

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

(PUBLIC INTEREST LITIGATION)

CIVIL WRIT PETITION NO. OF 2020

(UNDER ARTICLE 32 OF THE CONSTITUTION OF
INDIA)

IN THE MATTER OF:

SANKALP SANTOSH GOLATKAR ...PETITIONER

VERSUS

UNION OF INDIA & ORS ...RESPONDENTS

With

I.A. NO. OF 2020

Application for permission to appear and
argue as Petitioner-in-person

I.A. NO. OF 2020

Application for exemption from filing
duly attested Affidavit, typed and
Certified Copies of Annexures and
Undertaking

PAPER BOOK

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PETITIONER-IN-PERSON:

ADVOCATE SANKALP SANTOSH GOLATKAR

RECORD OF PROCEEDINGS

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LISTING PROFORMA

SECTION - PIL

The case pertains to (Please tick/check the correct box):

Central Act: **Prevention of Cruelty to Animals Act, 1960 (PCA Act) and Indian Penal Code, 1860 (IPC)**

Section: **Section 11 of PCA Act and Sections 428, 429 of IPC**

Central Rule: (Title): **N/A**

Rule No(s): **N/A**

State Act: (Title): **N/A**

Section: **N/A**

State Rule: (Title): **N/A**

Rule No(s): **N/A**

Impugned Interim Order: **N/A**

Impugned Final Order/Decree: **N/A**

High Court: **N/A**

Names of Judges: **N/A**

Tribunal/Authority: **N/A**

1. Nature of matter: **Civil** Criminal

2. (a) Petitioner/Appellant : **Sankalp Santosh Golatkar**

(b) E-mail ID: **sankalpgolatkar@gmail.com**

(c) Contact Number: **+91-9969506464**

3. (a) Respondent No.1: **Union of India & Ors.**

- (b) E-mail ID: **Not known**
- (c) Contact Number: **Not known**
4. (a) Main category classification: **0805 – Letter Petition & PIL matters**
- (b) Sub-classification: **Ecological Imbalance: Protection and conservation of forests throughout the country, protection of wild life, ban on felling of trees and falling of underground water level.**
5. Not to be listed before: **N/A**
6. (a) Similar disposed of matter with citation, if any, & case details: **No Similar matter disposed of.**
- (b) Similar pending matter with case details: **No similar matter pending.**
7. Criminal Matter: **N/A**
- (a) Whether accused/convict has surrendered: Yes No
- (b) FIR/C.R. No.: **N/A** Date: **N/A**
- (c) Police Station: **N/A**
- (d) Sentence Awarded: **N/A**
- (e) Period of sentence undergone including period of Detention/
Custody undergone: **N/A**
8. Land Acquisition Matter: **N/A**

(a) Date of Section 4 notification: N/A

(b) Date of Section 6 notification: N/A

(c) Date of Section 17 notification: N/A

9. Tax Matter (State the tax effect): N/A

10. Special Category (First Petitioner/Appellant Only): N/A

Senior Citizen > 65 years SC/ST Woman/Child

Disabled Legal Aid case In custody

11. Vehicle Number (in case of Motor Accident Claim Matters):

N/A



SANKALP SANTOSH GOLATKAR

Petitioner-in-person

Address: T-B/2/17, CGS,

Ghatkopar- West, Mumbai- 400086

E-mail: sankalpgolatkar@gmail.com.

Contact Number- 9969506464

Date: 04.07.2020

SYNOPSIS

1. The present Public Interest Litigation in the form of writ petition is filed under Article 32 of the Constitution of India, read with Article 21, Article 48A and Article 51A(g) of the Constitution of India to bring to the attention of this Hon'ble Court the rising instances of brutal animal cruelty and the urgency to modify the penal provisions of the Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as the **PCA Act, 1960**).
2. The PCA Act, 1960 came into force in the year 1960 with the aim to prevent the infliction of unnecessary pain and suffering on animals and its penal provisions have not been revised since.
3. The PCA Act, 1960 was amended in 1982 (**Central Act No. 26 of 1982**) to broaden the scope of the activities which constitute animal cruelty but no material alterations as to enhancement of penalties for animal cruelties were made.
4. In the last few years, there has been a sudden rise in the cases of instances of barbaric animal cruelty. The root cause of the exponential increase in the number of animal cruelty cases is the infinitesimal penalty imposed to the perpetrators under the primary legislation for animal protection, i.e., the PCA Act, 1960.

5. In the year 2011, a draft bill titled ‘Animal Welfare Act, 2011’ was introduced by the Animal Welfare Board of India (hereinafter referred to as “AWBI”) in the Parliament to replace the present PCA Act, 1960 and intended to modify the approach of our authorities in dealing with animal protection by moving from a defensive position to a positive, welfare and wellbeing oriented approach and by augmenting penalties for animal abuse, strengthening animal welfare organizations, and altering and enlarging the definition of animal abuse, in keeping with the times, and in keeping with judicial pronouncements. However the bill has not yet been passed.

6. In the year 2014, the AWBI drew up a fresh draft, *viz.*, the Animal Welfare Bill, 2014. It incorporated substantially higher penalties for animal abuse, but is yet to be passed by the Parliament, despite massive furore among animal rights activists and organizations regarding the inconsequential and pitifully scant punishments that the current PCA Act, 1960 provides for.

7. In the year 2016, a Private Member Bill of 2016 was introduced in the parliament seeking an amendment to the PCA Act, 1960, incorporating stringent penalties and making all offences under Section 11 of the PCA Act, 1960 cognizable offences. However, the chances of this Bill being passed also seem bleak, considering the fact that it is a private member bill.

8. In the year 2017, the States of Maharashtra and Karnataka amended certain sections of the PCA Act, 1960 so as to lay down the conditions in which a bullock cart race (Jallikattu) can be conducted and to aggravate the penalty for any offense arising out of Jallikattu events alone. These Amendment Acts however do not include spike in penalties for offences of animal cruelty in any other case.
9. The provisions of the PCA Act, 1960 arise out of the recognition of animal sentience, specifically for the breach of anti-cruelty from Section 11 (a) to (o) of the PCA Act, 1960, the offender is subject to fines of up to fifty Rupees (higher fines with possible imprisonment for repeat offences) which is not a significant penalty to act as a disincentive for animal cruelty, and to ensure that people treat animals correctly, as sentient beings.
10. The PCA Act, 1960 should have stood repealed when the Draft Animal Welfare Act, 2011 had come into force, but the Parliament failed to enact the law, due to which no update in the Act has been done till date and the PCA Act, 1960 still lays down the punishment framed in 1960.
11. There have been multiple cases in several states of the country where animals were brutally killed, and over **24,000 cases** of cruelty to animals have been registered under the PCA Act, 1960 from 2012 to 2015.

