाद के आगे वितरण हेतु परिवहन लिकेंज को और बेहतर बनाना।

**3. योजना का स्वरूप :**

(1) भारत सरकार के दिशा निर्देशों एवं मा0 सर्वोच्च न्यायालय द्वारा पारित आदेशों के अंतर्गत **''राज्य स्तरीय समिति''** को सौंपे गये दायित्यों के अनुक्रम में नागर निकायों द्वारा संचालित **''पुरानी पद्धति की जीर्ण–शीर्ण पशुवधशालाओं के आधुनिकीकरण तथा आधुनिक पशुवधशालाओं की स्थापना''** किये जाने की योजना लागू की जा रही है।

(2) इस योजना का क्रियान्वयन सम्बन्धित नागर निकायों द्वारा किया जायेगा तथा योजना के क्रियान्वयन में नागर निकायें निजी निवेश कर्ताओं के माध्यम से पी.पी.पी. माडल के आधार पर भी योजना का क्रियान्वयन करा सकेगी। पी.पी.पी. माडल पर योजना के क्रियान्वयन प्रदेश सरकार/भारत सरकार द्वारा जारी गाइडलाइन्स के अनुसार किया जायेगा।

(3) भूमि की उपलबधता– पशुवधशाला की स्थापना हेतु सम्बन्धित निकाय/जिला पंचायत को निर्विवादित भूमि की उपलब्धता शीर्ष प्राथमिकता पर सुनिश्चित करनी होगी। यदि निकाय के पास ऐसी भूमि उपलब्ध नहीं है तो जिला प्रशासन इस हेतु उपयुक्त एवं निर्विवादित भूमि उपलब्ध करायेंगे। यदि निकाय तथा जिला प्रशासन के पास परियोजना हेतु आवश्यक भूमि उपलब्ध नहीं है, तो इसके लिए न्यूनतम आवश्यकतानुसार भूमि का क्रय किया जा सकेगा, जो परियोजना की लागत में सम्मिलित होगा।

(4) पशुवधशाला की स्थापना एवं आधुनिकीकरण हेतु निकाय द्वारा स्वयं या किसी विशेषज्ञ संस्था से विस्तृत परियोजना रिपोर्ट (डी0पी0आर0) तैयार करायी जायेगी, जिसमें परियोजना हेतु आवश्यक स्थल, पशुवधशाला की आवश्यकता, पशुवधशाला के आधुनिकीकरण, पशुवधशाला की स्थापना हेतु आवश्यक धनराशि तथा उसके वित्तीय पोषण, संचालन के तरीके, परियोजना हेतु आवश्यक प्लान्ट तथा मशीनरी, बिल्डंग का निर्माण कार्य तथा अन्य बिन्दुओं का विधिवत समावेश किया जायेगा।

विस्तृत परियोजना रिपोर्ट (डी0पी0आर0) तैयार करते समय प्लान्ट एवं मशीनरी की डिजाइन, टेक्निकल फ्लोचार्ट, टेक्नीकल तथा नॉन टेक्नीकल स्केच प्लान सक्षम तकनीकी अधिकारी द्वारा प्रमाणित किया जायेगा।

(5) पशुवधशाला के स्थानीय उपभोग के दृष्टिगत पशुवध क्षमता का निर्धारण किये जाने एवं इस हेतु उपयुक्त भूमि चिन्हित किये जाने के लिए सम्बन्धित जनपद के जिलाधिकारी, की अध्यक्षता में एक

WWW.LIVELAW.IN



समिति गठित होगी, जिसमें सम्बन्धित जनपद के पुलिस अधीक्षक, मुख्य पशुचिकित्सा अधिकारी, नागर निकाय के नगर आयुक्त/अधिशाषी अधिकारी, उत्तर प्रदेश प्रदूषण नियुत्रण बोर्ड के क्षेत्रीय अधिकारी तथा जनपद के दो सम्भ्रान्त नागरिक समिति के सदस्य होंगे। जिलाधिकारी द्वारा जनपद के दो सम्भ्रान्त नागरिकों को समिति के सदस्य के रूप में चिन्हांकन कर सम्मिलित करेंगे।

