

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

WRIT PETITION (C) NO. _____ OF 2020

Mathews J. Nedumpara

...

Versus

1. Union of India
Represented by its Secretary
Ministry of Environment, Forest and Climate Change
(MoEF&CC)
New Delhi ... Respondent No.1
2. State of Kerala
Represented by its Chief Secretary
Trivandrum ... Respondent No.2
3. Animal Welfare Board of India
Represented by its Secretary
Village-Seekri, Ballabgarh,
Faridabad,
Haryana-121 004 ... Respondent No.3
4. Secretary to the Government of Kerala
Department of Local Self Government,
Government of Kerala,
Trivandrum ... Respondent No.4

5. State of Tamil Nadu Represented
by its Chief Secretary,
Chennai ... Respondent No.5
6. State of Karnataka
Represented by its Chief Secretary,
Bangalore ... Respondent No.6
7. State of Maharashtra
Represented by its Chief Secretary
Mantralaya,
Mumbai – 400 021 ... Respondent No.7
8. Kerala State Animal Welfare Board
Office of the Directorate of Animal Husbandry
Represented by its Secretary
Vikas Bhavan
Trivandrum- 695033 ... Respondent No.8
9. Kerala State Pollution Control Board
Represented by its Secretary
Head Office, Pattom. P. O
Trivandrum- 695004 ... Respondent No.9
10. Corporation of Cochin
Represented by its Secretary
Park Ave Rd, Marine Drive,
Kochi, Kerala 682011 ... Respondent No.10
11. The District Collector-
-cum-District Magistrate
Ernakulam ... Respondent No.11

**WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA FOR A WRIT IN THE
NATURE OF MANDAMUS AND OTHER RELIEFS
FOR THE ENFORCEMENT OF THE
FUNDAMENTAL RIGHTS OF THE PETITIONER**

To
THE HONOURABLE THE CHIEF JUSTICE
AND THE OTHER HON'BLE PUISNE JUDGES
OF THIS HONOURABLE COURT.

THE HUMBLE PETITION OF
THE PETITIONER HEREIN

1. The Petitioner is a citizen of India and a permanent resident

The instant petition under Article 32 of the Constitution of India for a writ in the nature of mandamus and other relief for the enforcement of the fundamental rights of the Petitioner, so too the fellow citizens, is in the nature of a “qui tam action”, namely, for himself and for the king, namely, the sovereign, we the citizens.

2. The legal status of the Respondents is manifest from the

cause title itself. They are necessary and proper parties to the instant writ petition, in as much as, in their absence none of the reliefs sought for can be granted or the cause of action based on which reliefs sought for can be determined in a just and fair manner. It is further elaborated in the body of this writ petition while narrating the statement of facts.

3. The death of a pregnant elephant in Palakkad district, Kerala, after eating the explosive laden fruit which had caused severe injuries to the jaws of the elephant which led to severe infection and the slow and painful death of the animal has shocked the conscience of every right thinking Keralite, nay, citizens of this country, so too of the Petitioner, beyond what words could describe. The Petitioner hailing from the Christian majority Kottayam district, where almost everyone including Hindus consume meat, even beef, has been a silent witness to the pain and trauma to which the animals brought to slaughter undergo. The Petitioner as child, has had occasion to see the horrifying scenes of the butchering lambs, cows and buffalos. Pigs are very intelligent

and sensitive animals and they killed in the most inhumane manner. In the Petitioner's native village, pig farming was a common business. The male pigs are castrated when they are 2-3 months old. The testicles are removed by tearing the skin, the poor animal is made to suffer excruciating pain. Once the testicles are removed the skin is stitched and salt and ashes are applied for it acts as an antiseptic. Some of the pigs die out of infection, but majority survive. The pigs once removed of its testicles are less active and easily gain a lot of weight and means more profit. The Petitioner makes a reference of these instances, for the sordid things which he has seen with his own eyes at a young age remain fresh in his mind and because these things continue to happen even today, on an even greater scale. Since meat of all sorts of animals and birds is so widely consumed, of which even the Petitioner is no exception, the total prohibition of slaughter of animals, the Petitioner realized even at a young age, is no solution for alleviating the trauma which the animals brought to slaughter undergo. The Petitioner thought that painless killing through scientific methods could be a solution. A meat trader from the

