

**SYNOPSIS**

The petitioner herein is a journalist and reporter of Indian Reporter Magazine and also the President of 'Indian Makkal Mandram' and is a public spirited person who has done various matters which have brought to light many social evils and realities. The petitioner has fought for the bringing justice to the masses through his professional journalism and also through various public interest petitions . The petitioner is a public spirited individual. The petitioner has fought for issues which the petitioner has found 'to be an issue of the masses' & important before various authorities and Courts of Law in this country.

The petitioner feels duty bound to bring to the knowledge of this Hon'ble Court the practice of slaughter in the name of animal sacrifice that is being perpetrated/carried out by devotees of various religions/cults/beliefs throughout the territory of India. It is submitted that there have been various instances of animal sacrifice prevalent in different parts of the country, by the devotees of Hinduism during the festival of Durga Pooja and devotees of the Islam Faith during Bakr-i-Eid etc.

*The Panchatantra opines "In blind darkness are we sunk when we offer sacrifices with beasts. A higher religious duty than ahimsa has never been nor shall be."*

The Petitioner herein states that extreme acts of violence is committed on animals, and more often than not by devotees who are untrained to carry out the execution of an animal in the most minimally pain causing manner. Further, it is submitted that these sacrifices often take place in full public view of children, and other animals, and therefore, the same is a celebration of barbaric and ancient practices that have their foundation in superstition.

The petitioner submits that animal rights movement must simultaneously be a moral crusade and a social movement that pursues a strategy combining idealistic objectives of abolition with pragmatic goals of embedding the values of animal rights into public policy.

Religion cannot be allowed to become a tool for perpetuating untold miseries on animals and if anybody tries to impose its direction on the followers in violation of the Constitution or validly enacted law, it will amount to an illegal act. The extra-Constitutional bodies have no role and cannot issue directives to the followers to not obey the command of law. They cannot be permitted to sit in appeal over the Constitution.

Faith, religion, customs and practices should not take precedence over lawful rights, human or animal. Whether it is the slaughter of lambs for Easter, turkeys for Thanksgiving

or goats for Bakri-Eid, this is an appeal to all sensitive humans to pause and take a deep breath and visualise the eyes of the trusting animal in flesh and blood that will come under your knife to 'please' an unseen God. The question is not about better welfare practices for ritual animal sacrifices, but whether the time has come to abolish this primitive tradition altogether.

The concept of *bali* (sacrifice) is to give up or forego something that is truly one's own (either a negative emotion or some other material attachment) to further one's *tapasya* or spiritual pursuit, not pick up a helpless animal and slaughter it; which is the easiest thing to do.

The myopic concept of *bali* must end its recurrence.

The life of a lamb is no less precious than that of a human being. I should be unwilling to take the life of a lamb for the sake of the human body or God.

Recently, the Hon'ble High Court of Himachal Pradesh had held that the act of animal sacrifice in the name of religion or otherwise is banned in the State of Himachal Pradesh, and further directions were issued therein to Governmental authorities to curb the practice.

World religions such as [Christianity](#), [Islam](#) and [Judaism](#) all embody a traditional and sometimes bizarre set of animal sacrifice rituals in their holy texts. These practices, despite

being borderline barbaric and not in keeping with modern ideas of animal welfare, are still in use today by religious communities all over the world, including in the most modern countries. Although it might seem reasonable in the West to allow butchers to sell *halal* food, at the core of this familiar label is weird ritualistic behaviour that belongs in the dark ages. The ideals of pluralism have blinded us to the stark reality that some religious practices are simply unacceptable.

The general public associate [blood rituals involving animals with Satanism](#), not realizing that they were all invented and are still practiced by mainstream religions - and that Satanism does not involve animal sacrifice. We compare scriptures below and look at some of the gory and shocking rituals that God directly asks people to do in the Jewish Scriptures / Old Testament. As modern governments continue to legislate against cruelty to animals, we will find that it is the world's mainstream religions' adherents who retreat to shady basements and hidden locations to perform secret rituals to kill animals, rather than [Satanists](#) or Pagans.

It is humbly pointed out that the act of subjecting any animal within the definition of an animal under Section 2(a) i.e any living creature other than a human being would

amount to the commission of an offence under Section 11 and the same is being perpetrated openly

The petitioner finds that the acts of extreme cruelties which are perpetrated by persons during religious festivals gets the sanction of law through Section 28 of the Prevention of Cruelty to Animals Act 1960. Sections 428 and 429 of the Indian Penal Code make it illegal to maim or cause injury to any animal.

It is humbly submitted that the right provided under Article 25 to propagate and practice one's religion does not provide for the right to commit atrocities and cruelty on animals. The safeguard given under Section 28 of the Prevention of Cruelty to Animals Act 1960 in this regard, it is humbly submitted is archaic and arbitrary.