यह समिति पशुवधशाला की स्थापना/संचालन हेतु जिला प्रशासन, पुलिस प्रशासन, उत्तर प्रदेश प्रदूषण नियुत्रण बोर्ड, फायर सर्विसेज, एअर पोर्ट एथारिटी आदि संस्थाओं से निकाय को अनापत्ति प्रमाण पत्र उपलब्ध कराये जाने हेतु सहायेाग प्रदान करेगी तथा पूरी प्रक्रिया एक माह के अन्दर पूर्ण कराये जाने का दायित्व सम्बन्धित जनपद के जिलाधिकारी का होगा।

(6) पशुवधशाला के संचालन हेतु पशुवध के लिए पशुओं की उपलब्धता कहॉ से होगी, इसका भी उल्लेख विस्तृत परियोजना रिपोर्ट (डी0पी0आर0) में करना होगा।

(7) पशुवधशाला का संचालन किये जाने के फलस्वरूप दुग्ध उत्पादन में कोई प्रतिकूल प्रभाव न पड़े इसके लिए आवश्यक उपबन्ध किया जाना होगा तथा यदि पी.पी.पी. माडल के आधार पर स्थापित की जाने वाली परियोजना का मूल्य रु0 5.00 करोड़ से अधिक का है, तो सम्बन्धित जनपद में इसके साथ ही परियोजना के मूल्य के कम से कम 20 प्रतिशत की धनराशि से वहॉ पर कम्पोजिट व्यवस्था के अन्तर्गत डेरी परियोजना भी लगायी जायेगी एवं पशुसंवर्धन केन्द्रों की भी स्थापना की जायेगी, ताकि पशुवधशला के संचालन से पशुओं की कमी न होने पाये ओर दुग्ध उत्पादन भी प्रभावित न हो।

(8) पशुवधशाला की स्थापना/आधुनिकीकरण उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड के मानकों के अनुरूप तथा राज्य सरकार/भारत सरकार एवं मा0 न्यायालयों के द्वारा समय–समय पर पारित आदेशों के अनुक्रम में सुनिश्चित करना होगा।

(9) पशुवधशालाओं के संचालन की अनुमति दिये जाने एवं इसके लिए जारी किये जाने वाले लाइसेन्स की अवधि शासनादेश संख्या–2375/नौ–8–2009–54ज/07टी0सी0 दिनांक 23 फरवरी, 2010 द्वारा जारी किये गये दिशा निर्देशों के अनुसार कम से कम 05 वर्ष तथा अधिकतम 20 वर्षों के लिए होगा, जिसका 05 वर्ष बाद 05–05 वर्ष का नवीनीकरण (रिन्यूवल) किया जायेगा। पशुवधशाला के संचालन में कोई अनियमितता अथवा नियमों तथा पर्यावरण एवं प्रदूषण के उपबन्धों व पशुक्रूरता से सम्बन्धित नियमों का पालन नहीं होता है, तो सम्बन्धित लाइसेन्स निर्गतकर्ता अधिकारी द्वारा सम्बन्धित पशुवधशाला के संचालक को एक माह की नोटिस देकर लाइसेन्स को निरस्त कर दिया जायेगा।

(10) इस हेतु नागर निकायों द्वारा नगर विकास विभाग उ0प्र0 शासन की वेबसाइट पर उपलब्ध भारत सरकार के खाद्य एवं प्रसंस्करण मंत्रालय नई दिल्ली के पत्र संख्या–एफ0एन030–182008–एवाटायर, दिनांक 25.11.2013 द्वारा पशुवधशालाओं के आधुनिकीकरण हेतु उपलबध कराये गये दिशा निर्देशें का उपयोग विस्तृत कार्य योजना (डी0पी0आर0) तैयार किये जाने में किया जा सकता है।

(11) पशुवधशालाओं में संचालन हेतु गठित ''राज्य स्तरीय समिति'' की अनुमति के उपरान्त नागर निकाय के नगर आयुक्त/अधिशाषी

WWW.LIVELAW.IN



अधिकारी द्वारा लाइसेन्स जारी किया जायेगा तथा अन्य के लिये सम्बन्धित जनपद के जिलाधिकारी द्वारा जारी किया जायेगा।

