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Smt. Jayanti Das ... **Petitioner**

-Versus-

State of Odisha and others ... **Opp. Parties**

04. 06.01.2020

This writ petition under Article 226 of the Constitution of India is in the nature of a Public Interest Litigation in which prayer has been made for a direction to the district administration of Kalahandi district to stop slaughter of animals/birds in '*Chatar Yatra*' at Bhawanipatna on the public road/public places and also to appoint an efficient judicial officer as observer for protection of fundamental rights under Article 21 of the Constitution of India during such festival.

It is the case of the petitioner that she is a social activist and always fights for the well being and development of the general public at large and she is more concerned for the overall development of the downtrodden people of the society. It is her case that in the name of traditional religious custom and rituals, cruelty is being caused to the animals and birds by mass butchery in public places during '*Chatar Yatra*' festival

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every year and she sought for appropriate direction in the matter for stoppage of such illegal and superstitious animals and birds sacrifice. It is her further case that the authority concerned who are to look into the matter for stoppage of such animal brutality are not paying any heed to the request of the petitioner. It is her case that in the year 2016, in public places such animals and birds were sacrificed during '*Chatar Yatra*'.

According to the petitioner, Article 21 of the Constitution is violated which assures every citizen of India to live with dignity as it is hit by forcefully watching and feeling the pain of slaughter of thousands of animals and birds on the public road during the festival. It is her further case that both physical and mental health of the women, child, school and college going teenaged students are affected by such hazardous activities. It is further stated that inaction of the district administration of Bhawanipatna in stopping the butchery has compelled her to approach this Court on a number of occasions and even though some directions have been passed in that respect to check such activities but no fruitful result

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came out for which she has approached this Court again.

Mr. Bijaya Kumar Ragada, learned counsel appearing for the petitioner contended that though the case was filed for a direction to the district administration of Kalahandi during *Chatar Yatra*, 2017 at Bhawanipata but the same thing is continuing till today and even during *Chhatar Yatra*, 2019, there has also been slaughtering of animals and birds in public places openly and therefore, this Court should invoke its extraordinary jurisdiction under Article 226 of the Constitution to give reliefs as sought for. Learned counsel for the petitioner brought to the notice of this Court a news item published in 'Orissa Post' dated October 6, 2019 styled as 'Animal Sacrifice Continues at Chatar Jatra despite ban', in which it is mentioned many animals were sacrificed by devotees which is an attempt to please the goddess through the offering and it has been continuing unabated despite administrative ban and has been the source of tension between the cops and devotees on many occasion.

Mr. Jyoti Prakash Pattnaik, learned Additional

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Government Advocate for the State, on the other hand, submitted that the State has taken sufficient precaution during such festival to prevent animal sacrifice but it is a traditional affair of the tribal community that by sacrificing animals during such festival, deity Manikeshwari would be pleased. However, he submitted that the Government is ready and willing to comply any direction to be given by this Court in preventing/stopping such activities.

From Wikipedia, it appears that Chatar Yatra is a traditional festival celebrated by the people of Kalahandi District, Orissa every year. The festival involves Maa Manikeshwari, the family goddess of the Kalahandi King. Maa Manikeshwari is the prominent presiding goddess of Kalahandi district. The temple of the goddess is situated within the boundary of the ex-rulers of Kalahandi, so that the rulers could observe the auspicious festival Chatar Yatra. Chatar Yatra is meant to celebrate the Vijaya Utsav with cheerful heart and splendid display. The festival is being celebrated during the Mahastami of Durga puja festival every year. The

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ritual practice of Khonds (Adivasis of Kalahandi Districts) Nabakalevar (the renewal of post-worship) is also performed during the festival. Maa Manikeshwari comes out from the Garbhagriha on Mahastami midnight to Jenakhal which is at about 3 kms. distance from the alma mater. The Yatra starts with Nagar Paribhramana on Mahanavami auspicious morning to please Maa Manikeshwari. A tribal dance which is known as 'Ghumura' is performed. Animal sacrifice is prevalent during this festival. Though the State Government has strictly banned these kinds of activities, still devotees do not follow the rule. About 50,000 animal sacrifices take place during this festival.

In the case of **Mohd. Hanif Quareshi and others -Vrs.- State of Bihar reported in A.I.R. 1958 S.C. 731**, their Lordships of the Hon'ble Supreme Court held that Bihar Preservation and Improvement of Animals Act, 1956, U.P. Prevention of Cow Slaughter Act, 1956 and C.P. & Berar Animal Preservation Act, 1949, so far they prohibit the slaughter of cows of all ages and calves of cows and calves of buffaloes, male and female, are

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constitutionally valid. Their Lordships have held that subject to restrictions, which Article 25 of the Constitution of India imposes, every person has a fundamental right under the Constitution not merely to entertain such a religious belief as may be approved of by his judgment or conscience but to exhibit his belief and ideas in such overt acts as are enjoined or sanctioned by his religion and further to propagate his religious views for the edification of others. The free exercise of religion by which is meant the performance of outward acts in pursuance of religious beliefs, subject to State regulation imposed to secure order, public health and morals of the people. Their Lordships have further held that the sacrifice of a cow on Bakr-Id Day is not an obligatory overt act for a Mussalman to exhibit his religious belief and idea and consequently, there was no violation of the fundamental rights of the Mussalmans under Article 25(1).