The Petitioner submits that S. 28 of the Act merely provides a protection to manners of killing, if any, prescribed by a religion, for eg. *Halaal* or *Dhabihah* in Islamic faith. It is submitted that S. 28 does not in any way sanction the acts of animal sacrifice in the name of religion. However, the Petitioner herein finds that random acts of violence on animals and birds in the name of religion are perpetrated on the strength of S. 28 of the Act.

. The acts of cruelty to animal under the garb of religious practice cannot be permitted in free India where the ethos and values of the Constitution occupy the highest pedestal.

The original Constitution of India has images of Ram, Laxman and Sita on the Fundamental Rights pages whereas the Directive Principles page had images of Lord Krishna and other pages had images of Nataraj and other deities.” The intention of the framers of the Constitution has to be understood in the correct manner.

It is submitted that the prescription of animal sacrifice in religious texts cannot be equated as giving theological sanction for the practice in the modern age where civil society is tempered by reason and logic. India is a country where nature i.e rivers, tree, hills etc are worshipped and in such a society animal sacrifice cannot be permitted anymore.

The present Writ Petition under Article 32 is being filed in Public and National Interest praying a direction to the Respondents i.e. Central/State Government to ban the practice of animal slaughter in the name of animal sacrifice under the sanction of religion or otherwise as being unconstitutional, illegal and violative of Article 14, 21, 29 & 30 of the Constitution of India.

Our Constitution framers had introduced Article 17 in part III of the Constitution. When untouchability can be declared

as unconstitutional then a question arises as to how animal sacrifice in the name of religion can be permitted in our country.

The petitioner also seeks that Section 28 of the Prevention of Cruelty to Animals Act 1960 be declared as unconstitutional and violative of Articles 14,21,29 & 30 of the Constitution of India.

#### **LIST OF DATES**

The petitioner herein is a journalist and reporter of Indian Reporter Magazine and also the President of Indian Makkal Mandram and is a public spirited person who has done various matters which have brought to light many social evils and realities and have fought for the bringing justice to the masses through his profession journalism and also through various public interest petitions he has filed. The petitioner is a public spirited individual. The petitioner has taken issues which the petitioner has found important to various authorities and Courts of Law in this country.

The petitioner is deeply moved by the practice of slaughtering camels in the state of Rajasthan during Qurbani festival season. Further, the acts of animal sacrifice are rampant in various parts of the country

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under the apparent sanction of various religions. The Petitioner states that these practices are seldom prescribed as an essential/integral part of practice and propagation of any religion, but contains its roots in practices that are immersed in superstition, and ancient pagan practices. Therefore, in the modern day wherein civil society and discourse therein are governed by scientific temper and reason, these practices of animal sacrifice are contrary to the constitutional ethos of this country.

1960

The Prevention of Cruelty to Animals Act, 1960 is the [Act](#) of the [Parliament of India](#) which was enacted to prevent the infliction of unnecessary pain or suffering on animals and to amend the laws relating to the prevention of cruelty to animals. As per the provisions of the law the Animal Welfare Board of India was constituted as the statutory body to carry out the purposes of the Act. S.3 of the Act enjoins upon any person having charge of animals to take all reasonable measures to ensure the well-being of animals and to prevent infliction upon such animal of unnecessary pain or suffering. Further S. 11 of the Act provides for various offences with the view to prevent the cruel treatment of animals.

2001 The Prevention of Cruelty to Animals (Slaughter House) Rules, 2000 came into force. Rule 3 of the Prevention of Cruelty to Animals (Slaughter House) Rules, 2001, prescribes that no person is authorized to slaughter any animal within a municipal area except in a slaughter house recognized or licensed by the concerned authority. Further, the Rule 6(1) of the aforesaid Rules also provide that no animal can be slaughtered in the sight of other animals. It is submitted that these public display of vulgar acts in the name of animal sacrifice are in complete violation of the aforesaid Rules.

26.09.2014 Vide order dated 26.09.2014, a Division Bench of the Hon'ble High Court of Himachal Pradesh in C.W.P No. 9257 of 2011 in the case of Ramesh Sharma V. State of H.P, banned all forms of animal sacrifice in the State of Himachal Pradesh, in the name of religion. True copy of the order dated 26.09.2014 of the Hon'ble High Court of Himachal Pradesh in CWP No. 9257 of 2011 is annexed herewith and marked as "**Annexure P-1**". (pages to )It is pertinent to note that a special leave petition filed against the aforesaid order before this Hon'ble Court has been registered as SLP (C) No. 27686-88 of 2014.