12. India has been accorded grade 'C' by the Animal Protection Index, 2020 which ranks 50 countries around the world according to their animal welfare policy and legislation.
13. In many parts of the country, it is not unusual to see dogs and cats being slaughtered alongside other species such as chickens, ducks and wildlife animals. The consumption of dog meat is illegal, but is flouted in the far North Eastern states of Mizoram and Nagaland, where hundreds of dogs are killed brutally for the meat trade. The dogs are smuggled in the north eastern states in trucks at night, with their mouths tied up with rope so that they cannot bark; as a result of which many die of suffocation on the way. Some consider dog meat to have high nutritional and medicinal value. This act is not only illegal under the law but it also spreads deadly zoonotic diseases such as rabies, trichinosis, typhus and anthrax which can be transmitted from animals to humans. As the law does not provide for stricter penalties, the practice has not stopped in Northeastern states. Every year more than 30,000 stray and stolen dogs are brutally beaten to death for their meat. Similarly cat meat is consumed in isolated regions in South India.
14. It is clear from the aforementioned statements that no effort has been taken to amend the PCA Act, 1960 and the penalty remains the same as it was 60 years ago in complete disregard to inflation effect as well.

15. The Central Government in the year 2001 framed and passed the **Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001** under Section 38 of the Prevention of Cruelty to Animals Act, 1960, with a view to establish Societies for Prevention of Cruelty to Animals (hereinafter referred to as “SPCA(s)”) in every district in the state.
16. In an order dated 06.08.2008 in W.P. (C) No. 440 of 2000 titled **Geeta Seshamani vs. Union of India & Anr.**, this Hon’ble Court directed all the States to establish State Animal Welfare Boards within three months and to constitute SPCAs in every district keeping in view Rule 3 of Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001.
17. However, such directions were not duly complied with by all the States and therefore on 04.07.2018 the Hon’ble High Court of Uttaranchal noted out this issue again in the case of **Narayan Dutt Bhatt vs. Union of India, 2018 SCC Utt 645** and directed the State Government to constitute SPCAs in each district, if not already constituted.
18. The AWBI on 01.10.2018 issued an advisory to all the States and Union Territories to comply with the directions given in **Geeta Seshamani vs. UOI & Anr (Supra)** to constitute

SPCAs, however, the same has not be established in each district of all the states.

19. The fundamental duties of the citizens of the country are the collective duties of the State. The adequacy and applicability of statutory provisions are, therefore, to be determined with reference to the fundamental duties, as also the Directive Principles of State Policy. Therefore, changes are required to the PCA Act, 1960, such as civil liability being imposed on those who violate the rights of animals.
20. As the executive and legislature have not performed their part, the Petitioner has approached this Hon'ble Court seeking directions to modify, enact and enforce the PCA Act, 1960 by imposing steeper penalties so as to create a deterrent effect in the society and to stop denigrating them to an inferior position among human beings as animals are of intrinsic worth and their ability to feel pain as sentient beings.

LIST OF DATES

- 1860 **The Indian Penal Code, 1860** was enacted to cover all substantive aspects of criminal law, on the recommendations of first Law Commission of India established in 1834, under the

Chairmanship of Thomas Babington Macaulay, under the Government of India Act, 1833.

- 1960 **The Prevention of Cruelty to Animals Act, 1960** was enacted to prevent the infliction of unnecessary pain or suffering on animals.
- 1982 The Prevention of Cruelty to Animals Act, 1960 was **amended by Central Act 26 of 1982**.
- 2001 **The Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001** were framed and passed by the Central Government u/s 38 of Prevention of Cruelty to Animals Act, 1960.
- 06.08.2008 The Supreme Court of India issued an order in W. P. (C) No. 440 of 2000 titled **Geeta Seshamani vs. Union of India & Anr.**, directing all States to establish Animal Welfare Boards within three months and to constitute SPCAs at district level as per the 2001 Rules.
- 2011 A draft bill titled the **Animal Welfare Act 2011** was introduced by the Animal Welfare Board of India in the Parliament to replace the present Prevention of Cruelty to Animals Act, 1960.

- 2014 The Supreme Court of India passed a milestone judgment in the matter titled “**Animal Welfare Board of India vs. A. Nagaraja & Ors. (2014) 7 SCC 547**”, banning the bulls and bullocks in exhibitions, for example, Jallikattu, bullock cart racing, and emphasized the need to urgently amend the Prevention of Cruelty to Animals Act, 1960 and expanding the scope of Article 21 to include animals as well.
- 2014 The Animal Welfare Board of India drew up a fresh draft, the **Animal Welfare Bill, 2014**, incorporating substantially higher penalties for animal abuse. However, the bill is yet to be passed by the Parliament.
- 2016 A **private member’s bill, 2016** was moved in the Parliament seeking an amendment to the Prevention of Cruelty to Animals Act, 1960, incorporating stringent penalties and making all offences under section 11 of the Prevention of Cruelty to Animals Act, 1960 cognisable offence. However, the bill is yet to be passed by the Parliament.
- 2018 The Hon’ble Uttaranchal High Court in **Narayan Dutt Bhatt versus Union of India, 2018 SCC**

Utt 645 directed the State Government to constitute SPCAs in each district.

- 24.08.2018 A building watchman in Kandivali, Mumbai, mercilessly inserted a rod into a dog's vagina and ripped out its intestines. The dog that had recently given birth to seven puppies was later seen roaming around with its intestines dangling out. This resulted in its traumatic death.
- 01.10.2018 The Animal Welfare Board of India issued an advisory to all the States and Union Territories to comply with the directions given in *Geeta Seshamani vs. UOI & Anr (Supra)*.
- 22.08.2019 A man allegedly raped a female dog in Khargar, Navi Mumbai. An FIR was registered against the offender under Section 377 of IPC. The man is thought to be a repeat offender who may have previously sexually abused other animals.
- 04.09.2019 A group of men beats twelve puppies to death in Goregaon, Mumbai. Four of the puppies who weren't even a week old were thrown from a great height resulting in their death. The other eight puppies that were only about a month old were hammered with a blunt object.

- 31.10.2020 A group of young men in Bhadravathi, Karnataka were arrested for taping a video of a dog by tying a whip cracker to the tail of a stray dog and igniting the fuse for the lust of views whereby by causing injuries to the animal physically as well as mentally.
- 20.11.2019 A watchman in Juhu, Mumbai, was arrested for beating an old disabled dog inside the housing complex, leading to its death.
- 21.05.2020 A 68-year-old man of Bhubaneswar, Odisha, was arrested and subsequently remanded in judicial custody for allegedly sexually assaulting a stray dog in City's Patia area.
- 22.05.2020 An 18-year-old teenager in Tamil Nadu was arrested for killing a cat by hanging it to a rope to make his video look 'special' and get as many views for it on TikTok.
- 26.05.2020 Two teenagers tied up a community dog in Ujjain, Madhya Pradesh, in order to make a TikTok video; they threw it into a pond and pelted stones at it, resulting in its death.