In the case of **Sardar Syedna Taher Saifuddin Sahib -Vrs.- State of Bombay reported in A.I.R. 1962 S.C. 853**, their Lordships have held that as the

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right guaranteed by Article 25(1) is not confined to freedom of conscience in the sense of the right to hold a belief and to propagate that belief, but includes the right to the practice of religion, the consequences of that practice must also bear the same complexion and be the subject of a like guarantee. Their Lordships have also held that for example, there may be religious practices of sacrifice of human beings or sacrifice of animals in a way deleterious to the well-being of the community at large. It is open to the State to intervene, by legislation, to restrict or to regulate to the extent of completely stopping such deleterious practices.

In the case of **State of W.B. and others -Vrs.- Ashutosh Lahiri and others reported in (1995) 1 Supreme Court Cases 189**, their Lordships have held that the legislative intention of W.B. Animal Slaughter Control Act, 1950, is that healthy cows which are not fit to be slaughtered cannot be slaughtered at all. Their Lordships have held that in the context of Section 12, the religious practice must be such which requires the invocation of exemption provision under Section 12 so as

to bypass the main thrust of Section 4. For such an exercise, non-essential religious practices cannot be made the basis. Their Lordships have further held that it is optional for a Muslim to sacrifice a goat for one person or a cow or a camel for seven persons. Once the religious purpose of Muslims consists of making sacrifice of any animal which should be a healthy animal, on BakrI'd, then slaughtering of the cow is not the only way of carrying out that sacrifice. Thus slaughtering of healthy cows on BakrI'd is not essential or required for religious purpose of Muslims or in other words, it is not a part of religious requirement for a Muslim that a cow must be necessarily sacrificed for earning religious merit on BakrI'd.

In the case of **Animal Welfare Board of India - Vrs.- A. Nagaraja and others reported in (2014) 7 Supreme Court Cases 547**, their Lordships have held that animal welfare laws have to be interpreted keeping in mind the welfare of animals and species best interest subject to just exceptions out of human necessity. Their Lordships have also held that every species has an

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inherent right to live and shall be protected by law, subject to the exception provided out of necessity. Their Lordships have further held that so far animals are concerned, "life" means something more than mere survival or existence or instrumental value for human beings, but to lead a life with some intrinsic worth, honour and dignity. Animal has also honour and dignity which cannot be arbitrarily deprived of and its rights and privacy have to be respected and protected from unlawful attacks.

The Hon'ble Supreme Court in the case of **Durgah Committee, Ajmer and Anr. -Vrs.- Syed Hussain Ali and Ors. reported in A.I.R. 1961 S.C. 1402** has held that even practices though religious, may have sprung from merely superstitious beliefs and may in that sense, be extraneous and unessential accretions to religion itself. Unless such practices are found to constitute an essential and integral part of a religion, the protection under Article 26 may have to be carefully scrutinised; in other words, the protection must be confined to such religious practices as are an essential and an integral

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part of it and no other.

God is the creator of the universe. He has created the human beings, animals, birds and all the species on this earth. The animals and birds breathe like us. They have also a right to live in harmony with human beings and the nature. Like the parents cannot tolerate to see the blood of their children, deity cannot be pleased by sacrificing the animals. No deity would ever ask for the blood. All deities are kind hearted and bless the humanity to prosper and live in harmony with each other. Sacrificing the animals to please the deity is nothing but a sheer superstition which needs to be addressed so that it can come to an end by way of public awareness, sensitization for which participation of district administration, police, educated mass, students and people from all walks of life is necessary. Butchery of animals on the public place on the festival day is shocking and horrifying. A civilized society cannot accept to see such activities openly and blood of animals flowing on the streets during the procession of the deity. It is high time to check such activities, if necessary by taking

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stringent action against the violators. The overt act of sacrificing animals in the temples or its premises is not obligatory overt act to reflect religious belief and idea. The rituals attached to animal/bird sacrifice reflect only cruelty, superstition, fear and barbarism and has nothing to do with either religion or culture and such practice is abhorrent and dastardly. The animals have basic rights and it needs to be recognized and protected.

After careful analysis of the fact situation, to check the superstitious activities animal sacrifice during '*Chatar Yatra*' and to meet ends of justice, we are issuing the following mandatory directions:

- i)** The District Administration shall sensitize, familiarize and educate the general public particularly the tribal community to desist from such superstitious activity of pleasing the deity Manikeshwari during '*Chatar Yatra*' by way of animal sacrifices and to adopt an attitude of love and compassion towards all animals/birds;
- ii)** The District Administration shall organize awareness camp in that respect in every village

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and also in and around Manikeshwari Temple, Kalahandi at least a month prior to the '*Chatar Yatra*' every year till such practice is completely stopped and the details of the awareness activities shall be kept on record for future reference;

iii) CCTV cameras shall be installed during such festival to record the procession of the deity;

iv) The School and College authority of Kalahandi district through their students shall also be requested by the District Administration to assist them in this mission;

v) The Superintendent of Police shall make arrangements at least a week ahead of '*Chatar Yatra*' every year to keep vigil over the activities of the persons who plan to create any kind of nuisance by way of animal sacrifice during such festival days;

vi) Any kind of congregation of public on the date of '*Chatar Yatra*' in and around the procession area or inside the temple for the purpose of animal sacrifice should be dispersed immediately and

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crowd movement should be streamlined;

vii) No person including the State shall be allowed to sacrifice any animal/bird during 'Chatar Yatra' festival on the public road or in and around the precincts of the temple;

viii) The Collector & District Magistrate, Kalahandi and the Superintendent of Police of the district shall ensure strict implementation of the order and if any officer fails in that respect, he shall be made personally liable.

With the aforesaid observations, the writ petition is disposed of. No costs.

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S. Panda,
Acting Chief Justice

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S.K.Sahoo,J.