17.10.2014 Various organizations working for the cause of animals' rights have sought to bring the issue of animal sacrifice in the modern age India to the mainstream discourse, and as a result various articles were published highlighting the atrocities that are being perpetrated in the name of religion. True copy of one such article dated 17.10.2014 authored by Poorva Joshipura, CEO of PETA INDIA published in the IB Times entitled "Animal Sacrifice has no place in Space-Age India" is annexed herewith and marked as "**Annexure P-2**". (pages to )

June 2015 The Petitioner herein also sent various representations to various concerned authorities in relation to the banning of animal sacrifice in the country, especially the practice of killing/slaughtering animals, particularly camels, during the festival of Bakr-i-Eid. True copy of the representation sent by the petitioner dated June 2015 is annexed herewith and marked as **Annexure P-3. (pages to )** That despite the repeated efforts of the civil society to highlight the issues relating to animal sacrifice no effective steps whatsoever has been taken by the authorities concerned to curb this practice. True copies of photographs of instances of animal sacrifice is

annexed herewith and marked as “**Annexure P-4**”.

(pages to )

17.08.2015 That recently vide letter dated 17.08.2015, the Animal Welfare Board of India had issued directions to various Chief Secretaries, Director General of Police, and Director, Animal Husbandry Department of all States to prevent the slaughter of camels during the occasion of Bakr-i-Eid. It is submitted that the aforesaid letter directs the strict enforcement of the provisions of the Prevention of Cruelty to Animals Act, 1960, and the rules made thereon in relation to transportation of animals. The aforesaid letter further directs that camels could not be killed/slaughtered even for the purpose of food. True copy of the letter dated 17.08.2015 of the Animal Welfare Board of India is annexed herewith and marked as “**Annexure P-5**”.

(pages to )

.09.2015 The present Writ Petition under Article 32 is being filed in Public and National Interest praying a direction to the Respondents i.e. Central/State Government to ban the practice of animal slaughter in any form as being unconstitutional, illegal and in violation of Article 21 of the Constitution of India. Further, the Petitioner herein seeks for a declaration that S. 28 of the Prevention of Cruelty to Animals Act, 1960 in so far as the same affords sanction of the practice of animal

sacrifice in the name of religion to be struck down as unconstitutional.

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IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

(Under Article 32 of the Constitution of India)

WRIT PETITION (C) NO. OF 2015

IN THE MATTER OF:

VARAAKI

S/O. V.RADHAKRISHNAN

A JOURNALIST AND THE

FOUNDER PRESIDENT,

INDIAN MAKKAL MANDRAM,

NO.2/3, SUTHANADA BHARATHI STREET,

GANAPATHY PURAM,

TAMBARAM EAST, CHENNAI-59.

PETITIONER

AND

1. Union of India through Secretary,  
Ministry of Home Affairs,  
Central Secretariat, North Block,  
New Delhi, 110001.
2. Union of India through Secretary,  
Ministry of Law and Justice,  
4th Floor, A-Wing, Shastri Bhawan,  
New Delhi-110 001.
3. Union of India  
Ministry of Environment through Joint Secretary,  
Animal Welfare Division,  
Indira Paryavaran Bhavan,  
Jorbagh Road,  
New Delhi - 110 003.
4. CHAIRMAN  
ANIMAL WELFARE BOARD OF INDIA  
13/1, THIRD SEAWARD ROAD,  
VALMIKI NAGAR,  
THIRUVANMIYUR,  
CHENNAI- 600 041  
TAMIL NADU

RESPONDENT

**PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF  
INDIA (PUBLIC/NATIONAL INTEREST LITIGATION)**

TO

THE HON'BLE CHIEF JUSTICE OF INDIA  
AND HIS COMPANION JUSTICES OF THE  
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE WRIT PETITION OF  
THE PETITIONER ABOVENAMED

MOST RESPECTFULLY SHOWETH:

1. The present Writ Petition under Article 32 is being filed in Public and National Interest praying a direction to the Respondents i.e. Central/State Government to ban any form of animal sacrifice that is prevalent across the country that is carried out under the purported exercise of religious freedom and otherwise, as being illegal, unconstitutional and absolutely against the Prevention of Cruelty to Animals Act.
2. The brief facts giving rise to the present petition are as follows:
  - 2.1 The petitioner herein is a journalist and reporter of Indian Reporter Magazine and also the President of Indian Makkal Mandram and is a public spirited individual who has petitioned various matters which have brought to light many social evils and realities and have fought for the bringing justice to the masses through his profession journalism and also through various public interest petitions he has filed.

2.2 The petitioner is a public spirited individual. The petitioner has taken issues which the petitioner has found important to various authorities and Courts of Law in this country.

2.3 The Petitioner herein states that over the years various inhuman, cruel and blatant acts of violence and slaughter are being perpetrated upon animals by devotees of various religions in India. It is stated by the Petitioner herein, at the outset, that religion does not in any way condone or prescribe cruelty to animals or other living beings and therefore, the acts of cruelty that are being perpetrated in the name of religion is absolutely misplaced and based on misconstrued interpretation of the concepts of faith and worship rooted in superstition or observance of condemned practices as a result of blind faith which is contrary to scientific temper and reason. The Petitioner herein further submits that the express acts of violence committed on animals by the devotees are given implicit sanction by the State by virtue of S. 28 of the Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as "the Act"). It is submitted that, even assuming that the religions do in fact afford sanction to the practice of animal sacrifice, the practice of slaughtering of animals in the name of sacrifice does not get the sanction of law neither under S. 28 of the Act nor under Articles 25 and 26 of the Constitution of India.