- 04.06.2020 The pregnant wild elephant in the Silent Valley forest of Palakkad district died after it consumed a pineapple filled with powerful crackers.
- 06.06. 2020 A man was arrested for alleged brutal killing of a 5-month-old puppy to death in Dehradun, Uttarakhand.
- 07.06.2020 A man was arrested in Bilaspur district near Shimla on an allegation by the owner of a pregnant cow that he injured the bovine by feeding her some eatables mixed with explosives.
- 02.07.2020 Every year more than 30,000 dogs are illegally transported in trucks in north eastern of Nagaland and Mizoram at night to be sold as meat, with their mouth tied up with rope so that they cannot bark as a result many die of suffocation on the way.
- 04.07.2020 The present Public Interest Litigation is filed.

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

(PUBLIC INTEREST LITIGATION)

CIVIL WRIT PETITION NO. OF 2020

**(UNDER ARTICLE 32 OF THE CONSTITUTION OF
INDIA)**

IN THE MATTER OF:

Sankalp Santosh Golatkar,

R/o. T-B/2/17, CGS,

Ghatkopar- West,

Mumbai- 400086.

...Petitioner

VERSUS

1. Union of India,

Through its Secretary,

Ministry of Environment,

Forests & Climate Change,

Indra Paryavaran Bhavan,

Jorbagh Road,

New Delhi- 110003.

2. **The Ministry of Law & Justice,**

Through its Secretary,
4th Floor, A-Wing,
Shastri Bhawan,
New Delhi- 110001.

3. **Animal Welfare Board of India,**

Through its Secretary,
National Institute of Animal
Welfare Campus,
P.O. 42 KM Stone,
Delhi- Agra Highway, NH- 2,
Seekri, Ballabhgarh, Faridabad,
Haryana- 121004.

...Respondents

WRIT PETITION (PUBLIC INTEREST LITIGATION)
UNDER ARTICLE 32 OF THE CONSTITUTION OF
INDIA SEEKING WRIT OF MANDAMUS OR ANY
OTHER APPROPRIATE WRIT SEEKING
DIRECTIONS AGAINST THE RESPONDENTS.

TO THE HON'BLE CHIEF JUSTICE AND HIS
LORDSHIP'S COMPANION JUDGES OF THE HON'BLE
SUPREME COURT OF INDIA.

THE HUMBLE PETITION OF THE
PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. This Petition in the nature of Public Interest Litigation under Article 32 of the Constitution is being filed by the Petitioner herein seeking the issuance of an appropriate Writ, Order or Direction in the nature of mandamus or any other appropriate Writ or Direction to the Respondents to modify and enact The Prevention of Cruelty to Animals Act, 1960 (herein after referred to as “**PCA Act, 1960**”), in order to safeguard the Right to Life guaranteed to animals as enshrined under Article 21, and to protect, improve and safeguard the life of animals of the country as guaranteed under Article 48A of the Constitution of India within a time bound period.

PETITIONER

2. The Petitioner herein Sankalp Santosh Golatkar, aged 24 years, is an Advocate by profession and is also a social activist providing legal service to the poor, destitute migrants, social welfare societies and Non Government Organizations. The Petitioner is a law-abiding citizen of India. The email address of the Petitioner is sankalpgolatkar@gmail.com. The mobile number of the Petitioner is 9969506464. The postal address of the Petitioner is T-B/2/17, CGS, Ghatkopar- West, Mumbai-400086. The Petitioner PAN Card bearing no. AYHPG2907P along with the Aadhar Card no. 354780317355, Bar Council ID and Income Tax Report of the Petitioner is annexed herewith and marked as **Annexure- P-1** (from page nos. 43 to 44).

3. The Petitioner was dismayed with the news of animal cruelty published and telecasted on main stream media channels and newspapers on daily basis and upon doing research on the cruelty on animals; the Petitioner was amused that the PCA Act, 1960 was enacted with the aim to prevent the infliction of unnecessary pain or suffering on animals, and it came into force in 1960 and its penal provisions have not been amended since. The Petitioner in order to bring this to the notice of the Hon'ble Supreme Court has filed this petition.
4. The Petitioner has no personal interest in the issue involved in the present petition. Rights guaranteed under Article 21 and Article 48A of the Constitution of India are being violated due to lack of framing of proper policies, procedure, rules, acts and guidelines which accords to the protection of animals and their rights.
5. The Petitioner has not approached any other court for the reliefs claimed in the present Writ Petition. No representation has been filed with any authority and the reliefs claimed can only be granted by this Hon'ble Court.
6. The Petitioner is not involved in any pending Civil, Criminal or Revenue litigation, which has or could have a legal nexus with the issue involved in the present petition.

7. The Petitioner has filed present Public Interest Litigation to ensure the strict enforcement of laws relating to prevention of animal cruelty and animal welfare laws in our country. The present petition and the cause agitated by the Petitioner is purely *pro bono publico*.

RESPONDENTS

8. The Respondent No. 1 (Union of India) is the 'State' for the purposes of Article 12 of the Constitution. The Respondent No. 1 is the Central Government through the nodal Union Ministry of Environment and Forests which is tasked with the initiation and implementation of all steps for the protection of the Environment and animal welfare as obliged under Article 21 read with Article 51A(g) of the Constitution.
9. The Respondent No. 2 that is the 'Ministry of Law and Justice' which deals with the management of the legal affairs, legislative activities and administration of justice in India through its three departments, *viz.*, the Legislative Department and the Department of Legal Affairs and Department of Justice respectively. The Department of Legal Affairs is concerned with advising the various Ministries of the Central Government while the Legislative Department is concerned with drafting of principal legislation for the Central Government.

10. The Respondent No. 3 that is the 'Animal Welfare Board of India' which is a statutory advisory body on Animal Welfare Laws established in 1962 under Section 4 of the Prevention of Cruelty to Animals Act, 1960 and promotes animal welfare in the country.
11. The Respondents under section 3 of the PCA Act, 1960 is entitled to ensure that all animals are treated with compassion and dignity and are not dispensed with ineffable cruelty. The section 3 under Chapter I of the PCA Act, 1960 reads as:

Duties of persons having charge of animals –
It shall be the duty of every person having the care of charge of any animal to take all reasonable measures to ensure the wellbeing of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering.
12. The Respondents herein have the charge of all the animals in the country, as perceived under section 3 of PCA Act, 1960 and this responsibility is not only for the wild animals in forest and sanctuaries, but for every animal in its jurisdiction.
13. The Respondents have failed in their duty to ensure the protection of animals by not bringing out codification to the law despite urging by this Hon'ble Court in Animal Welfare Board of India vs. A. Nagaraja and others (Supra).

14. To the knowledge of the Petitioner no other party/ persons/ bodies/ institutions apart from the above mentioned are likely to be affected by the orders sought in the present writ petition. The Petitioner craves leave of this Hon'ble Court to add/ implead any party during the course of the proceedings, if required.
15. The present Petition is based on authentic information and public documents sourced from authentic news reports, opinions and writings of eminent experts, organisations and other publicly available information.