(12) सिविल वर्क एवं प्लान्ट मशीनरी के अन्तर्गत मीट एवं उनके उत्पाद के निस्तारण हेतु रेफ्रीजिरेटेड वैन इत्यादि का भी क्रय किया जा सकता है तथा पशुवधशाला के साथ आवश्यकतानुसार वायु शीतित (एअर कडीशन्ड) मीट शाप का भी निर्माण किया जा सकेगा।

(13) परियोजना की डी.पी.आर. तैयार करने उसका मूल्यांकन/एप्रेजल किये जाने तथा परियोजना का पर्यवेक्षण किये जाने हेतु कन्सलटेन्ट की नियुक्ति की जा सकेगी, जिसकी फीस परियोजना की लागत में सम्मिलित होगी।''

In furtherance of the said Government Order, the funds were allocated that is evident from the letter of the Director dated 18.2.2016 to the Local Bodies by the State Government for the running and establishment of modernized slaughterhouses. With this end in view, the budgetary allocations being made by the Central Government and the allocation thereof by the State Government are clearly reflected. Not only this, the services of M/s A.T.K.Engineering Services was hired by the State Government for implementation of the said Scheme. The allocation of budgets is further reflected in the Government Order dated 15.12.2016 in relation to Kanpur where a sum of Rs.1243.49 lakhs has been provided for the said purpose. The aforsaid Government Orders particularly the Government Order dated 26.11.2014 also obligates the State for making available land with the help of the Local Bodies and in the event of failure to provide it by appropriate acquisition. The same is the position with regard to the Municipal Corporation of Allahabad where under the Government Order dated 15.12.2016 allocations have been made. For the Municipal Corporation of Varanasi, such allocation has been made vide Government Order dated 21.12.2016 and for Nagar Palika Parishad, Khalilabad vide Government Order dated 22.12.2016 followed by Nagar Palika Parishad, Bhisalpur, district Pilibhit dated 22.12.2016.

A compendium of the outcome budget of the Food Processing Industries of the year 2015-16 issued by the Central Government has also been placed on record along with the abovementioned Government Orders in P.I.L. Civil No.9740 of

WWW.LIVELAW.IN



2017 which under clause (iii) of the summary describes the same for modernizing abattoirs and in particular to set-up modern municipal abattoirs for providing scientific and hygienic modes of slaughtering animals and other such facilities. The disbursement of funds under the said head has been categorically described in relation to several projects with substantial amount of funding by the Central Government. It is thus clear that not only the Central Government but the State Government as well in the past has undertaken these steps in order to ensure the running of modernized slaughterhouses either by improving upon the existing slaughterhouses or setting up of new modern slaughterhouses.

Thus to contend on behalf of the State that it has no obligation nor it is bound to discharge any such obligation does not appear to be a correct stand on behalf of the State Government, inasmuch as not only is it an obligation already undertaken by the State Government and also aided by the Central Government but has also been partially implemented though the same has been criticized that the previous Government had failed to comply with the directions as desired under the relevant Orders of the Supreme Court and the National Green Tribunal.

The aforesaid contention of implementation therefore should not be negated by contending that there is no such obligation on the part of the State go discharge and it is the only State to regular or shut down slaughterhouses without assessing any further. It is for this reason we had issued directions to the State Government to take up the matter before the High Level Committees to look into the matter and to come out with a solution or resolution in this regard. Instead, the State has now taken an absolute firm stand that it has no obligation to set-up a slaughterhouse or to make any such provision. We are unable to agree with this proposition of the learned Advocate General or Dr. L. P. Misra on behalf of the State, inasmuch as apart from the constitutional provisions even if they do not make a specific

WWW.LIVELAW.IN



provision, the directions issued by the Apex Court for modernization came to be understood by the State Government itself and was also a part of the Central Government to promote the said trade and business by effective measures so as to ensure hygienic and safe food by setting up modern abattoirs. The steps already taken by the predecessor Government in order to discharge the obligation of compliance of the directions of the Apex Court therefore has to be necessarily construed that such obligations are part of the duty of the State which as a matter of policy has been adopted by the State and was being implemented in the past though not effectively but practically for achieving the said objectives. The breach by the authorities in not preventing unlawful activities can be controlled by the State Government by not allowing unlicensed business to run but the same does not in any way amount to a denial of the performance of any such duty either by the State Government or by the Municipalities of their obligations and duties to preserve and promote such activities.