Petitioner's home town, Pala, who was to some extent concerned about the pain the animals undergo while being slaughtered, for the animal whose throat is slit undergoes a very slow and painful death, bleeding for a very long time, instituted through the Petitioner, a Writ Petition in the Kerala High Court in the 1990s for introducing scientific methods of slaughter. Then Chief Justice, Hon'ble Shri Jawaharlal Gupta, a great animal lover issued notice on the petition to the Government/authorities. However, the said meat trader faced threat to his life and limbs, for he was misunderstood to be offending religious sentiments, for halal is considered to be sacred.

4. A few years later, one of the most humane judges of the Kerala High Court, Justice Narayana Kurup, a known animal lover, passed a slew of directions regulating the butchering and sale of meat, and in particular prohibiting public display of butchered animals for sale, which is a common sight in Kerala. A photo of the public display of butchered animals for sale which should shock the conscience of every right-thinking person is produced as

Annexure P-1 (Page _____ to _____). However, those orders were implemented only so long as the learned Judge, assuming the role of the “actor” as well, personally monitored it. There is no dearth of laws and regulations prohibiting public display of slaughtered animals for sale, prohibiting slaughter of animals in the open, prohibiting the slaughter of calves, milking cows, animals which are sick, etc. However, the said regulations are wantonly violated. In Kerala annually thousands and thousands of cows, bulls and calves, goats, chicken, duck, pigs are slaughtered. Almost all the slaughtering is conducted in the most cruel manner causing indescribable pain and trauma to the animal slaughtered and in unhygienic conditions. The situation in other states is still worse.

5. The Rules framed by the Kerala Government prohibit the slaughter of milking cows and calves. Article 48 of the Constitution envisages prohibition of the slaughter of cows and calves and other milch and draught cattle. However, this constitutional mandate is nakedly violated. The heart wrenching scenario of milking cows and calves, both brought to slaughter, the

Petitioner has no words to fully express. Over the years the situation has no way improved, but has only worsened. The Petitioner begs to narrate from his own personal experience. The Petitioner resides close to the heart of the Cochin city. Close to where the Petitioner stays, there is a vacant land having an extent of 2 acres which the Petitioner is told belongs to a private person. The cows for slaughter brought from close by and also from the neighboring states of Tamil Nadu and Karnataka are kept in the open vacant land tied to a tree or a stump for days on end even without water. Neglecting an animal by denying it sufficient food, water, shelter and exercise or by keeping it chained/confined for long hours is punishable by a fine or imprisonment of up to 3 months or both. Section 11(1)(h), Prevention of Cruelty to Animals Act, 1960. A few months before, a milking buffalo with a calf was brought for slaughter and remained there for many days without food or water. The people who reside nearby feeling sympathy for the calf reportedly requested the butchers to spare the calf, which they did. The children of the nearby small houses have since been feeding the calf. The Petitioner on walks used to come across the

painful scenario, but having felt helpless, did not venture to do anything, for all his past efforts have failed. What the small, school-going children did to save the calf made the Petitioner rethink about what he could do to bring an end to the pain of the helpless animals. Before the Petitioner could recover from the shock which the horrific death of the pregnant elephant in Kerala, the Petitioner came across the news of the brutal injury caused to a pregnant cow by cruelly feeding it explosive laden food. This further provoked the Petitioner to institute the instant writ petition, for he did not even receive any response from the authorities on the representation which he had made, as mentioned infra.

6. That on 5th June, 2020, while the Petitioner went for a walk, he came across more than half a dozen animals, a few milking cows, buffalos and bulls which were brought to be slaughtered on the morning of 7th June. The cows and the buffalos are of milking age and their slaughter is prohibited under The Kerala Panchayat Raj (Slaughter Houses and Meat Stalls) Rules, 1996. A photo of milking cows and buffalos brought for slaughter is produced as

Annexure P-2 (Page to). The fate of animals brought to slaughter in other cases can have no comparison at all to what has been described above, for they are kept in cramped, extremely unhygienic sheds. A mere Google search would show the horrific scenes of the extreme cruelty to which the cows, buffalos and other animals brought to slaughter are subjected to.