Further, this Hon'ble Court has on various occasions held that the practices that are contrary to public order, health or morality cannot be in any way condoned in the name of protection afforded under Article 25 of the Constitution of India. In any case, in today's times the attitude towards animals as being subjects at the disposal of the dominant species viz. the *Homo Sapiens* has undergone a drastic change, and the attitude of co-existence and mutual respect towards the existence of other species is the prevalent ideology in environmental law. It is submitted the aforesaid attitudinal shift has been recognized by this Hon'ble Court on various occasions.

2.3 The petitioner is deeply moved by the practice of slaughtering animals in the name of religion and other local practices. Camels in the state of Rajasthan are slaughtered during Qurbani festival season. Qurbāni or Udhiyyah as referred to in Islamic Law is the sacrifice of a livestock animal during Eid-ul-Adha. The word is related to the Hebrew *qorbān*" for offering" and Syriac word for *qurbānā* "sacrifice", etymologised through the cognate Arabic trilateral as "a way or means of approaching someone" or "nearness" In Shariah Udhiyya would refer to the sacrifice of a specific animal, offered by a specific person, on specific days to seek Allah's pleasure and reward. The word qurban

appears thrice in the Quran and in once in Sura Al-Ma'ida in reference to animal sacrifice. In the other two places the Quran speaks of sacrifice in the general sense, referring to any act which may bring one closer to Allah. Other appropriate terms are Dhabihah, Udhiyah and Nahar. A fifth term Zabah refers to normal Islamic slaughter outside the days of Udhiyah. The Petitioner herein states that the religion of Islam does not prescribe any form of animal sacrifice and the same was a cruel age old practice that has arisen out of the misinterpretation of the texts of Islamic Faith. The petitioner feels that not only qurbani, but any other form of accepted cruelty to animals is beyond the imagination of a civilized society and the same is constitutionally abhorrent and requires to be banned.

2.4. The Petitioner herein also states that the cruel act of animal sacrifice is also a prevalent practice in various parts of the country under the apparent sanction of other religions. It is stated that in various parts of the country, believers and followers of Hinduism practice the act of animal sacrifice in temples which result in a perverse and vagrant display of cruelty and inhumane treatment to the animals that are being subjected to the same.

2.5 The Petitioner herein states that in many temples across the country the practice of "Jhatka" is followed which involves

the killing of animals, mostly buffaloes and goats, in full public view with one fatal blow. It is stated that many a time these temples do not have any designated butcher to perform the act and the same is conducted by inexperienced devotees. It is further stated that the animals are supposed to be slaughtered with one blow of the weapon and more often than not the same does not result in the death of the animal and they are brutally left to die painfully. It is stated that due to the inexperience and lack of scientific overlook of this activity, animals are sometimes put to death with more than one blow of a blunt weapon resulting in untold torture to the animals. It is further stated that the fact that more than one animal is killed in this manner and in the presence of other animals creates a feeling of fear in these animals, which is submitted by the Petitioner herein as the worst form of torture. It is submitted that further forms of sacrifice in Hindu culture prevalent in various parts of the country include piercing the heart of the animal with a spike and asphyxiation.

2.6 The Petitioner submits that the animal sacrifice is not an inherently integral or essential part of any religion, and the same is merely a proliferation of superstitious beliefs that were existent in religion as a result of a hampered civilization. It is submitted that such superstitious beliefs do

not have any sanction of law much less religion in the 21<sup>st</sup> Century and therefore, the same ought to be held as being contrary to evolved constitutional ethos and principles.

### **LACK OF THEOLOGICAL BASIS VIS-À-VIS MODERN**

#### **PRACTICE OF RELIGION**

2.7 At the outset, the Petitioner herein submits that the concept of animal sacrifice has no theological basis in any religion as practiced and propagated in modern times and therefore, the same ought to be held to be contrary to the constitutional philosophy of protection of rights of all living beings. The Petitioner states that there have been various instances of blatant cruelty being extended to the animals in various parts of the country under the auspices of religion or otherwise, and the same have been looked down upon by the members of the civil society as being acts of violence to animals based on the flawed interpretation of faith.

2.8 It is submitted that the concept of Hinduism inherently proliferates the concept of “*Ahimsa*” or non-violence and the same is a fundamental premise of practice of the Hindu Religion. It is submitted that the concept of “*Ahimsa*” finds recognition in various constitutive texts of the Hindu religion. Further, the concept of ‘*Karuna*’ or mercy is imbedded in the Hindu Religion and its various forms. Therefore, there cannot be any theological sanction

whatsoever to such inhuman acts of violence being perpetrated upon animals and birds in the Hindu religion.