FACTS OF THE CASE

16. That the protection of animals and their rights are reflected in the Constitution of India which recognizes the need for their protection. Article 51A(g) enshrines and casts upon every citizen of India, the duty to have compassion for all living creatures, as a Fundamental Duty. In keeping with this commitment, India was also one of the first countries to enact a law on the subject of animal cruelty being 'The Prevention of Cruelty to Animals Act, 1960' (hereinafter called as the "PCA Act, 1960").
17. That India has one of the most comprehensive laws on the subject of Wildlife Protection but unfortunately animals do not enjoy specific protections under the same. Therefore, there was a need for comprehensive and holistic legislation to

address this issue. Acknowledging this need, the Hon'ble Minister of Environment and Forests, gave a categorical assurance on the floor of the Lok Sabha on August 11th, 2010 that the Ministry would enact a law titled the 'Animal Welfare Act' that would provide, among other things, for steeper penalties for animal cruelty.

18. That in the year 2011, a draft bill titled the 'Animal Welfare Act, 2011' was introduced by the Animal Welfare Board of India (herein further referred to as "AWBI") in the Parliament to replace the present PCA Act, 1960 and had intended to modify the approach of our authorities in dealing with animal protection by moving from a defensive approach to a positive, welfare and wellbeing oriented approach and by augmenting penalties for animal abuse, strengthening animal welfare organizations, and altering and enlarging the definition of animal abuse, in keeping with the times, and in keeping with judicial pronouncements.

The draft bill, besides, adding a few more categories of cruelty to animals and making the bill more comprehensive, also prescribed greater and more apt penalties for cruelty towards animals by multiplying the old fines, under the PCA Act, 1960, by a factor of a thousand. For the first offence, it provided that the offender would have to pay a fine of not less than ten thousand rupees but which may extend to twenty-five thousand rupees, or with imprisonment upto two years, or both. Further, in the case of a second or subsequent offence

the offender would be punished with a fine, not less than fifty thousand rupees but which may extend to one lakh rupees, and with imprisonment for a term that shall not be less than one year but may extend to three years. However, the need of the hour calls for much stricter penalties, the bill, has not yet been passed.

19. That in the year 2014, the AWBI drew up a fresh draft, *viz.*, the Animal Welfare Bill, 2014. It incorporated substantially higher penalties for animal abuse but is yet to be passed by the Parliament, despite massive furore among animal rights activists and organizations regarding the inconsequential and pitifully scant punishments that the current PCA Act, 1960 provides for. With a rise in incidents of animal abuse recently, the AWBI, as well as other animal rights activists along with several NGOs, appealed to the Ministry of Environment, Forest and Climate Change to consider the bill and get it enacted by the Parliament. However, the bill still remains in cold storage.
20. That in the year 2016, a Private Member Bill of 2016 was introduced in the parliament seeking an amendment to the PCA, 1960 incorporating stringent penalties and making all offences under section 11 of the PCA Act, 1960 cognizable offences. However, the chances of this Bill being passed also seem bleak, considering the fact that it is a private member bill.

Over the years, a large number of private member bills have been introduced in parliament. However, till date, only 15 private members' bills have been passed. This is because only half a day is reserved in a week for private member business, and thus, a majority of private member bills do not even get debated in parliament. Besides, private members generally end up withdrawing their Bills at the behest of the Ministry, mostly without extracting an assurance that the government will introduce a similar bill.

21. That at this point in time, there is greater demand for revamping the existing animal welfare legislation than there has ever been and public outrage against animal cruelty is palpable at this juncture because failure to improve the animal welfare legislation means that greater atrocities towards animals will continue to take place and those concerned will walk away scot-free.
22. That the PCA Act, 1960 should have stood repealed when the Draft Animal Welfare Act, 2011 had come into force but failed to enact the law, due to which no update in the PCA Act, 1960 has been done till date and the Act still lays down the punishment framed in 1960.
23. That Chapter III of the PCA Act, 1960 titled 'Cruelty to Animals Generally' deals with the animals treated cruelly under Section 11 and reads as follows-

11. *Treating animals cruelly.*—

(1) *If any person-*

- (a) *beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes or, being the owner permits, any animal to be so treated; or*
- (b) ¹*[employs in any work or labour or for any purpose any animal which, by reason of its age or any disease], infirmity, wound, sore or other cause, is unfit to be so employed or, being the owner, permits any such unfit animal to be so employed;*
- (c) *willfully and unreasonably administers any injurious drug or injurious substance to ²[any animal] or willfully and unreasonably causes or attempts to cause any such drug or substance to be taken by²[any animal]; or*
- (d) *conveys or carries, whether in or upon any vehicle or not, any animal in such a manner or position as to subject it to unnecessary pain or suffering; or*
- (e) *keeps or confines any animal in any cage or other receptacle which does not measure sufficiently in height, length and breadth to permit the animal a reasonable opportunity for movement; or*

¹ Subs. by Act 26 of 1982, s.10, for certain words (w.e.f. 30-7-1982).

² Subs. by s. 10, *ibid.*, for “any domestic or captive animal” (w.e.f. 30-7-1982).

- (f) *keeps for an unreasonable time any animal chained or tethered upon an unreasonably short or unreasonably heavy chain or cord; or*
- (g) *being the owner, neglects to exercise or cause to be exercised reasonably any dog habitually chained up or kept in close confinement; or*
- (h) *being the owner of ¹[any animal] fails to provide such animal with sufficient food, drink or shelter; or*
- (i) *Without reasonable cause, abandons any animal in circumstances which render it likely that it will suffer pain by reason of starvation or thirst; or*
- (j) *willfully permits any animal, of which he is the owner, to go at large in any street while the animal is affected with contagious or infectious disease or, without reasonable excuse permits any diseased or disabled animal, of which he is the owner, to die in any street; or*
- (k) *offers for sale or, without reasonable cause, has in his possession any animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment; or*
- ²(l) *[mutilates any animal or kills any animal (including stray dogs) by using the method of strychnine injections in the heart or in any other unnecessarily cruel manner; or*

¹Subs. by s. 10, *ibid.*, for “any captive animal” (w.e.f. 30-7-1982).

²Subs. by Act 26 of 1982, s. 10, for clause (l) (w.e.f. 30-7-1982).

- ¹*[(m) solely with a view to providing entertainment-*
- (i) Confines or causes to be confined any animal (including tying of an animal as a bait in a tiger or other sanctuary) so as to make it an object of prey for any other animal; or*
- (ii) incites any animal to fight or bait any other animal; or*
- (n) ²***organises, keeps, uses or acts in the management of, any place for animal fighting or for the purpose of baiting any animal or permits or offers any place to be so used or receives money for the admission of any other person to any place kept or used for any such purposes; or*
- (o) promotes or takes part in any shooting match or competition wherein animals are released from captivity for the purpose of such shooting;*
- he shall be punishable, ³[in the case of a first offence, with fine which shall not be less than ten rupees but which may extend to fifty rupees and in the case of a second or subsequent offence committed within three years of the previous offence, with fine which shall not be less than twenty-five rupees but which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both].***

¹Subs. by s. 10, *ibid.*, for clause (m) (w.e.f. 30-7-1982).

²The words "for the purposes of his business" omitted by s.10, *ibid.* (w.e.f. 30-7-1982).

³Subs. by s. 10, *ibid.*, for certain words (w.e.f. 30-7-1982).