7. The cruelty to animals and the killing of milking and pregnant cows, even calves, is not a cruel practice which prevalent only Kerala. Kerala may still be better than the rest of India. The other states are even worse. In Tamil Nadu, Karnataka, Maharashtra, etc. bulls are castrated without even anesthesia, in the cruelest of ways. In some temples, the castration of bulls is a religious ritual. It is presented as an offering to the deity. In the city of Bombay, at Wadala, the Petitioner has seen aged and sick bulls, even starving bulls, being made to pull carts to take Petroleum products from the outlets. Castration of bulls, which involves excruciating pain, is done everywhere. Even in states like Maharashtra, Gujarat, where slaughtering of cows is banned, dairy farms which find male calves a burden are given to slaughter and

their meat is often sold as buffalo meat. Even where they are not butchered, the calves are denied their mother's milk absolutely and die of malnutrition and hunger. Bullocks are subjected to extreme cruelty. The hooves of bullocks are subjected to extreme wear and tear and to protect from such wear are tear, metal shoes are affixed which leads to excruciating pain till the wound is healed.

8. The manner in which poultry farms are run is still worse. The poor bird has to live its whole life in a small, over-crowded cages where it cannot move and are injected antibiotics and growth hormones. The consumption of such egg and meat leads to many health problems.

9. The case of domesticated elephants is most disturbing. The animal is chained throughout its life and the chains often lead to wounds and infections which are allowed to fester. Elephants are a very sensitive animal, particularly to heat. However, during the hot summer, they are made to walk for hours in blistering heat on the tarred roads and made to stand for hours on end during festivals.

Elephants are known to be very sensitive to loud noise. Nothing can be a greater torture to these poor animals than to be subjected to the bursting of crackers at close proximity which is a common occurrence at festivals. The Petitioner understands that elephants are greatly revered and that is the reason why they are brought to the festivals. However, even those who worship elephants and Lord Ganesha, fail to fully comprehend the extreme trauma and pain they unwittingly cause the poor elephants to undergo. The Petitioner is made to believe that before the days of commercialization, though elephants were used for festivals, that it was done in such a manner that it caused no great damage to the health and psyche of the animal. They were then taken great care of. However today, things have changed. Elephants are commercially exploited in a manner as never before, putting their health, psyche and wellbeing into jeopardy. The torture and lack of rest has often resulted in the male going amuck. Elephants get aggressive during musth, that is natural, however, in the recent past elephants have gone amuck so often and even when they are not at musth, which is the result of the animal being made to stand still

for hours and hours in the simmering heat, subjected to noise and large crowds.

10. The animals, both wild and domesticated, in this country are subjected to extreme cruelty and torture. Due to the shrinking of their natural homes – the forests- because of human activity, elephants, wild boars and other animals enter into areas human habitation and this has resulted in large scale man-versus-animal conflict. The State of Kerala which is blessed with evergreen forests and a wide variety of wild animals is probably one among the states where man versus wild conflict is the greatest. The recent incident of a pregnant elephant which happened to consume an explosive laden fruit which was placed to kill wild boars, which was initially misunderstood to be a case of man-animal conflict, brought the man-animal conflict into the public domain. There are two issues: (a) the great loss and damage caused to crops and lives of the poor farmers living on the fringes of the forest due to the attack of wild animals, this issue is one of great import which requires emergent attention and corrective action on the part of the

State and other agencies under the state. (b) the poaching of wild animals for their meat, horns and other commercial purposes, sometimes even with the connivance of the forest officials and Police, the very guardians.

