



Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 3195 OF 2018
WITH
CHAMBER SUMMONS (L) NO. 254 OF 2019

Jiv Maitri Trust ...Petitioner
Versus
Union of India & Ors ...Respondents

Ms Rajani Iyer, Senior Advocate, with Ms Siddh Vidya, Mr Raju Gupta, Ms Sneha Jain, Mr Shashikant Chandak, Mr Mukesh Gupta, Mr Dhruv Gupta, Ms Kanchan Chandak, Ms Ruchika Motwani i/b M/s. Ethos Legal Alliance, for the Petitioner.

Mr Advait M Sethna, with Mr DP Singh, for the Respondent No. 1.
Ms PH Kantharia, Government Pleader, with Ms Jyoti Chavan, AGP, the the Respondent-State.

Mr AY Sakhare, Senior Advocate, with Mr Rajesh Patil & Ms Vandana Mahadik, for the MCGM.

Ms Jaya J Bagwe, for the Respondent No. 9.

Mr Harish Pandya, with Ms Shweta Rankhambe, i/b Mr Aagan J Doshi, for the Applicant in CHSWL/254/2019.

Dr Yogesh Shetye, General Manager, present.

Dr Kalimpasha Pathan, Deputy General Manager, present.

Dr Aarakh Sharad, Deputy Superintendant of Market, present.

Dr Yogesh Wankhede, Senior Veterniary Officer (Market), present.

CORAM: S. C. DHARMADHIKARI &
G.S. PATEL, JJ
DATED: 6th August 2019

PC:-

1. We have heard Ms Iyer, learned Senior Advocate for the Petitioners and Mr Sakhare, learned Senior Advocate for the Municipal Corporation of Greater Mumbai (“MCGM”) at some length today. The present dispute pertains the policy for granting temporary permission for slaughtering sheeps/goats for festivals, special occasions etc.

2. The immediate concern is about the grant of permissions for sheeps/goats slaughtering at Bakri Eid on 12th August 2019. Our attention has been invited to various statutes including the Mumbai Municipal Corporation Act 1888, The Prevention of Cruelty to Animals Act, The Aircraft Act and so on. We propose to take up these issues at a later stage at the final hearing of the Petition to lend some finality since these questions seem to be repeated annually.

3. We have considered closely and carefully the policy placed before us on the last occasion (2nd August 2019) framed by the MCGM in regard to the the grant of these temporary permissions. This policy is said to be in the nature of guidelines under Section 403 (2)(e) of the MMC Act read with Section 403(1)(b).

4. Broadly speaking the policy states that places for slaughtering other than abattoirs are predecided and designated by the MCGM.

There is a list provided in the policy from Item 2A (ii) to (vi) which reads thus:

“2. Policy :-

Objective of the policy is to give temporary NOC for slaughtering of small animals i.e. Goat and Sheep at specific locations for religious purpose as per provisions of MMC Act 1888, section 403(1)(b) and 403(2)€ respectively.

A] The Places for slaughtering are predecided and designated by MCGM.

- i) All Non Veg. Markets [List of which is attached]
- ii) Religious slaughtering places [As decided by Asst. commissioner of ward]
- iii) In case of slaughtering at Religious places ((Masjid / Adjoining community spaces near the Masjid) applications will be dealt by Head Inspector market. He may take help of Asst. Eng (Maintenance) of respective ward, if necessary.
- iv) All places near railway station, bus stands, auto rickshaw stand, Taxi stand, Educational Institution, Hospitals, places of high footfall. Government administrative premises, VIP places and of heavy vehicular traffic will not be allowed for any slaughtering. Proposed place for slaughter shall not be adjacent to or in front of any religious place of other faiths(i.e. Mandir, Gurudwara

etc.)

- v) Residential society permitted place (either inside that or common space of the society) with NOC of society will be dealt by Asstt. Commissioner of Ward.
- vi) Application with prior written permission from the owner, tenant or person NGO in control of the land whether such a slaughtering will offer, if the person/NGO, to perform the slaughtering is not the owner, tenant, person/NGO in control of the relevant land. If applicant is the owner, proof of ownership must be submitted with the application. Such application complete with all the requisites shall be submitted to concerned Wards Assistant Commissioner 30 days prior the day of “Bakra Eid” festival. Wards Assistant Commissioner will scrutinize the applications on the basis of requirements of Section 403(1)(b) of MMC Act 1888 at the places approved by Assistant Commissioner of Markets for religious sacrifice of Sheep/Goat for celebrating festival of “Bakri Eid”. The decision taken by the Assistant Commissioner of the ward shall be final with respect to places held by applicant’s citizen & community and Assistant Commissioner of Market for designated places of Municipal Market (Non veg section).”

5. We have also considered the provisions of Item 3 to 6 of this policy. This sets out the responsibility of the no objection certificate holder and the requirement of the places of slaughtering. Items (a) to (p) are supposed to be guidelines to be insisted on by the MCGM for compliance by all no objection certificate holders.

6. At this stage we only note that the places for slaughter so far as communicated to us are, apart from the existing abattoirs, of non vegetarian or meat markets, a list of which is annexed to the policy. There are some 58 such markets. The second broad category is community spaces (or religious places such as Masjids). In this category we will also include all religious slaughtering spaces though none have been specifically identified for us today. The third category is of cooperative societies which are proposing slaughter in the open spaces of their compound areas. The fourth place for slaughtering is supposedly individual flats. In this interim order we are addressing ourselves only to applications made on behalf of societies and applications made by individuals for slaughter inside individual flats.

7. In our view, the requirements of public safety, hygienic and sanitation make it impossible to accept any policy that permits slaughtering inside individual flats. The reasons suggest themselves. In a city that is as densely crowded and congested as Mumbai and where typical residential apartments are small, we do not believe it is possible to make effective arrangements for human, hygienic and safe methods of sacrificial slaughter within a residential flat. Many of these flats are homes for the very old or the very young (or both) and our concern is about the health, hygienic and safety of all. We believe these concerns override all others. Therefore, the MCGM is prohibited and restrained from accepting or granting permissions of

slaughter inside any individual flat. It will not matter whether the application is made by an individual, a family or a group of individuals. We restrain all slaughtering within residential flats or accommodations.

8. As regard housing societies, while we do not completely restrain the granting of permissions, we will direct that no permissions should be granted if the applicant society is located within a reasonable one kilometre walking distance from a community space for slaughtering (including a religious slaughtering space).

9. We expect the MCGM to very strictly and stringently maintain all applicable safety, hygienic and public safety norms and requirements and to move expeditiously against all violations.

10. For the present we will list the matter for directions on 14th August 2019 with liberty to the parties to apply.

(S. C. DHARMADHIKARI, J)

(G. S. PATEL, J)