(2) *For the purposes of sub-section (1), an owner shall be deemed to have committed an offence if he has failed to exercise reasonable care and supervision with a view to the prevention of such offence:*

Provided that where an owner is convicted of permitting cruelty by reason only of having failed to exercise such care and supervision, he shall not be liable to imprisonment without the option of a fine.

(3) *Nothing in this section shall apply to-*

(a) *the dehorning of cattle, or the castration or branding or nose-roping of any animal, in the prescribed manner; or*

(b) *the destruction of stray dogs in lethal chambers or ¹[by such other methods as may be prescribed]; or*

(c) *the extermination or destruction of any animal under the authority of any law for the time being in force; or*

(d) *any matter dealt with in Chapter IV; or*

(e) *the commission or omission of any act in the course of the destruction or the preparation for destruction of any animal as food for mankind unless such destruction or preparation was accompanied by the infliction of unnecessary pain or suffering.*

24. That the provisions of the PCA Act, 1960 which arise out of the recognition of animal sentience, specifically for the breach of anti-cruelty provisions of Section 11 as mentioned above, if any animal is subjected to any form of cruelty specified or treated in any of the ways provided under Section 11 (a) to (o)

¹Subs. by s. 10, *ibid.*, for “by other methods with a minimum of suffering” (w.e.f. 30-7-1982).

of the Act, the offender is subject to fines of up to 50 rupees (higher fines with possible imprisonment for repeat offences) which is not a significant penalty to act as a disincentive for animal cruelty and to ensure that people treat animals correctly, as sentient beings.

25. That this considerable amount of delay in passing the said Bill is not only hampering the status, dignity and welfare of animals but also degrading the image of our country on a global level.
26. That India has been accorded grade 'C' by the Animal Protection Index, 2020 (API) which ranks 50 countries around the world according to their animal welfare policy and legislation. A True Copy of the Animal Protection Index is annexed herewith and marked as **Annexure P-2** (from page nos. 45 to 83).
27. That the Petitioner submits that over **24,000 cases** of cruelty to animals have been registered under the PCA Act, 1960 from 2012 to 2015. This statement was given by Environment Minister Prakash Javadekar on May 3, 2016. A true copy of the article titled 'Over 24000 animal cruelty cases reported in the last 3 yrs: Govt' is annexed herewith and marked as **Annexure P-3** (at page no. 84).
28. That in many parts of the country, dogs and cats are slaughtered alongside other species such as chickens, ducks and

wildlife animals. The consumption of dog meat is illegal, but is flouted in the far North Eastern states of Mizoram and Nagaland, where hundreds of dogs are killed brutally for the meat trade. The dogs are smuggled in the north eastern states in trucks at night, with their mouth tied up with rope so that they cannot bark as a result many die of suffocation on the way. Some consider dog meat to have high nutritional and medicinal value. This act is not only illegal under the law but also spread deadly zoonotic diseases such as rabies, trichinosis, typhus and anthrax which can be transmitted from animals to humans. As the law does not provide for stricter penalties, the practice has not stopped in Northeastern states. Every year more than 30,000 stray and stolen dogs are brutally beaten to death for their meat. Similarly cat meat is consumed in isolated regions in South India. Hereto annexed and marked as **Annexure P-4** is the True Copy of the said article published in india.com on July 2, 2020 (from page nos. 85 to 87).

29. That the Petitioner further submits that there have been multiple cases in several states of the country where animals were brutally killed, some of the incidents are mentioned below:
 - a. A man was arrested in Bilaspur district near Shimla on an allegation by the owner of a pregnant cow that he injured the bovine by feeding her some eatables mixed with explosives. On doing the medical examination, it was

discovered that the cow's mouth and jaw were heavily injured and the wounds appeared to have been inflicted by some explosive material that people in rural areas use to deter animals from damaging their crops. The police had registered a case under IPC section 429, involving the mischief of maiming or killing cattle, and under section 11 of the PCA Act, 1960. Hereto annexed and marked as **Annexure P-5** is the True Copy of the said article published in thehindu.com on June 7, 2020 (from page nos. 88 to 89).

- b. A man brutally killed a 5-month-old puppy to death in Dehradun, Uttarakhand. The arrest was made based on a police complaint lodged by one of the main accused neighbor, who had shot the video on her mobile phone that purportedly captured him brutally killing the stray puppy. The accused was charged under IPC and PCA Act, 1960. Hereto annexed and marked as **Annexure P-6** is the True Copy of the said article published in pioneeredge.in on June 7, 2020 (from page nos. 90 to 91).
- c. A 15-year-old wild elephant, which was two months pregnant, had wandered out of the local Silent Valley National Park in search of food when it consumed a pineapple spiked with explosives which exploded in her mouth and damaged her jaw, tongue, and other internal organs, so she took to the river to get some relief, but ended up drowning into the water out of starvation and

exhaustion, resulting in its death. After the news of the incident broke the internet, furious netizens and animal activists took to Twitter, trending the hashtag #RIPHumanity and a lot of outrage was shown by the citizens all over the country. The forest officials said the perpetrators could face animal cruelty charges. Hereto annexed and marked as **Annexure P-7** is the True Copy of the said article published in business-standard.com on June 4, 2020 (from page nos. 92 to 94).

- d. Two teenagers tied up a community dog in Ujjain, Madhya Pradesh, in order to make a TikTok video; they threw it into a pond and pelted stones at it, resulting in its death. They later on uploaded that video of this incident which went viral on social media sparking outrage from netizens who had demanded their arrests. The accused were booked under section 34, 429 of the IPC and section 11(1)(a) of the PCA Act, 1960. Hereto annexed and marked as **Annexure P-8** is the True Copy of the said article published in news18.com on May 26, 2020 (from page nos. 95 to 97).
- e. The Tirunelveli police from Tamil Nadu arrested a teenager who hung a cat from the ceiling. On May 16, 2020 a video was uploaded showing a dead cat hanging by a rope tied to the ceiling of a house. It also showed the youth touching the cat and making it swing below the pole to which the rope was tied. The disturbing visuals of the

dead cat sparked outrage among the people on social media, who demanded that the accused be brought to book and be arrested. According to the police, the man had hung a cat by the rope expecting more views for his video on TikTok. An FIR was filed against the teenage under sections 429 (mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees) of the IPC and sections 11 (treating animals cruelly), 11(i) (without reasonable cause, abandons any animal in circumstances which render it likely that it will suffer pain because of starvation or thirst) of the PCA Act, 1960. Later the teenager was let out on bail after arrest. Hereto annexed and marked as **Annexure P-9** is the True Copy of the said article published in thenewsminute.com on May 22, 2020 (from page nos. 98 to 99).

