

116

CWP-26965-2022
SHIVANI DASMAHAPATRA VS STATE OF HARYANA AND
OTHERS

114

CWP-26953-2022
SAMEER VERMA VS MC OF GURUGRAM AND OTHERS

PRESENT Mr. Akshay Bhan, Sr. Advocate, with
Ms. Gauri Puri, Advocate, and
Mr. Vipul Joshi, Advocate,
for the petitioner in CWP-26953-2022.

Mr. Navdeep Singh, Advocate,
for the petitioner in CWP-26965-2022.

Mr. Pankaj Mulwani, DAG, Haryana.

The present petition raises a challenge to the interim order dated 15.11.2022 passed by the District Consumer Disputes Redressal Commission, Gurugram in CC No.741 of 2002, titled as 'Munni Vs. Neetu Chikkara and another' wherein in a complaint filed by the respondents No.4 – complainant, she had claimed monetary assistance of Rs.10 lakhs to fulfill her basic necessities including basic expenses as well as diet and other misc. expenses on an allegation that she was bit when O.P. No.1 had unleashed her dog in the locality of Civil Lines. She suffered multiple deep wounds and multiple injuries on different parts of the body including the head.

While examining the aforesaid aspect, an interim order was passed by the District Consumer Disputes Redressal Commission, Gurugram, noticing failure of Municipalities in regulating the stray dogs/pet dogs and also the non-implementation of the Government notifications regarding the banned breed of dogs. Various directions issued by the District Consumer Disputes Redressal Commission, Gurugram, are extracted as under:-

A. Regarding Banned breeds of Dogs

i. For ensuring the proper compliance of **the Government of India extraordinary Notification No. 3/2015-2020 dated 25.04.2016**, the following pet dogs of foreign breeds are hereby completely banned with immediate effect w.e.f. 15.11.2022 which are as follows:- 1. American Pit-bull Terriers 2. Dogo Argentino 3. Rottweiler, 4. Neapolitan Mastiff, 5. Boerboel, 6. Presa Canario, 7. Wolf Dog, 8. Bandog, 9. American Bulldog, 10. Fila Brasileiro, & 11. Canc Corso.

ii. The Municipal Corporation, Gurugram is directed to cancel all the license's, if any, issued in this regard in favour of the dog owners for keeping the above cited pet dogs with immediate effect and take into its custody the aforesaid dogs immediately w.e.f. 15.11.2022.

(iii) The Municipal Corporation, Gurugram in this regard is also to issue public notice/notification with immediate effect, thereby informing all the residents of District Gurugram including the residents of various housing/residential societies situated within the limits of Municipal Corporation, Gurugram.

(B). Regarding pet dogs

(i) Apart from the aforesaid banned dogs, in respect of the remaining pet dogs. the Municipal Corporation, Gurugram, for ensuring the proper compliance of the Rules/Bye- laws stipulated under Rule 311 of the Haryana Municipal Act, 1994 is directed to make the registration of the pet dogs compulsory/mandatory w.e.f 15.11 2022 within one month and to issue the license/s in respect thereof, **the fee of which shall not be less than Rs.12.000/- per year, with the renewal fee every year, which shall not less than Rs. 9,000/- per year.**

(ii) *The Municipal Corporation, Gurugram is directed to require that **every registered dog shall wear a collar to which shall be attached a metal token coupled with metal chain.***

(iii). *The Municipal Corporation, Gurugram is directed to require that one family will keep only one dog, and, that, whenever, the registered dog is taken to public places, its mouth shall be properly covered with a net cap or otherwise, so that it may not bite anyone. Besides, at that time, the owner of said registered pet dog will also take with him dog shitbag and dog shit plucker in order to maintain proper hygiene and proper cleanliness at public places. iv. The Municipal Corporation, Gurugram is directed to issue public notice/notification to all the residents/housing societies of District Gurugram-situated within its limit to strictly follow the aforesaid rules with the **warning that who-so-ever was found violating the aforesaid provisions, his/her dog shall be immediately taken into custody by the Municipal Corporation, Gurugram, and, that, the violator would be imposed fine which shall not be less than Rs.20,000/- and which may extend to Rs.2 lakh. in default of which he will incur the imprisonment not less than one month which may extend up to 2 years.***