2.9 The Petitioner states that any reference to animal sacrifice in the constitutive scriptures of the Hindu religion, viz. Vedas, Puranas, Upanishads etc. as a means of satisfying the deity cannot be used to condone any act of violence perpetrated in the name of religion on animals and birds at today's time. It is submitted that these acts were perpetrated during ancient times due to fear instilled in the society on things that could not be explained due to the lack of scientific temper in the individual and the community. Therefore, in today's age it cannot be stated by any stretch of imagination that these scriptures that contain obscure references to acts of human sacrifice/animal sacrifice has to be seen as giving theological sanction to these practices in the modern age and that the same has to be continued for all time to come.

2.10 The Petitioner herein further states that the reference to sacrifice in Abrahamic religions is to the story of the Deity ordering Abraham (in Christianity) and Ibrahim (in Islam) to sacrifice his son for the satisfaction of the deity. It is pertinent to note that the same is often suggested as the theological sanction in these religions for ritual sacrifice. The Petitioner states that as per Christian faith itself, Lord Jesus is referred to as the "Lamb of God", and one who was died for

the sins of all species of beings in the world, and therefore, after the event of crucifixion of Jesus, there cannot be any further sanction to ritual sacrifice in Christianity. Further, it is pertinent to note that the reference to the aforesaid anecdote in Islam has a subtle but major difference in so far as the initial request for sacrifice of his son to Ibrahim is not made by the eternal being or Allah, but merely appears in his dream. Therefore, it is submitted that the practice of any form of sacrifice does not receive any sanction from Islamic Belief as well.

- 2.11 Therefore, the Petitioner herein submits that there cannot be any religious sanction for ritual sacrifice of animals or birds. Even assuming there exist any reference to ritual sacrifice in the ancient texts the observance of the same does not find any place in modern day faith that has to be seen in the evolving concepts of scientific temper and reason.

**CONCEPT OF RIGHTS OF ANIMALS, AND PROTECTION  
AND RECOGNITION OF THE SAME**

- 2.12 The Petitioner submits that Animals and Birds have basic rights under natural law and the same requires to be protected, recognized and upheld. It is submitted that by virtue of being an essential part of the eco-system and as a result of every species being an integral part of the same, it

is important for the dominant species viz. humans, to recognize and protect their rights.

2.13 The Petitioner states that in the absence of any international covenant for the recognition of animals rights, the Petitioner herein begs to place reliance on the United Kingdom Farm Animal Welfare Council that has prescribed 5 freedoms for animals as under: -

“1. Freedom from hunger and thirst

2. Freedom from discomfort

3. Freedom from pain, injury or disease\_

4. Freedom to express normal behavior

5. Freedom from fear and distress”

2.14 The Petitioner states that this Hon'ble Court has time and again recognized the basic rights of every species to right to life and security. More recently in the decision of this Hon'ble Court in the decision of *Animal Welfare Board of India V. A. Nagaraja* reported in (2014) 7 SCC 547, this Hon'ble Court held that every species has a right to life and security, subject to the law of the land, which includes depriving its life, out of human necessity. This Hon'ble Court in the aforesaid decision further held that the protection to life provided under Article 21 of the Constitution of India, also

extended all animal life, and not just human life. It is submitted that this Hon'ble Court has already recognized the basic rights of all kinds of species of animals and birds. It was further submitted that the right of animals to live with dignity, intrinsic worth and honor was recognized by the Constitution of India.

- 2.15 The Petitioner herein submits that the duty of every citizen as provided under Article 51-A (g) of the Constitution of India to have compassion for living creatures and to protect and improve wildlife ought to imply the duty of the dominant species to protect the aforesaid well-recognized the basic rights of other sentient species.

**ATTITUDINAL SHIFT AND EXCEPTION OF HUMAN NECESSITY**

- 2.16 The Petitioner herein states that over the years, there has been an attitudinal shift towards treatment of animals qua humans. It is submitted that other species of animals and birds were initially seen with reference to their instrumental value to humans. It is submitted that over the years there has been a shift in ideology from anthropocentric to eco-centric in International Environmental Law. This shift was recently acknowledged by this Hon'ble Court in the decision of *Animal Welfare Board of India v. A Nagaraja* (cited supra).

2.17 The Petitioner herein submits that the aforesaid decision of this Hon'ble Court while categorically stating therein that attitudinal shift towards eco-centric approach and recognition of basic rights of animals as protection granted to all "life" under Article 21 of the Constitution of India, also states therein that these rights can only be subject to the concept of "human necessity".

