

GAHC010017262024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/278/2024

PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS (PETA) INDIA
REPRESENTED BY ONE OF ITS DIRECTOR

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY ITS CHIEF SECRETARY
GOVERNMENT OF ASSAM
BLOCK-C
3RD FLOOR
ASSAM SACHIVALAYA
DISPUR- 781006
GUWAHATI

2:COMMISSIONER AND SECRETARY
HOME AND POLITICAL DEPARTMENT
GOVERNMENT OF ASSAM
2ND FLOOR
CMS BLOCK

ASSAM SECRETARIAT
DISPUR
GUWAHATI-6
3:ANIMAL WELFARE BOARD OF INDIA
THROUGH DR. O.P. CHAUDHARY
CHAIRMAN
AWBI AND JOINT SECRETARY
MOFAHD
42 KM STONE
DELHI-AGRA HIGHWAY
NATIONAL HIGHWAY-2
VILLAGE- SEEKRI BALLABHGARH
FARIDABAD
HARYANA- 121004 INDIA

Advocate for : MR. D DAS SR. ADV
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 2 ORS.

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 01.02.2024

Heard Mr. D.J. Das, learned counsel for the applicant-writ petitioner and Mr. D. Nath, learned Senior Government Advocate, Assam for the opposite party-respondent nos. 1 & 2.

2. The applicant as the writ petitioner has preferred the accompanying writ petition, W.P.[C] no. 466/2024, to assail a Notification bearing no. HMA-19032[11]/51/2017/Pol[A]-H&P/138 [ECF-28983] dated 27.12.2023 issued by Political [A] Department, Government of Assam. By the said Notification, the State respondent authorities while permitting buffalo fight [Moh-juj], have *inter alia* issued Standard Operating Procedure [SOP]/Guidelines for buffalo fight [Moh-juj] as follows :

Standard Operating Procedure (SOP)/Guideline for Moh-juj (Buffalo Fight)

1. District Administration should ensure that all rules and regulations along with the SOP is strictly followed. Concerned District Commissioner will issue permission to the organizing committee on the basis of the application from the organizers.
2. Moh-Juj shall be allowed only in those places where there is a history of organising such events (at least 25 years).
3. Moh-Juj may be allowed at a specific time of a year to be completed within ten days succeeding Magh Bihu (i.e. from 15th to 25th January). No Moh-Juj shall be allowed any time of the year except the period stated.
4. The organizing committee shall ensure that Moh-Juj is scheduled between 7.00 AM and 4.00 PM.
5. Veterinary department will depute a veterinary team at the spot where Moh Juj is organized to respond to any medical emergency to buffaloes. Where Moh-juj is organized in large scale. Veterinary ambulance will be made available at the spot along with veterinary team.
6. Organizers of Moh-Juj must make arrangements of sufficient food, water and sun-shade for buffaloes at the venue, as may be necessary.
7. The complete Moh-Juj program showing date, time and place shall be videographed. The organizing committee should ensure the proper videography of the complete event.
8. Strong barricading of the fighting arena shall be done by the organizing committee.
9. All human inflicted injuries shall be prohibited at any cost.
10. Only healthy male buffalo shall be engaged for the fight.
11. The organizing committee shall ensure that no sharp objects or any instruments causing physical injury to instigate the buffaloes are allowed in the fighting ground.
12. No intoxicating items (like opium) or performance enhancing drugs will be fed to the buffaloes.
13. A written undertaking for complying with the rules incorporated in the SOP should be made compulsory from organizing committee for obtaining permission from District Administration.

3. From a perusal of the above SOP/Guidelines for buffalo fight [Moh-juj], it is evident that the State respondents have allowed buffalo fight [Moh-juj] only for a period of 10 [ten] days succeeding Magh Bihu [from 15 January to 25 January] in a year. The respective District Administration has been asked to ensure that all rules and regulations along with the SOP are followed by the organisers of a buffalo fight [Moh-juj]. The SOP/Guidelines has further mentioned that no buffalo fight [moh-juj] will be allowed at any time of the year except the period from 15 January to 25 January in a year.