11. This is not the first instance where a wild elephant has been killed in the horrific manner as above. Elephants have been widely killed in this manner for their tusk in the past. The Petitioner begs to delve into the first aspect, namely, the man-animal conflict which has not received any real attention of the authorities and even the civil society. The wild elephants who venture out of the forests for food cause irreparable damage to the crops, many villagers are killed in elephant attacks. There are many a governmental scheme for the welfare of adhivasis and villagers who live in the forests or nearby areas. However, there is no mechanism for effective implementation of the welfare measures and also to prevent poaching and killing of wild animals which is rampant today. It is well acknowledged that a legislation which provides for a right or benefit without a mechanism to enforce it, in

other words, a right without a remedy, is useless. We have the National Green Tribunal with benches in the respect regions. However, the ordinary farmer who has lost his entire crop has no mechanism to seek compensation for the loss he has suffered, for, (a) there is no clear law which expressly provides that a farmer who has suffered damage to his crop due to the raid by wild animals, particularly elephants and wild boars, as a matter of right can seek compensation from the State or the Central Government; there is no machinery to quantify his loss, (b) There is also no forum other than the ordinary civil court before which no a suit could be instituted without a notice as contemplated under Section 80 of the CPC. Even if a farmer had to give notice as contemplated by law and file a suit, that will not be of any immediate relief to him because it is very unlikely that he could secure an ad interim compensation before the suit is finally decreed, which would mean a full trial to be conducted, a process which is certain to take a long time. What is the need of the hour is to have special tribunals manned by persons who have experience of the problems faced by farmers, adhivasis, etc. Such a tribunal should reach out to the

victims of the man animal conflict. The second aspect is poaching and violation of forest laws. The existing Police and forest machinery has failed in Kerala, so too, in the rest of the country in preventing killing and maiming of wild animals by poachers and destruction of wildlife. The only solution is to empower the tribunal sought to be constituted to monitor the functioning of the police and forest officials, a tribunal which is a watch dog as is the case of SEBI. Such tribunal should also be given the power to investigate and punish poachers and violators.

12. The farmers are forced to resort to cruel means of protecting their cultivation from the raid of wild animals. Because there is no insurance or governmental support. Rich farmers protect their cultivation by construction fence, etc. The poor farmers try to protect their fence using cheap materials which are not durable. As a last resort they use crackers, poison laden fruits, etc. which leads to maiming and killing of wild animals, something which is heart rendering.

13. In short, the cruelty and the trauma which the wild and domesticated animals, both, are subjected to have reached exponential proportions. The slaughtering of animals, even tender calves, milking and pregnant cows, are rampant in every part of the country, no matter whether cow slaughter is prohibited or not. In states where cow slaughter is prohibited the milking cows which are slaughtered probably could be subjected to greater trauma than in states like Kerala where cow slaughter is not banned and consumption of meat is common. It is not that bulls alone are brought from neighboring states to Kerala for slaughter. These animals are brought in crammed lorries, without food or water, while the cows and bulls which are reared in Kerala is not subjected to the cruelty as above in transportation. So long as a substantial percentage of the population, namely, more than 30 crores of the population, consumes meat including cows, banning of cow slaughter cannot be a solution for mitigating the horror and trauma which the slaughtered animals undergo. The real solution is the adoption of scientific methods for slaughter of animals which would mean infliction of the least possible pain on the animal. The

technology is available. However, certain religious practices also need to be taken into account before such painless killing of animals could be made possible. The technology has to be in tune with the age-old religious rituals or practices. The suggestions which the Petitioner has made as above is certainly in the realm of legislative and executive policy and thus not justiciable. However, in the light of the innumerable decisions at the hands of this court where this court has taken into account the extraordinary situation prevailing in this country and out of extreme imperatives, has felt it only appropriate not to keep off its hands, but acted proactively, the Petitioner cannot be found fault with in seeking a direction at the hands of this court in the nature of mandamus to bring in such legislative and executive measures which will protect the wildlife, so too the adhivasis and farmers, for the existing executive and legislative actions are grossly insufficient.