2.18 The Petitioner submits that the concept of human necessity only covers the concepts of non-vegetarianism, consumption of those products that are made from animals that falls under the category of being a necessity etc. It is submitted that animal sacrifice under the garb of superstitious and orthodox rituals do not qualify in any manner as a human necessity. It is submitted that humans are the only species that kill for any reason other than food. Therefore, religion cannot be considered by any stretch of imagination to be a human necessity so as to qualify as an exception to the observance of the aforesaid attitudinal shifts and granting protection of the aforesaid rights to the animals and birds.

**PREVENTION OF CRUELTY TO ANIMALS ACT, 1960 AND  
RULES APPERTUNENT THERETO**

2.19 The Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as "the Act") is an Act of the Parliament of India which has been enacted to prevent the infliction of

unnecessary pain or suffering on animals and to amend the laws relating to the prevention of cruelty to animals. As per the provisions of the law the government of India formed the Animal Welfare Board of India

2.20 The Act provides for various sections that provide for the protection of animals from cruel and inhuman treatment. S.3 of the Act enjoins upon any person having charge of animals to take all reasonable measures to ensure the well-being of animals and to prevent infliction upon such animal of unnecessary pain or suffering. Further S. 11 of the Act provides for various offences with the view to prevent the treatment of animals cruelly. It is pertinent to note that subsection (3) to Section 11 provides for certain acts that does not qualify as an offence and the same reads as under:

*“(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 <sup>20</sup>[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.”*

It is submitted that killing or slaughtering of animals or birds other than for the aforesaid exceptions provided under sub-section 3 of the S. 11 of the Act is an offence under the Act.

2.21 The Act further provides for S. 28 which reads as under:

**“28. Saving as respects manner of killing prescribed by religion:** *Nothing contained in this Act shall render it an offence to kill any animal in a manner required by the religion of any community.”*

It is submitted that the aforesaid section provides for a general exception of killing animals in a manner required by religion of any community. The petitioner finds that the acts extreme cruelties which are perpetrated by persons during religious festivals get the nod of law through the aforesaid Section 28 of the Act.

2.22 The Petitioner herein submits that that the exception provided under S. 28 of the Act does in no manner extend a protection or condonation for animal sacrifice as prescribed

by any religion or community. It is submitted that the Petitioner herein that the exception can only be extended to the protection of those methods of killing animals provided as per the religion and not for killing animals in the name of religion per se. It is submitted that the intent and scope of the aforesaid section is to merely protect a particular manner of killing of animals, if provided for by any religion. The Petitioner submits that the concept of *Halaal* and *Dhabihah* as prescribed by the Quran is a method of killing of animals for consumption of meat prevalent amongst devotees of the Islam faith. It is submitted that S. 28 provides for such practices that are mentioned as a manner of killing and not as a blanket sanction for animal sacrifice.

- 2.23 The Petitioner herein submits that S. 28 of the Act does not provide for an additional exception to S. 11 of the Act apart from what is provided under sub-section 3 therein. It is submitted that S. 28 of the Act has to be read in conjunction with S. 11 (3) of the Act. It is submitted that S. 28 of the Act does not in any manner provide for an additional exception but only prescribes that if any manner of killing prescribed by a religion falls foul of the section 11 (1), the same shall be exempt as long as they are for the purposes provided under S. 11 (3) of the Act.

2.24 The Petitioner herein further submits that Rule 3 of the Prevention of Cruelty to Animals (Slaughter House) Rules, 2001, no person is authorized to slaughter any animal within a municipal area except in a slaughter house recognized or licensed by the concerned authority. Further, the Rule 6(1) of the aforesaid Rules also provide that no animal can be slaughtered in the sight of other animals. It is submitted that these public display of vulgar acts in the name of animal sacrifice are in complete violation of the aforesaid Rules.

**INACTION ON THE PART ON THE GOVERNMENTAL**

**AUTHORITIES**

2.25 The Petitioner herein submits that these acts of violence on animals is being perpetrated in various parts of the country, and the Central Government, State Governments and the Animal Welfare Board of India has failed to take any effective steps to curb such practices. The petitioner herein states that despite various offences as prescribed by the Act as well as the Indian Penal Code, acts of animal sacrifice are being carried out in full public display on the occasions of festivals like Durga Pooja and Bakr-i-Eid.

2.26 Recently the Hon'ble High Court of Himachal Pradesh vide order dated 26.09.2014 in Ramesh Sharma V. State of H.P. in CWP No. 9257 of 2011 banned animal sacrifice across the

State of Himachal Pradesh which was prevalent in various temples in the state. True copy of the order dated 26.09.2014 of the Hon'ble High Court of Himachal Pradesh in CWP No. 9257 of 2011 is annexed herewith and marked as "**Annexure P-1**". (pages to ) A special leave petition filed against the aforesaid order before this Hon'ble Court has been registered as SLP (C) No. 27686-88 of 2014. The Petitioner herein states that the aforesaid order of the Hon'ble High Court, though a welcome step, is limited in its application in so far as the extent of application of the aforesaid order dated 26.09.2014 is only to the State of Himachal Pradesh, whereas animal sacrifice still continues to be rampant in many other states in the country.