4. The instant interlocutory application has been preferred to bring to notice that in spite of the SOP/Guidelines laid down in the Notification dated 27.12.2023 which permits buffalo fight [Moh-juj] only during the period from 15 January to 25 January in a year events of buffalo fight [Moh-juj] are found to be organized in various parts of the State beyond the period. In the interlocutory application, the applicant-petitioner has averred specifically to the effect that one such event of buffalo fight [Moh-juj] is scheduled on 04.02.2024 at Hatigarh, Singimari Pathar, P.S. Nagaon, Pin – 782125, District – Nagaon. The applicant-petitioner has contended that notwithstanding the challenge to the legality and validity of the Notification dated 27.12.2023 and assuming, but not admitting, that the SOP/Guidelines laid down in the Notification dated 27.12.2023 are treated to be valid, then also such event of buffalo fight [Moh-juj] which is being organized on 04.02.2024 at Hatigarh, Singimari Pathar, P.S. Nagaon, Pin – 782125, District – Nagaon is illegal. By such projections, a prayer is made for a direction to the opposite parties-respondent nos. 1 & 2 to take effective steps for preventing the concerned organisers from holding buffalo fight [Moh-juj] on 04.02.2024, in terms of the SOP/Guidelines.

5. Mr. Nath, learned Senior Government Advocate appearing for the opposite parties-respondent nos. 1 & 2 has contended that the applicant has directly approached this Court without bringing such fact first to the notice of the concerned District Administration. He has submitted that the matter can be looked into by the concerned District Administration if a representation is received from the applicant-petitioner giving the particulars [like place, date, time, etc.] of such buffalo fight [Moh-juj], and if on enquiry, it is found that any such event of buffalo fight [Moh-juj] is being organized in violation of the SOP/Guidelines/Notification dated 27.12.2023, necessary steps would be taken for prevention.

6. The statements and averments made in the interlocutory application are perused. Notwithstanding the challenge made to the Notification dated 27.12.2023 and assuming that the Notification dated 27.12.2023 is valid, then also the organizing an event of buffalo fight [Moh-juj] beyond the period of 25th January of the year is *prima facie* in violation of the Notification dated 27.12.2023. Having considered the submissions of the learned counsel for the parties and the projections made in the interlocutory application by the applicant, this Court considers it appropriate to observe that the applicant-petitioner should bring such facts of holding of buffalo fight [Moh-juj] before the concerned District Administration, that is, the Deputy Commissioner, Nagaon first by way of a representation latest by tomorrow i.e. 02.02.2024. In the said representation, the applicant-petitioner shall mention the details of the event [like place, time, date, etc.] of the buffalo fight [Moh-juj] so as to enable the District Administration to take any effective steps. In the event such a representation is filed by the applicant-petitioner by tomorrow, the District Administration, Nagaon shall take steps to enquire into the same and upon

enquiry, it is found that any event of buffalo fight [Moh-juj] is being organized on 04.02.2024, as asserted by the applicant-petitioner, effective steps should be taken in terms of the SOP/Guidelines/Notification dated 27.12.2023 for prevention of such buffalo fight [Moh-juj].

7. A copy of this order be furnished to Mr. Nath, learned Senior Government Advocate, Assam for taking necessary steps from his end.

8. List the case on 06.02.2024 along with W.P.[C] no. 468/2024, on which date Mr. Nath shall produce further instructions in the matter, in the event a representation is filed by the applicant-petitioner before the District Administration, Nagaon by tomorrow i.e. 02.02.2024, as observed above.

9. The instruction placed by Mr. Nath, after obtaining it from the office of the Deputy Commissioner, Dhemaji vide Communication bearing no. CA/66/2023-CA-DMJ dated 31.01.2024, is kept with the case record.

JUDGE

Comparing Assistant