- f. A 68-year-old man of Odisha's Bhubaneswar was arrested and subsequently remanded in judicial custody for allegedly sexually assaulting a stray dog in City's Patia area. The accused was booked under Section 377 of IPC (unnatural sexual offence) and Section 11 of PCA Act, 1960 (for treating animals cruelly). Hereto annexed and marked as **Annexure P-10** is the True Copy of the said article published in newsindianexpress.com on May 21, 2020 (from page nos. 100 to 101).
- g. An FIR was lodged under sections 428, 429 of IPC and section 11 of PCA, Act, 1960 against a watchman in Juhu,

Mumbai, for beating an old disabled dog inside the housing complex, leading to its death. Hereto annexed and marked as **Annexure P-11** is the True Copy of the said article published in timesofindia.indiatimes.com on November 20, 2019 (at page no. 102).

- h. A shocking incidence of animal cruelty which was filmed at the start of Deepavali that highlighted the plight of domesticated animals during the festival of lights. In the video, which was leaked to the media, a group of young men in Bhadravathi, Karnataka can be seen tying a whip cracker to the tail of a stray dog on October 26 and igniting the fuse. The 12-second video shows the animal howling and running into the night. The incident has prompted outrage among animal welfare and activist circles. The three individuals were later identified and arrested by Police however they were later released as the offence was non-cognizable and as India's 1960-era prevention of animal cruelty law carries a maximum fine weight of Rs. 50. Hereto annexed and marked as **Annexure P-12** is the True Copy of the said article published in deccanherald.com on October 31, 2019 (from page nos. 103 to 105).
- i. A group of men beats 12 puppies to death in Goregaon, Mumbai. Four of the puppies who weren't even a week old were thrown from a great height resulting in their death. The other 8 puppies that were only about a month old were

hammered with a blunt object. The CCTV footage recorded 4 suspects taking the puppies somewhere. An FIR was filed against the offenders under Section 429 of IPC. Hereto annexed and marked as **Annexure P-13** is the True Copy of the said article published in dnaindia.com on September 4, 2019 (from page nos. 106 to 109).

j. A man allegedly raped a female dog in Khargar, Navi Mumbai. An FIR was registered against the offender under Section 377 of IPC. The man is thought to be a repeat offender who may have previously sexually abused other animals. Hereto annexed and marked as **Annexure P-14** is the True Copy of the said article published in mid-day.com on August 22, 2019 (from page nos. 110 to 112).

k. A building watchman in Kandivali mercilessly inserted a rod into a dog's vagina and ripped out its intestines. The dog that had recently given birth to seven puppies was later seen roaming around with its intestines dangling out. This resulted in its traumatic death. The watchman was booked under Sections 428, 429 of IPC (killing or maiming animals) but later released on a bail bond of just Rs. 3,000. Hereto annexed and marked as **Annexure P-15** is the True Copy of the said article published in dnaindia.com on August 24, 2018 (from page nos. 113 to 114).

30. That historically, kings would hunt animals as a hobby, which was very wrong. We began to see them as prey or a sporting

target. Coming back to modern times, cases like these involve psychopaths who do not feel pain or empathy, and that is why they are able to hurt other living beings. They see animals as a soft target where they can beat or kill them to express their anger without consequences.

31. That the rise in the number of cruelty incidents towards animals as stated above has compelled the Petitioner to question the adequacy of the meagre criminal liability imposed under the PCA Act, 1960. The PCA Act, 1960 has not been amended since 1960 to keep up with the times and even today the only punishment for such dastardly acts is a mere fifty Rupees fine and no jail term. The perpetrators take advantage of these lacunae in law.
32. That the most primitive provision on the protection of animals is given in the IPC, which defined animals and further declared killing or maiming of animals as a punishable offence. The provisions of law that deal with such violent crimes are given in Chapter XVII of IPC (of Offences against Property) section 428 and section 429. They read as follows:

Section 428- Mischief by killing or maiming animal of the value of ten rupees.—Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

The offence under this section is cognizable, bailable, compoundable and triable by any Magistrate.

Section 429- Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.— Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

The offence under this section is cognizable, bailable, compoundable and triable by Magistrate of First class.

33. That when a crime is conducted on a stray animal it does not attract the provisions of chapter XVII of the IPC as the stray animal does not have any monetary value (be it above or below ten or fifty Rupees as given under section 428 and 429 of IPC) and also such a stray animal is not a household pet of anyone, so possibly cannot be classified as property, and hence does not attract the provisions of chapter XVII of the IPC. Therefore when a person hacks a stray dog to death, then applying these provisions of the IPC would be very tough as the stray dog was not purchased from a pet shop and hence it does not have any monetary value nor can it be classified as anyone's property.

34. That the laws in our country, which have been enacted for the protection and safety of animals, are ineffectual and toothless, considering the meagre penalties prescribed, which are neither proportional to the gravity of the offences committed nor are enough to prevent such offences. The severity or the degree of the punishments prescribed by these laws is no match for the gravity of the crimes that offenders commit against animals.
35. That a fine of fifty rupees is not adequate punishment when it comes to offences which may result in the death of or in severe injury to animals. Consequently, offenders get away easily with an insignificant sum of penalty owing to the non-cognizable status of the offences, statutory limitation and easy grant of bail having suffered no major consequences for their reprehensible actions. Several grave offences which may cause extreme discomfort and severe pain to animals, and sometimes even result in death. The consequences of such minor sentences and fines for such grave and serious offences are the recurring incidents of animal abuse.
36. That it is necessary that the PCA Act, 1960 is efficient and effective in all aspects of its application, especially imposition of liabilities, given the fact that it is the prime anti-cruelty legislation in India. In this part, the lacunae in the present structure and functioning of the PCA Act, 1960 primarily with respect to the insufficient penalty, non-cognizability of offences and easy receipt of bail require modification.

37. That the criminal penalties for offences must be imposed depending on the intensity and the objective of punishing the offender considering the fact of lack of proportionality between the penalty and the offences, the monetary value of the penalty, non-cognizability of offences, and the easy grant of bail.
38. That the Central Government framed and passed the Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001 under Section 38 of the PCA Act, 1960, with a view to establish SPCAs in every district of the states.
39. That this Hon'ble Court in an order dated 06.08.2008 in W. P. (C) No. 440 of 2000 titled Geeta Seshamani vs. Union of India & Anr. directed all the States to establish State Animal Welfare Boards within *three months* and to constitute SPCAs in every district keeping in view Rule 3 of Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001. However, no such directions were duly complied with by the States and therefore the Hon'ble High Court of Uttaranchal in Narayan Dutt Bhatt vs. Union of India (Supra) directed the State Government to constitute SPCAs in each district, if not already constituted.
40. That on 01.10.2018, the AWBI issued an advisory to all the States and Union Territories to comply with the directions

given in *Geeta Seshamani vs. UOI & Anr (Supra)* however the same has not yet been complied with in all the districts of the states.

