

Court No. - 1**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**Hon'ble Amreshwar Pratap Sahi,J.****Hon'ble Sanjay Harkauli,J.**

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 its 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 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***

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 its 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 framed the U.P. Panchayat Raj Act, 1947 and the U.P. Kshetra 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 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

प्रेषक

राहुल भटनागर,
मुख्य सचिव,
उत्तर प्रदेश भासन।

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

लखनऊ: दिनांक 22 मार्च, 2017

विशय: 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 पशुवधशालाओं पर प्रतिबन्ध लगाया जाना वर्तमान सरकार की प्राथमिकताओं में है। उक्त के दृष्टिगत 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 दोषी 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 पशु 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। तत्कम में पशुवधशालाओं में अवैध रूप से हो रहे पशु वध को रोके जाने हेतु जिलाधिकारी के अध्यक्षता में 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, उ०प्र० प्रदूषण अधीक्षक	सदस्य

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/अधिकाधी 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 मार्गों के किनारे खुले रूप से या अवैध रूप से वधशालाओं का संचालन बिल्कुल न होने पाये।

उक्त के परिप्रेक्ष्य में सम्बन्धित जिलाधिकारी की अध्यक्षता में गठित समिति द्वारा 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 सचिव/प्रमुख सचिव/सचिव से यह अपेक्षा है कि अपने-अपने विभागों हेतु नोडल अधिकारी, नामित करते हुए तदनुसार 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 में किये गये निरीक्षणों की सूचना का सारांश प्रतिदिन पूर्वान्ह 11.00 बजे तक अपर मुख्य सचिव/प्रमुख सचिव, पर्यावरण विभाग तथा प्रमुख सचिव/सचिव, 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 फैक्स नं0- 0522-2235206
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प्रमुख सचिव/सचिव, नगर विकास विभाग	ई-मेल- cc.urbandev@gmail.com फैक्स नं०- 0522-2238263 / 2237585
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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, उ०प्र० प्रदूषण नियंत्रण बोर्ड, गोमतीनगर, लखनऊ।
 - 5- समस्त अधिशाषी अधिकारी, नगर पालिका परिषदें/नगर पंचायतें, उत्तर प्रदेश (द्वारा निदेशक, नगरीय निकाय, उ०प्र० 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 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 (13 th 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)
24	[Revised] Standards for Discharge of Effluents from Slaughter houses, Meat Processing Units and Sea Food Industry.

संख्या 19/2017/380/अटठासी -17-34 खा0/16

प्रेषक,

हेमन्त राव,
प्रमुख सचिव
उ० प्र० शासन ।

सेवा में,

समस्त अभिहित अधिकारी,
उत्तर प्रदेश ।

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

विषय : पशुवधशालाओं (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 मा० 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, उ०प्र० लखनऊ के पत्र संख्या – एफ. एस. डी. ए./ खाद्य /2017/2069, दिनांक 22.03.2017, जिसके द्वारा मांस तथा मांस उत्पादी व स्लाटर हाउस 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 इकाईयों, जो बिना लाइसेन्स प्रचलित हैं, उन पर नियमानुसार विधिक कार्यवाही करते हुए तत्काल बन्द कराना सुनिश्चित करें ।

(ख) ऐसे स्लाटर हाउस एवं मांस उत्पादन इकाईयों, जिन्हें खाद्य लाइसेन्स निर्गत किया गया हो, उन पर प्रभावी / नियमित निरीक्षण कार्यवाही कर यह सुनिश्चित 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 प्राविधानों का पालन किया जा रहा है अथवा नहीं ।

(ग) निरीक्षण 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 नियामानुसार विधिक कार्यवाही करते हुए लाइसेन्स निलम्बन/ निरस्तीकरण की कार्यवाही सुनिश्चित 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।

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

क 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 निम्नलिखित 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 – निर्देशों/शासनादेशों का अनुपालन कराया जाना आवश्यक है। अतः अनुरोध है कि मा0 उच्चतम न्यायालय द्वारा पारित उपरोक्त आदेश के अनुपालन में खाद्य सुरक्षा एवं मानक अधिनियम, 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 सुनिश्चित किया जाय ।

भवदीय
हेमन्त राव
प्रमुख सचिव

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

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

- (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 ।

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
2017

लखनऊ: दिनांक 27 मार्च

विषय: 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 तत्कम 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 में 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 तददिनांक

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, उ०प्र० प्रदूषण नियंत्रण बोर्ड, गोमतीनगर, लखनऊ।
- 5- समस्त अधिशाषी अधिकारी, नगर पालिका परिषदें/नगर पंचायतें, उत्तर प्रदेश (द्वारा निदेशक, नगरीय निकाय, उ०प्र० लखनऊ)।
- 6- गार्ड फाइल/कम्प्यूटर सेल नगर विकास विभाग।

आज्ञा से,

(कुमार कमलेश)
प्रमुख सचिव।

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
 2017

लखनऊ: दिनांक 28 मार्च

विषय: 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 रूप 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 में अवैध पशुवधशालाओं के सम्बन्ध में की गयी कार्यवाही की जनपद वार सूचना निम्न प्रारूप पर प्रतिदिन 11.00 बजे तक निदेशक, नगरीय निकाय के ई-मेल-directptlocalbodies@gmail.com, diruplcp.nic.in पर उपलब्ध कराने का कष्ट करें:-

जनपद का नाम	प्रदेश में कुल कितनी पशु वधशालाएं क्रियाशील हैं।	कितनी पशु वधशालाएं लाइसेंसी हैं।	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,

(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 its 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.

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 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, 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 lose 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. Kshetra 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. Kshetra 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**.

Order Date :- 3.4.2017
lakshman

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

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