14. There can be no two opinion on the need of alleviating the trauma and pain the animal brought to slaughter. The only question is how to achieve this objective. Till date, so far as the Petitioner's

knowledge goes, there has been no fruitful discussion or deliberation on the question on how to keep minimal, the trauma and pain the animal brought to slaughter is subjected to. Though the subject, in the Petitioner's humble view, is one which ought to receive the attention of the Centre and State Governments and the various authorities under it, because "compassion for all living creatures, so too the protection and improvement of the natural environment including forests, lakes, rivers and wild life" is one of the fundamental duties under Article 51-A (g) of the Constitution of India. Many of the religious practices prevailing today, like the sacrifice of animals as part of rituals by Hindus, Muslims and others are in conflict with the mandate of Articles 48 and 51A of the Constitution. Millions of roosters, buffalos and goats are sacrificed every year in this country which is causes enormous trauma to the animal so sacrificed and the millions of animal lovers. The issues are so complex because it involves religious sensitivities which is sacrosanct. At the same time, the humane angle involving the animal sacrifice deserves the attention of all concerned. No mandamus will lie at the hands of the Petitioner for

banning these practices. This court cannot be called upon to direct the legislature to enact a law or prohibit animal sacrifice, but the Petitioner considers it well within his constitutional rights under Article 32 to seek a mandamus at the hands of this court to consider the means and ways by which the trauma, pain and cruelty to which the millions of animals which are butchered for meat or as part of religious practices, are subjected to are alleviated.

15. To save the milking cow which is brought to slaughter as in **Annexure P-2** (Page to), the Petitioner has addressed a letter to the Chief Minister, the Secretary in charge of Local Self Government, District Collector and the north Police Station within whose territorial limits Vaduthala falls. A copy of the representation is produced as **Annexure P-3** (Page to). The Petitioner is made to understand that the said milking cow was slaughtered on the 7th, for his representation was not acted upon.

16. Thousands and thousands of animals and birds are sacrificed as part of religious rituals for the appeasement of deities. While the believers consider the said practices to be protected by the

constitutional guarantee of freedom of faith and conscience, animal lovers consider it to be the infliction of pain and cruelty on the helpless animals, who, like humans have emotions, pain and trauma and consider such practices to be inhuman and regressive. In a recent judgment the High Court of Tripura banned the sacrifice of goats at Tripureswari Temple. The Kerala Legislature has enacted the Kerala Animals and Birds Sacrifices Prohibition Act, 1968. Even the most religious agree that times have changed and civilized society would abhor infliction of needless pain and cruelty on any living creature, and therefore legislative initiative in that direction is a constitutional duty of the Central and State Governments. It certainly is a matter which falls in the exclusive province of legislative and executive policy. However, this court has umpteen times considered it only appropriate to prod the executive to come out of its slumber and be proactive. Therefore, the Petitioner believes that it is well within his rights to seek a mandamus at the hands of this court to implore the Government to bring about legislative measures to prohibit animal sacrifice taking all religions and communities into confidence.

17. The tragic killing of the pregnant elephant in Kerala on 27th May received national, nay, international attention, which it certainly deserved. However, the tragic death and maiming of villagers and tribals due to the attack of wild animals hardly receive any attention. While the instant petition was under preparation, another wild elephant was killed in Wayanad district, so too a leopard in Guwahati was mercilessly lynched to death. In Kerala, a tigress which killed a native, Mr. Kanjikuzhi Vineesh Mathew, too was killed. One Mr. Reji Kumar, a laborer in a rubber plantation was killed having been attacked by a wild boar. So far as the Petitioner's knowledge goes, no compensation, nay, ex gratia was provided to the families of both victims. These are just a few instances out of the hundreds that occur around the country on a daily basis and is a clear indication of the extreme urgency of the issues which the Petitioner seeks redressal of at the hands of this court. It is only just and equitable that this court is pleased to take notice of the loss of life and in the exercise of its jurisdiction, order the authorities to order compensation, nay, ex gratia to the victims.