41. That provisions of the PCA Act, 1960 which are concerned with issues of animal welfare and prevention of cruelty must also be in consonance with our collective fundamental duties, that is, to have compassion for all living creatures and to develop and inculcate the spirit of humanity as well as a scientific temper, when dealing with animals so as not to harm them. The fundamental duties of the citizens of the country are the collective duties of the State. The adequacy and applicability of statutory provisions are, therefore, to be determined with reference to the fundamental duties, as also the Directive Principles of State Policy.
42. That the cause of animal welfare has created an urgent need to raise general awareness about the rights of animals and to increase the stigma that is attached to acts of animal cruelty, so as to make such practices socially unacceptable. The punishment that acts of animal cruelty attract should cause significant detriment to the perpetrators so as to deter them and also to pose a threat to their reputation in society. Only then will the object of adequate deterrence and greater regard for animal rights be achieved. There is a need to revisit the laws against animal cruelty, to make them more stringent, so that they may adequately address the malaise of animal cruelty in society and to reformulate statutory provisions to bring

them in line with judicial interpretation of the rights of animals under the statute as well as the Constitution.

43. That the amendment to the PCA Act, 1960 will not only help in recognizing the rights of animals, as they will have access to remedies when there is a violation of their rights but also, increase general awareness about the rights animals possess as sentient beings and as animals are considered to be non-humans, they are not completely devoid of possession of rights since humans still have a duty towards them.
44. That due to the inadequacy of the legislation, which seek to protect animals' rights and the Parliament's inefficacy to recognize the rights of animals and prescribe any effective measures to protect basic rights; change in the law is necessary. Three amendments to the PCA Act, 1960 have already been proposed. However, they are yet to be passed by the Parliament. Every day, there are new cases of animal cruelty being written about and spoken of. In light of this situation, solutions to mitigate the suffering of animals have to be found. Therefore, changes are required to the PCA Act, 1960, such as civil liability being imposed on those who violate the rights of animals, for their failure to perform their duty of protecting the rights of animals. The provision for imposing civil liability can be included in the PCA Act, 1960, because of the intrinsic worth of animals and their ability to feel pain as sentient beings. Animals do not merely exist for human benefit. Thus, we must stop denigrating them to an

inferior position and must offer them adequate safeguards and rights, as it is our duty to do so.

45. Therefore in view of above facts, there is a lacuna of law by not amending the PCA Act, 1960 and it is necessary that the PCA Act, 1960 is efficient and effective in all aspects of its application, especially imposition of criminal liability and to identify and explore imposition of civil liability as a possible recourse, considering it is the prime anti-cruelty legislation in India. Hence, the Petitioner is constraint to file present Writ Petition under Article 32 for the purpose of enforcement of PCA Act, 1960 guaranteed as fundamental rights under Article 14, Article 51A(g), and under Article 48A of the Constitution of India.
46. That the Petitioner thus approaches this Hon'ble Court under Article 32 of the Constitution of India, for the reliefs prayed for herein, for the following grounds, which are without prejudice to one another:

GROUND

- A. Because the Directive Principle of State Policy under **Article 48A** of the constitution enjoins the State to take steps to protect the wildlife of the country and that wildlife does not only mean the animals in the forests but all animals in its jurisdiction. Furthermore, such protection does not only include protection from poaching but also from the severe cruelty they are meted out every day. The

Directive Principle of State Policy under Article 48A reads as –

“The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country.”

- B. Because the Directive Principle of State Policy under **Article 51A(g)** of the constitution casts a fundamental duty on the State and its citizens to protect animals and be sensitive towards them thereby shielding them from abuse. The Directive Principle of State Policy under Article 51A(g) of the Constitution which reads as –

“51A. It shall be the duty of every citizen of India–

(g) to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures”.

In fact, **Mahatma Gandhi** once famously said that *“The greatness of a nation and its moral progress can be judged by the way its animals are treated.”*

- C. Because the Respondent No. 1 herein the petition is the ‘State’ i.e., the Central Government through the nodal Union Ministry of Environment and Forests and Animal Welfare Board of India, both of which are tasked with the initiation and implementation of all steps for the protection

of the Environment and animal welfare as defined in **Article 12 of the Constitution and as obliged under Article 21 read with Article 51A(g) of the Constitution.**

- D. Because the Respondent No. 2 herein the petition is the ‘Ministry of Law and Justice’ which deals with the management of the legal affairs, legislative activities and administration of justice in India through its three departments, viz., the Legislative Department and the Department of Legal Affairs and Department of Justice respectively. The Department of Legal Affairs is concerned with advising the various Ministries of the Central Government while the Legislative Department is concerned with drafting of principal legislation for the Central Government.
- E. Because Respondent No. 3 herein the petition is the ‘Animal Welfare Board of India’ which is a statutory advisory body on Animal Welfare Laws established in 1962 under **Section 4 of the PCA Act, 1960** and promotes animal welfare in the country. Section 4 of PCA Act, 1960 reads as:

“4. Establishment of Animals Welfare Board of India.—

(1) For the promotion of animal welfare generally and for the purpose of protecting animals from being

subjected to unnecessary pain or suffering, in particular, there shall be established by the Central Government, as soon as may be after the commencement of this Act, a Board to be called the Animal Welfare Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and may by its name sue and be sued.”

- F. Because this Hon’ble Court expanded the scope of **Article 21** in the case of **Animal Welfare Board of India vs. A. Nagaraja** (Supra) stating that the application of the aforementioned Article is not restricted to human life alone but also extends to the life of an animal. The court laid down that-

“Article 21 of the Constitution, while safeguarding the rights of humans, protects life and the word “life” has been given an expanded definition and any disturbance from the basic environment which includes all forms of life, including animal life, which are necessary for human life, fall within the meaning of Article 21 of the Constitution. Right to dignity and fair treatment is, therefore, not confined to human beings alone, but to animals as well.”

- G. Because in the aforementioned judgment, the Hon'ble Court further goes on to opine how the penalty in the PCA Act, 1960 is paltry and reduces the deterrence in society and then exhorts the Parliament to urgently amend the PCA Act, 1960, and provide sufficiently deterrent punishments. It clearly established that –

“Penalty for violation of those rights is insignificant, since laws are made by humans. Punishment prescribed in Section 11(1) is not commensurate with the gravity of the offence, hence being violated with impunity defeating the very object and purpose of the Act. Parliament is expected to make proper amendment of the PCA Act, 1960 to provide an effective deterrent to achieve the object and purpose of the Act and for the violation of section 11, adequate penalties and punishments should be imposed.”

- H. Because **Article 21** (which as per the **Animal Welfare Board of India vs. A. Nagaraja** (Supra), applies to animals also) is violated due to the paltry and virtually non-existent penalty for heinously grave offences in the PCA Act, 1960.
- I. Because **Article 14** of the constitution is being violated since imposing an infinitesimal fine of Rs. 50 even for the most barbaric crimes is an arbitrary act and is thus unequal according to constitutional law.

- J. Because under **Section 3 of the PCA Act, 1960**, the State should ensure that all animals are treated with compassion and dignity and are not meted out with unspeakable cruelty. Section 3 of the PCA Act, 1960, reads as:

“3. Duties of persons having charge of animals – It shall be the duty of every person having the care of charge of any animal to take all reasonable measures to ensure the wellbeing of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering.”

It is clearly established that since the State is duty-bound to act in the best interests of all the animals in the country, especially the strays; it is failing to fulfill its obligations by not bringing out legislation to do away with the lacunae in law despite the exhortation by this Hon’ble Court in *Animal Welfare Board of India vs. A. Nagaraja (Supra)*.