2.27 The petitioner submits that various organizations championing the cause of animal rights have petitioned the Governments against animal sacrifice. The Petitioner herein submits that the issue of animal sacrifice has been highlighted by the media fraternity on various occasions to bring the same into the mainstream public discourse. True copy of one such article dated 17.10.2014 authored by Poorva Joshipura, CEO of PETA INDIA published in the IB Times entitled "Animal Sacrifice has no place in Space-Age India" is annexed herewith and marked as "**Annexure P-2**". (pages to )

2.27 The petitioner herein also had intimated to the Animal Welfare Board about the fact that there is a violation of Prevention of Cruelty to Animals Act 1960 continuously happening throughout the country for religious sentiments during festivals especially *qurbani*. The act of *qurbani* obviously falls within the ambit of the term "treating animals with cruelty" as under Section 11 of the Prevention of Cruelty to Animals Act 1960. It is humbly pointed out that the act of subjecting any animal within the definition of an animal under Section 2(a) i.e any living creature other than a human being would amount to the commission of an offence under Section 11 and the same is being perpetrated openly. True copy of the representation sent by the petitioner dated June 2015 is annexed herewith and marked as **Annexure P-3. (pages to )**

2.28 That despite the repeated efforts of the civil society to highlight the issues relating to animal sacrifice no effective steps whatsoever has been taken by the authorities concerned to curb this practice. True copies of photographs of instances of animal sacrifice is annexed herewith and marked as "**Annexure P-4**". (pages to )

2.29 That recently vide letter dated 17.08.2015, the Animal Welfare Board of India had issued directions to various Chief Secretaries, Director General of Police, and Director, Animal

Husbandry Department of all States to prevent the slaughter of camels during the occasion of Bakr-i-Eid. It is submitted that the aforesaid letter directs the strict enforcement of the provisions of the Prevention of Cruelty to Animals Act, 1960, and the rules made thereon in relation to transportation of animals. The aforesaid letter further directs that camels could not be killed/slaughtered even for the purpose of food. True copy of the letter dated 17.08.2015 of the Animal Welfare Board of India is annexed herewith and marked as “**Annexure P-5**”. (pages to ) The Petitioner herein states that the aforesaid letter does not address the issue of animal sacrifice per se and merely calls for strict observance of the provisions of the Act in relation to the killing/slaughter of camels during Bakr-i-Eid.

2.30 The Petitioner herein is constrained to bring the aforesaid facts to this Hon’ble Court in view of the failure of the various mechanisms and machineries provided for protection of animal rights in the country. It is submitted that the due to the lack of proper observance of provisions of the Act and the Rules made thereunder, and lackadaisical attitude of the Governments and authorities entrusted with the duty of protecting animal rights in carrying out the purposes of the Act, the Petitioner herein is constrained to approach this Hon’ble Court under Article 32 of the Constitution of India. It

is further submitted that S.28 of the Act in so far as the same condones the acts of animal sacrifice in the country is unconstitutional and in violation of Article 21 of the Constitution.

3. The Petitioner has not filed any other Writ Petition relating to the subject matter of this petition before this Hon'ble Court or Hon'ble High Court.
4. The present petition is being preferred on the following amongst other grounds:

#### **G R O U N D S**

- A. Because extension of the meaning of Article 21 of the Constitution to mean that it is assurance of life and meaning to all living organisms is the need of the hour. It was written by Hon'ble Justice Bhagwati in his article *Judicial Activism in India* that "There are cases where a decision one way or the other will count for the future, will advance or retard sometimes much, sometimes little, the development of the law in a proper direction. It is in these types of cases where the judge is to leap into the heart of legal darkness, where the lamps of precedent and common law principles flicker and fade, that the judge gets an opportunity to mold the law and to give it its shape and direction. This is what we have been trying to do in India". The duty cast upon every civilized nation today is to protect the environment, to promote values

of morality and thereby to eliminate violence and cruelty on organisms to the maximum possible extent.

- B. BECAUSE this Hon'ble Court has time and again held that animals and birds have basic rights and as humans are the dominant species, it is their duty to respect, recognize and protect the rights of these sentient species. It is submitted that this Hon'ble Court has already recognized the existence of these rights of animals in the decision of *Animal Welfare Board of India V. A. Nagaraja* reported in (2014) 7 SCC 547.
- C. BECAUSE this Hon'ble Court has held in the aforesaid decision that the concept of protection of "life" under Article 21 of the Constitution of India includes all life and therefore, the same necessarily includes the protection of life of other species.
- D. BECAUSE the practice of animal sacrifice does not have any theological sanction under any religion. It is submitted that even if the act of sacrifice of animals have been prescribed by any religion, the same cannot be recognized as an accepted practice in civil society where scientific temper and reason prevail.
- E. BECAUSE this Hon'ble Court has held that human and animal sacrifice is deleterious in the decision *Sardar Syedna*

*Taher Saifuddin Sahib v. State of Bombay* reported in AIR 1962 SC 853.