18. The punishment and penalties under the Prevention of Cruelty to Animals, 1960, is too outdated, insufficient. For example, the punishment prescribed for any person who commits any heinous crime against animals such as “willfully and unreasonably administers any injurious drug or injurious substance to any animal or willfully and unreasonably causes or attempts to cause any such drug or substance to be taken by any animal” under Section 11(1)(h) is a mere imprisonment for 3 months with a maximum penalty of Rs. 100. It is only appropriate to extract Section 11 of the Act, as infra:

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 animals to be so treated; or

(b) 13 [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; or

(c) willfully and unreasonably administers any injurious drug or injurious substance to 14 [any animal] or willfully and unreasonably causes or attempts to cause any such drug or substance to be taken by 14 [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

(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 15 [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

[(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;] [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) 18 [***] organizes, 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, 19 [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.]

The Petitioner begs to submit that it is time that the said Section is amended so as to said teeth to it by enhancing the punishment substantially so that the said penal provision will act as a deterrent.

19. In Kerala there is no mechanism worth mentioning for the treatment of effluents and solid waste. It is in an unthinkably pitiable condition. The carcasses and waste of animals slaughtered are dumped into the back waters and streams or on the roadsides. So far as Cochin is concerned, the Brahmapuram Solid Treatment Plant has practically not been working for many years and the solid waste of the households are disposed by burning in the open, leading to deterioration of air quality. There is no waste water treatment mechanism in place worth mentioning. All toxic wastes, including the effluents from slaughter houses are discharged into the water bodies. The Kerala Pollution Control Board has remained

a silent spectator.

20. The locus standi of the Petitioner and the maintainability of the petition:- The Petitioner is fully conscious that enactment of laws in furtherance of Article 51 A (g) is in the exclusive province of the Centre and State Legislatures and the enforcement of the legislative policies so framed is in the exclusive domain of the executive. The Parliament has enacted the Environment Protection Act, Forests Act and the Government has enacted various rules and regulations under the said Acts, so too of the State Legislatures including the Kerala Legislature. However, in actual practice the rules and regulations are not implemented in the manner the authorities are duty bound to and the said failure has resulted in the purpose of the said enactments being failed to be served and the constitutional mandate under Article 51 A (g) remaining a mirage. Further, no legislation, much less even an executive order, has till date been made to alleviate the pain and trauma of animals brought to slaughter, the cruelty and pain which the animals which are slaughtered are subjected to has rendered Article 51 A (g) a dead

letter. “The greatness of a nation and its moral progress can be judged by the way its animals are treated”, said the Father of the nation. Going by the yard sticks, we are at its very nadir. In a country where million and millions of Hindus worship the cow, even milking cows are brought to slaughter. Not in far off villages but in the heart of Cochin. A mere look at **Annexure P-2**, a milking cow of reproductive age being brought to be slaughtered is enough to establish that there is complete failure of the constitutional mandate of compassion for living creatures, not to speak of Article 48 which prohibits the slaughter of cows and calves. Article 48 mandates the Governments to take every step to organize “animal husbandry on modern and scientific lines”. Article 48 A mandates the governments to safeguard the forests and wildlife of the country. In the light of the failure of the Centre and State governments to protect wildlife, of which the classic example is the recent tragic death of the pregnant elephant in Kerala which has shaken the conscious of the country. In the above background, the Petitioner as a citizen deeply concerned about the cruelty and torture which the wild and domesticated animals are

subjected to as above, consider it his bounden duty to institute the instant petition for remedies in the nature of mandamus under Article 32 of the Constitution. The Petitioner is invoking the jurisdiction of this court as a person aggrieved and therefore no question of locus standi would arise. It would be improper to title this Petition as 'PIL', for PIL postulates that the Petitioner is not acting on his behalf but on behalf of a person aggrieved who out of his poverty or illiteracy is unable to invoke the jurisdiction of this court.