- K. Because under **Section 38 of the PCA Act, 1960**, the Central Government framed and passed the **Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001** with a view to establish SPCAs in all the districts of the states. Section 38 of the PCA Act, 1960 reads as:

“38. Power to make rules— (1) The Central Government may, by notification in the Official Gazette,

and subject to the condition of previous publication, make rules to carry out the purposes of this Act.”

L. Because this Hon’ble Court in **Geeta Seshamani vs. Union of India & Anr.** (Supra) directed all the States to establish State Animal Welfare Boards *within three months* and to constitute SPCAs in every district keeping in view Rule 3 of Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001. However, no State was proactive while establishing State Animal Welfare Board and ensuring its smooth functioning either by way of constituting SPCAs or otherwise.

Rule 3 (1) of Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001 reads as:

“Society for Prevention of Cruelty to Animals in a district.—

(1) Every State Government shall, by notification in the Official Gazette, establish, as soon as may be and in any event within six months from the date of commencement of these rules, a society for every district in the State to be the SPCA in that district: Provided that any society of prevention of cruelty to animals functioning in any district on the date of commencement of these rules shall continue to

discharge its functions till establishment of the SPCA in that district under these rules.”

In 2018, the Hon’ble High Court of Uttarakhand in *Narayan Dutt Bhatt vs. Union of India (Supra)* directed the State Government to constitute SPCAs in each district, if not already constituted.

- M. Because the AWBI issued an advisory on 01.10.2018 to all the States and Union Territories to comply with the directions given in *Geeta Seshamani vs. UOI & Anr (Supra)*. The time gap of ten years in trying to implement this Hon’ble Court’s decision is a clear case of contempt of court which highlights the casual approach of the respondents while dealing with animal welfare. Hereto annexed and marked as **Annexure P-16** is a true copy of the advisory issued by the AWBI on 01.10.2018 (from page nos. 115 to 125).
- N. Because this Hon’ble Court has been the foremost protector of rights and liberties of the voiceless and has in a catena of judgments such as **Vineet Narain and Others vs. Union of India and Another, 1 SCC 226** wherein it was held that when there is a legislative deficiency, the Supreme Court of India can issue guidelines. In *Vineet Narain case (Supra)* this Court has observed as under in Paragraph 51 of the reported decision:-

“There are ample powers conferred by Article 32 read with Article 142 to make orders which have the effect of law by virtue of article 141 and there is mandate to all authorities to act in aid of the orders of this Court as provided in Article 144 of the Constitution. In a catena of decisions of this Court, this power has been recognised and exercised, if need be, by issuing necessary directions to fill the vacuum till such time the legislature steps in to cover the gap or the executive discharges its role.”

Article 142 of the Constitution reads as –

“Enforcement of decrees and orders of Supreme Court and unless as to discovery, etc.

(1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or orders so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as

respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.”

- O. Because in the **List III (Concurrent List), Seventh Schedule**, it is provided that the Centre and the State have the power and authority to:

17A. Prevent cruelty to animals.

17B. Protect wild animals and birds.

The State, as well as the Centre, has failed to prevent animal cruelty by not amending the PCA Act, 1960. As per the PCA Act, 1960 and as directed by the AWBI, each State has to establish an Animal Welfare Board and also form Society for Prevention of Cruelty to Animals at district levels.

- P. Because the animal abuse and youth violence is closely related to each other as it was laid down by Frank R. Ascione in Juvenile Justice Bulletin heading as ‘**Animal Abuse and Youth Violence**’. A true copy of this journal article named ‘Animal Abuse and Youth Violence’ is annexed herewith and marked as **Annexure P-17** (from page nos. 126 to 141).

- Q. Because there is a close relationship between animal abuse and family violence, if an adult is abusing an animal, then there is a sufficient chance that he/she is engaging in other criminal behaviour as well, particularly human-directed aggressive behaviour as found out by Eleonora Gullone, Judy Johnson and Ann Volant in their article '**The Relationship between Animal Abuse and Family Violence**' focusing on the abuse on animals and an antisocial behavioural framework. A true copy of this journal article named 'The Relationship between Animal Abuse and Family Violence' is annexed herewith and marked as **Annexure P-18** (from page nos. 142 to 150).
- R. Therefore in view of above grounds, there is a lacuna of law by not amending the PCA Act, 1960 even after being drafted and presented before the Parliament in the year 2011, 2014 and 2016, and it is ineluctable that the PCA Act, 1960 is efficient and effective in all aspects of its application, especially imposition of criminal liability and to identify and explore imposition of civil liability as a possible recourse, considering it is the prime anti-cruelty legislation in India. A true copy of the draft bill titled the 'Animal Welfare Act, 2011' is annexed herewith and marked as **Annexure P-19** (from page nos. 151 to 178). The True copy of the article published in thehindu.com which catalogues the Animal Welfare Bill, 2014 is annexed herewith and marked as **Annexure P-20** (from page nos. 179 to 180) and a Private Member Bill of 2016 is annexed herewith and marked as **Annexure P-21** (from page nos. 181 to 186).

PRAYER

In light of the aforementioned facts and circumstances of the present case and in the interest of justice, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- (a) Issue appropriate Writ, or Order or Direction in the nature of Mandamus directing the Respondents to pass the amendment to the PCA Act, 1960 by taking into consideration the Draft Animal Welfare Act of 2011, followed by the Animal Welfare Bill, 2014 and the Private Member Bill of 2016, suggesting the revision in the penalties levied under the PCA Act, 1960 and to expand the scope and the nature of the cruelty to animals;
- (b) Issue appropriate Writ, or Order or Direction in the nature of Mandamus directing the Respondents to fix a time frame within which the amendment to the PCA Act, 1960 shall be passed and the consequences of not enacting the law within such time frame;
- (c) Issue appropriate Writ, or Order or Direction to the Respondents to establish a State Animal Welfare Board in each state and to constitute Societies for Prevention of Cruelty To Animals in each district as contemplated under Rule 3 of Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001 and as

ruled by this Hon'ble Court in **Geeta Seshamani vs. Union of India & Anr** (Supra) and as per the Advisory issued by the AWBI to all the States and Union Territories dated 01.10.2018;

- (d) Issue a Direction or an Order under Article 142 to make sections 428 and 429 of the IPC applicable to all animals irrespective of monetary value or ownership;
- (e) Issue appropriate Writ, Order, Direction or guidelines with regards to the punishment for animal abuse, till the amendment to the PCA Act, 1960 is not passed by the Parliament;
- (f) Pass any other order, direction or relief as this Hon'ble Court may deem fit in the best interests of justice, fairness, equity and good conscience.

**AND FOR THIS ACT OF KINDNESS THE
PETITIONER AS IN DUTY BOUND SHALL EVER
PRAY**

FILED BY:



SANKALP GOLATKAR
PETITIONER IN PERSON

PLACE: **MUMBAI**

FILED ON: **04.07.2020**