A private enterprise can also be given effect to and subsidized by the State, if so required in the larger social interest looking to the unemployment that would result in the stopping of such business or trade. Not only this there are many areas of such trades including that of alcohol, waste material, garbage and such other activities connected with hygiene and health that are within the obligation of the State. The Constitution obliges the State to perform such duties and if it is held to the contrary, the same would be negating such obligations as are within the Directive Principles of Sate Policy. All the citizens have the right to an adequate means of livelihood to subserve common good which in the instant case would also iinclude the choice of food of it's citizens and all other such obligations that can be gathered from the constitutional provisions. These obligations may have to be discharged by the respective Bodies as per the distribution of work and powers available under different Schemes but the State Government cannot withdraw it's hands completely so as to result in the forestalling the on-going schemes already

WWW.LIVELAW.IN



undertaken by the predecessor Government. This may also not be legally permissible under the law laid down in ***2011 (8) SCC 737 paras 31, 32 and 35, Siddhu Matriculation Higher Secondary School v. K. Shyam Sunder and others*** and ***2011 (9) SCC 286 para - 40, A. P. Dairy Development Corporation Federation v. B. Narasimha Reddy and others***.

There is yet another aspect of the matter which deserves attention, namely that the 2006 Act and the Regulations as well as Rules framed thereunder do not affect the right of a private individual for consumption of animal food personally. The Regulations are only for food business and trade as has been pointed by the learned Counsel with the aid of the definition contained in the 2006 Act which clearly regulate food manufacturer, food business, food business operators and the like. They therefore do not control the individual household activities of the citizens in this regard.

It is here that it would be relevant to point out the provisions that have been indicated at the Bar, namely, the powers of the State Government and that of the District Magistrate and other authorities under the U.P. Municipalities Act, 1916, the U.P. Municipal Corporations Act, 1959 and the U.P. Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961 where under the discharge of duties and obligations of such emergent powers, the State Government is obliged to act on the failure of the local bodies to discharge such duties. This is an additional obligation of the State as well as it's authorities under the local laws which are not curtailed under the 2006 Act in matters and governance of the Local Bodies. There is one more provision that deserves to be mentioned in this regard, namely, for such governance Section 430 and Section 431 of the U.P. Municipal Corporations Act, 1959. The Municipal Commissioner and the District Magistrate respectively are empowered to permit slaughtering not for sale or business or for religious purpose. There is no such corresponding law under the 2006 Act relating to exercise of such powers. The aforesaid has to be understood

WWW.LIVELAW.IN



only in the context of a household consumption or for religious purposes. This power is therefore still intact with the abovementioned authorities.

We have been taken through the various provisions defining the words 'slaughterhouse' and 'slaughtering' as also the provisions of the Prevention of Cruelty to Animals Act, 1960 defining a slaughterhouse, but in our opinion, the same do not in any way denude the State Government, it's authorities or the Local Bodies of their obligation which they are entitled to discharge in their respective fields subject to the provisions of the aforesaid Act and Rules as indicated above. It is no doubt true that the premises of a slaughterhouse has also been defined under Rule 2 (c) of the Prevention of Cruelty to Animals Rules, 2001 but the existence and running of a slaughterhouse that requires a registration or licence has also been described fully in Schedule - IV of the Food Safety and Standards (Licensing and Registration of Food Business) Regulations, 2011. The place of slaughterhouse also has a connection with the registration and license to be granted where it is required under the licensing and registration conditions to disclose the place of such slaughtering. There is also a clear distinction between registration and licence under Chapter II of 2011 Regulations which describes the status of a petty food manufacturer who can have his own slaughtering capacity to the extent as provided under Chapter I of the 2011 Regulations. The fact however remains that the registration for a petty food manufacturer or a license for food business has to be obtained under the 2011 Regulations.