GROUND

The grounds have already been elaborated in the statement of facts. To state it again would amount to meaningless repetition. The statement of facts therefore is liable to be taken to be as part of the grounds urged in support of the reliefs sought for. Nonetheless, it can be encapsulated in the briefest of words thus:

Millions and millions of animals, milking cows, calves, buffalos, goats, poultry are slaughtered in the most inhuman ways, in clear violation of the mandate

of Articles 48, 48A and 51A (g) of the Constitution of India, as also the various Acts, Regulations and Rules enacted/framed by the Parliament, various State Assemblies, Centre and State Governments, banning the slaughter of milking cows and calves, as also regulating the slaughter of animals. Millions of wild animals, wild boars, elephants, deer, bisons are killed or maimed for their meat and also to protect crops from being damaged. While the poachers go scot free, the poor farmers and adhivasis who have lost their crops are left without a remedy. There are laws which are intended to protect wildlife and the forest dwellers; however, the said laws are not effectively implemented because there is no machinery to ensure the enforcement of the laws. It is said a right recognized by law without a means to enforce it is no right at all, for there can be n right without a remedy. Therefore, it is imperative to bring in a machinery, a tribunal which would act both as an “actor”, a

supervising machinery to enforce laws and is simultaneously empowered to adjudicate the claims of compensation from farmers who are subjected to loss of their crops, homes and even their very lives. Millions and millions of animals are slaughtered as part of religious practices, subjecting them to extreme trauma and pain which causes great amount to trauma to animal lovers like the Petitioner. The Governments have failed to address these issues effectively. There has been manifest failure to enforce the law as it exists today, for the enforcement of which a writ in the nature of mandamus will certainly lie. There is a great imperative to bring in further legal and administrative measures to alleviate the cruelty as above. Therefore, a writ will certainly lie, seeking a mandamus directing the Government to seriously examine the room for strengthening and improving the existing administrative mechanism. Hence, the instant Writ Petition.

21. That the Petitioners crave leave to add, amend or alter any of the foregoing grounds with the permission of this Hon'ble Court.

22. That the Petitioner has no other alternative efficacious remedy except by moving the present writ petition under Article 32 of the Constitution of India. That the Petitioner has not filed any other petition nor submitted any representation before any government authority for invoking the above issue nor is any such petition filed or pending in any High Court or this Hon'ble Court.

PRAYER

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

- a. To issue notice to the public at large and organizations like Wildlife Trusts of India, People for Ethical Treatment of Animals, Wildlife Research and Conservation Society, etc. so that the issues which are raised in the instant writ petition which is of great concern to

the Petitioner, which is also of equal or greater concern of organizations or individuals engaged in the field of prevention of cruelty to animals, protection of wildlife, etc., could contribute in the just and proper disposal of the instant writ petition since the instant writ petition is akin to a representative proceedings as contemplated in Section 92 read with Order 1 Rule 8 of the CPC.

- b. To issue a writ in the nature of mandamus or any other appropriate writ or order, directing the Respondents to enforce the Environment (Protection) Act, 1986, the Forest (Conservation) Act, 1980; the Wildlife Protection Act, 1972, the Indian Forest Act, 1927, Prevention of Cruelty to Animals Act, 1960, the Indian Penal Code and the rules and regulations made under the said Acts, so too the judgment of this court in *Laxmi Narian Modi v.*

Union of India, (2013) 10 SCC 227, without any lapse or failure, so that slaughter of pregnant and milking cows, buffalos and calves, and the recent killing of the pregnant elephant in Kerala and the killing of a pregnant cow by feeding it explosive laden food in Himachal Pradesh, as narrated in the instant petition are not repeated, so too, those guilty of such offences are brought to book and those in charge of the implementation of the laws as above are taken to task for their gross failure in the discharge of their duty, so that the extreme cruelty, torture and killing of wild and domesticated animals, both, which is rampant, are not repeated in any part of this country as far as possible.

- c. To issue a writ in the nature of mandamus or any other writ, direction or order, directing the Respondents, Centre and State Governments to

consider the feasibility of enacting appropriate legislation to alleviate the extreme cruelty, trauma and pain to which millions of animals including pregnant and milking cows and buffalos which are brought to slaughter in the different parts of the country and, in particular, the feasibility of adoption of scientific methods of stunning the animal before its throat is slit so that instantaneous, painless death could be secured, by entering into meaningful dialogue with leaders of the various religions/denominations thereof so that cruelty is not allowed to be perpetuated on animals in the name of religion and appeasement of deities.