- F. BECAUSE the practice of animal sacrifice is not an essential part of any religion. This Hon'ble Court has already held that the slaughtering of cows is not an essential aspect of the Islamic Religion in the decision of *State of West Bengal V. Ashutosh Lahiri* reported in (1995) 1 SCC 189. It is submitted that none of the Hindu scriptures prescribe that the animal sacrifice as an inherent act that is essential to the practice of the Hindu religion.
- G. Because this Court has time and again held that the protection under Article 25 and 26 of the Constitution of India only extends to those practices that are essential and integral to the religion, and as animal sacrifice is not an essential or integral practice of religion, the same ought to be held as unconstitutional.
- H. Because animal sacrifice is prevalent in various parts of the country in spite of the provisions of the Prevention of Cruelty to Animals, 1960 and other provisions under the Indian Penal Code. It is submitted that the rights of animals have been statutorily recognized by this Hon'ble Court on various

occasions, more recently in the decision of *Animal Welfare Board of India V. A. Nagaraja* reported in (2014) 7 SCC 547.

- I. Because the Prevention of Cruelty to Animals, 1960, was enacted by the Parliament to curb inhuman treatment of animals and birds, but in spite of the same animal sacrifice is rampant in various parts of India carried out under apparent sanction of religion. It is submitted that S. 28 of the Act gives apparent nod to the aforesaid nefarious acts of violence. It is submitted that S. 28 of the Act only provides an exemption for manners of killing animals if prescribed by a religion, and does not condone animal sacrifice per se.
- J. Because S. 28 of the Act does not provide an additional exception to S. 11 (3) of the Act. It is submitted that if a manner of killing animals is prescribed by religion for any of the purposes provided under S. 11 (3) of the Act, then S. 28 protects such manner of killing and not more. It is submitted that Prevention of Cruelty to Animals Ac, 1960 is a beneficial legislation and the same has to be interpreted in favor of the beneficiaries of the legislation.
- K. Because no effective steps have been taken by the authorities concerned to curb the practice of animal sacrifice despite the law providing for offences under the Prevention of

Cruelty to Animals Act, 1960 and Indian Penal Code, due to the operation of S. 28 of the Act. It is submitted that S. 28 of the Act in so far as the same provides for apparent sanction to the practice of animal sacrifice is unconstitutional and in violation of Article 21 of the Constitution of India.

- L. Because this Hon'ble Court has held that all animals have an inherent right to live and the same have to be protected as being a part of Article 21 of the Constitution of India. It is submitted that the only exception carved out for the same is human necessity. It is submitted that animal sacrifice does not, by any stretch of imagination, qualify as human necessity.
- M. Because animal sacrifice being perpetrated under the apparent guise of religious sanction is a real threat to the ecological balance and the sustenance of the environment. It is submitted that the killing of animals for jest in the name of sacrifice goes against the ethos of a civil society.
- N. That the petitioner would like to bring before this Hon'ble Court gross violations of the Prevention of Cruelty to Animals Act 1960 which are continuously happening throughout the country for religious sentiments during festivals especially qurbani. The same obviously falls within

the ambit of the term "treating animals with cruelty" as under Section 11 of the Prevention of Cruelty to Animals Act 1960. It is humbly pointed out that the act of subjecting any animal within the definition of an animal under Section 2(a) i.e any living creature other than a human being would amount to the commission of an offence under Section 11 and the same is being perpetrated openly.

### **P R A Y E R**

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

- (a) issue a writ, order or direction in the nature of mandamus thereby declaring that the practice of animal sacrifice under the sanction of any religious belief or otherwise is unconstitutional, illegal and is violative of Article 14, 21, 29 and 30 of the Constitution of India;
- (b) issue a writ, order or direction in the nature of mandamus thereby declaring Section 28 of the Prevention of Cruelty to Animals Act 1960 as unconstitutional in so far as the same condones the practice of animal killing in the name of religion;
- (c) issue a writ, order or direction in the nature of mandamus thereby **banning/restraining the practice of killing of animals in the name of religion i.e Qurbani during the**

**Islamic festival of Bakr-i-Eid, 'Bali' (practice under Hindu religion) etc throughout the territory of India;** and modify this prayer more

(d) pass any such order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case and thereby render justice.

Drawn by  
SRIRAM PARAKKAT  
Advocate

FILED BY

Place: New Delhi  
Drawn on:  
Filed on:

ANKUR S. KULKARNI)  
Advocate for the petitioner

LIVELA Win