The question is that even if such licenses are to be obtained, the pre-requisite of the status of the premises of a slaughterhouse as observed here-in-above, the State Government is under an obligation to assess and to make provisions, or take such steps even for encouraging private entrepreneurship, for which no exercise appears to have been undertaken except that was taken by the predecessor Government. Thus we are of the considered opinion that before

WWW.LIVELAW.IN



taking any further precipitate action, the State ought to have called upon the State Level Committee as directed by the Supreme Court to undertake this exercise to consider all the aspects, more particularly the practical aspects not only with regard to urban areas but also with regard to rural areas where such a crisis can be clearly visualized in the absence of any infrastructure being available for the effective implementation of the Acts and Rules the compliance thereof is being claimed by the State Government.

We therefore hereby direct the State Government to undertake this exercise through the said State Level Committee and make it known to the public at large through effective notifications and publications for everyone involved in such food trade or business to undertake such measures that may be required for either registration or licensing and at the same time, and ensure that such activities particularly where there are no facilities available, are not brought to a grinding halt, thereby interfering not only with the right of trade and business but also resulting in an impediment in supply of animal food stuff either in the urban or rural areas. This is necessary to prevent any chaotic situation but at the same time the State Government can take appropriate steps in accordance with law for preventing any unlawful activity. These plans could have been ensured had the State Government itself undertaken this exercise of looking to it's past performance and it's obligations to be discharged in future. To this extent, we find that the cause and apprehension expressed by the petitioners of resulting in violation of rights therefore deserves to be noticed by the State Government itself.

Accordingly, the State Level Committee so constituted by the State Government under the Office Memorandum dated 11.9.2012 is directed to thoroughly examine and assess all possibilities in this regard that have been indicated uptil now and assist the State Government to undertake a policy decision in order to implement the directions of the Apex Court and the

WWW.LIVELAW.IN



National Green Tribunal and the provisions of the Act and Rules in accordance with law as observed here-in-above.

A copy of this judgment shall be circulated amongst all Divisional Commissioners and District Magistrates throughout the State as well as Local Bodies through it's respective Chairpersons to provide all such material and information to the State Government for the implementation of such a policy in accordance with law and the State Government will then take a decision in this regard including that of making budgetary allocations and finances that may be necessary for implementation of the directions referred to here-in-above. It is expected that the State Government and all it's authorities shall make an endeavour to study the social, the economic and the legal impact and the practicality of implementation with a view to implement the laws as a Model Social Welfare State under our Secular Constitution with the objective of ameliorating the conditions in this field of trade and business, hygiene, sanitation and healthy food for it's citizens on the anvil that it has the duty to do so. Any avoidance would ultimately result in denying livelihood to many as well as obstruction in animal food consumption that have now become a necessary part of life. This has to be kept in mind that the economic development of the State is being promoted by the Central Government as reflected in the documents on record coupled with the laws prevalent that do not prohibit rather permit the fostering of such activities that include poultries, fisheries, hatcheries, piggeries and the like which are essential and have a direct nexus with the consumption by the public at large.

The aforesaid exercise shall be undertaken by the State Level Committee and shall be reported to this Court by way of filing an affidavit by the next date fixed.

The matter shall come up for further consideration on ***17.7.2017*** which gives ample time to the State Government to

WWW.LIVELAW.IN



gear up it's machinery for taking positive action in the matter in accordance with law.

It shall be open to all the petitioners and such other persons to apply for registration or licenses as the case may be before the respective authorities under the 2006 Act and the 2011 Regulations and it shall be obligatory on the part of such authorities to assess and pass orders informing the applicants about the same. The Local Bodies shall be obliged to consider and grant No Objection Certificates as and where required under the 2011 Regulations.

In the event of any doubt about the exercise of such powers the matter shall be reported to the State Government forthwith without any delay and the Government shall be under an immediate obligation to convey it's directions for exercise of powers to the concerned authorities. Any slackness or any over doing shall be avoided while implementing these directions.

The learned Advocate General and the learned Counsel for the State are also requested to render their valuable opinion on the issue to the State Government that shall also be taken care of by the State Level Committee in coming to any conclusion. The petitioners through their representative organization can also espouse their cause before the State Government.

Dt.12.5.2017
Nishant/lakshman

[Sanjay Harkauli, J.] [Amreshwar Pratap Sahi, J.]