- d. To issue a writ in the nature of mandamus or any other writ, direction or order, directing the Respondents, Centre and State Governments to consider the feasibility of enacting appropriate

legislation such as the Kerala Animals and Birds Sacrifices Prohibition Act, 1968, prohibiting and/or regulating slaughter of animals and birds as part of religious practices/appeasing the deities, particularly taking into account the judgment of the Tripura High Court which bans the sacrifice of goats at Tripureswari Temple, an exercise which falls in the exclusive domain of the legislature, with a view to mitigate the cruelty and trauma the animals so slaughtered are subjected to.

- e. To issue a writ in the nature of mandamus directing the Centre and State Governments to make adequate budgetary provisions for implementing modern scientific methods such as installing early warning systems like SMS alerts, LED boards that light up, solar powered fences, fences/mesh through which light, harmless electric shock based on solar power

and the like, for preventing the conflict between animal and man which as of today cause deaths in huge numbers, particularly tribal and poor villagers living in the fringes of the forest and wild animals and in particular, elephants, wild boars and bison.

- f. To issue a writ in the nature of mandamus directing the Central and State Government to provide compensation in the nature of ex gratia for the thousands of villagers and tribal who are killed or seriously injured in attacks by wild animals, particularly elephants, wild boars etc. and to establish an agency, a quasi-judicial tribunal which could suo motu take cognizance of such loss of lives and limbs and in particular, to provide compensation, nay, ex gratia to the families of Kanjikuzhiyil Vineesh Mathews and Reji Kumar who were killed by wild animals as narrated in paragraph 17.

- g. To issue a writ in the nature of mandamus to the State and Central Governments to seriously consider bringing about emergent legislative and administrative measures including establishment of adequate number of quasi-judicial tribunals at all districts or taluks where man-animal conflict is common, which could act as an “actor”/executive, judex/arbitrator, so that the existent legislations are effectively implemented, the victims of the man-animal conflict- the farmers- are adequately compensated for the loss of their lives, limbs and crops, that in future loss of lives is totally eliminated, and further that the poachers who flourish and operate under the nose and with the blessings of the forest, wildlife and revenue officials, are no longer permitted to rule the roost.

- h. To declare that Section 11 (3) (a) of the Prevention of Cruelty to Animals Act, 1960, is unconstitutional and void in as much as the said section permits the “dehorning of cattle, or the castration or branding or nose-roping of any animal” and further that the qualification “in the prescribed manner” defeats the very purpose Section 11 seeks to achieve, namely the prevention of cruelty, in as much as the said Section is understood to be a license to castrate animals without any measure being taken to mitigate their pain, or in the alternative, direct the legislature to expressly provide for the manner in which dehorning of cattle, or the castration or branding or nose-roping of animals could be carried out inflicting the least possible pain.
- i. To direct the Government to consider the feasibility of enhancing the penalties prescribed

under the Prevention of Cruelty to Animals Act, 1960, for instance, the punishment prescribed for any person who “willfully and unreasonably administers any injurious drug or injurious substance to any animal or willfully and unreasonably causes or attempts to cause any such drug or substance to be taken by any animal” under Section 11(1)(h) is a mere imprisonment for 3 months with a maximum penalty of Rs. 100.

- j. To pass such other and further reliefs which this Hon’ble Court may deem appropriate to grant in the interest of justice.

23. INTERIM RELIEFS

- a. To pass such interim orders and direction which this Hon’ble Court may deem fit to grant in the interest of justice, keeping in mind the constitutional ethos of compassion

for living creatures, so too, the victims of the man-animal conflict -the farmers- are adequately compensated for the loss of their lives, limbs and crops, that in future loss of lives is totally eliminated, and further that the poachers who flourish and operate under the nose and with the blessings of the forest, wildlife and revenue officials, are no longer permitted to rule the roost, particularly in view of the Covid-19 pandemic which has allowed the poachers to carry out their illegal business hassle free.

- b. To pass such other and further reliefs which this Hon'ble Court may deem appropriate to grant in the interest of justice.

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