C. Regarding stray dogs

i. **All the stray dogs within the limits of Municipal Corporation, Gurugram shall be taken into custody with immediate effect i.e. w.e.f. 15.11.2022 and shall be kept in Dog Ponds** or at a place, which is stated to be maintained by the Municipal Corporation, Gurugram near Village Basai with the help of some NGOs, and, that, all the dogs so kept therein shall be taken care of properly with respect to their food, health

*and personal safety. Besides, such dogs kept in **dog pond shall be vaccinated and sterilized properly as per rules.***

*ii. In addition to it, the Municipal Corporation, Gurugram is also directed to frame proper rules for awarding compensation in case of dog bite cases with the provision that **in case of dog bite cases the minimum compensation shall not be less than Rs.20.000/- and which may extend up to 2 lakh depending upon the nature gravity & seriousness of the injuries suffered by the dog bite victim.** The amount of dog bite compensation and maintenance of dogs shall be collected out of the revenue earned through levy of license fee and renewal fee etc. from the dog owners.*

*iii. **The Municipal Corporation, Gurugram is further directed to frame the appropriate rules in the light of the aforesaid directions given by this Court within 3 months,** and, that until and unless the said rules are framed by the Municipal Corporation, the aforesaid interim orders and directions passed by this Court shall remain in force.*

Learned counsel for the petitioner contends that the petitioner intends to buy one more dog and that by virtue of the aforesaid orders, she is being restrained from purchasing and keeping another dog, thus, she has a cause of action to pursue the present petition. He further contends that the order in question has been passed without authority and jurisdiction and in a manner as is beyond the scope of the Consumer Protection Act, 2019.

Notice of motion for 15.02.2023.

Notice re: stay as well.

Mr. Pankaj Mulwani, DAG, Haryana, accepts notice on behalf of respondent No.1-State. Mr. Samarath Sagar, Advocate, accepts notice on behalf of respondent No.2-Municipal Corporation, Gurugram.

In the meanwhile, the operation of the interim order dated 15.11.2022 passed by the District Consumer Disputes Redressal Commission, Gurugram, is stayed till further orders.

However, taking into consideration, the data noticed by the District Consumer Disputes Redressal Commission, Gurugram, that as many as 77 lacs of dog bite cases are reported throughout India on everyday basis resulting in 20,000 deaths per year. It has also been reported on the basis of internet that nearly 40% such cases relate to children which is definitely an alarming situation and needs to be properly redressed, it has required to take cognizance of the case on the original jurisdiction of this Court under Article 226/227 of the Constitution of India, 1950.

The Municipal Corporation, Gurugram, shall file an affidavit of an officer not below the rank of Commissioner regarding the remaining directions issued in the said order.

He is required to furnish the following details in his affidavit:-

1. Steps taken by The Municipal Corporation, Gurugram, to ensure that residents of Municipal Corporation, Gurugram, including various housing and residential colonies get their pets registered with immediate effect upon payment of necessary charges;
2. The Municipal Corporation, Gurugram, shall also furnish details of the dogs of foreign breeds that are not allowed to be

imported as per the Notification dated 25.04.2016 issued by the Government of India bearing No.3/2015-2020.

3. The Municipal Corporation, Gurugram, shall ensure the compliance of rules/bye-laws under Section 311 of the Harayna Municipal Act, 1994 and furnish details of the registration and the fee collected by The Municipal Corporation, Gurugram.
4. The Municipal Corporation, Gurugram, is directed to ensure that every registered owner shall keep the dog on leash when brought out at public places and it is guarded so that it does not bite any one. The owner of the dog shall also carry an eco friendly disposable bag for scooping the poo/shit of the dog and dispose it of properly to maintain hygiene and cleanliness at public places. Appropriate penalty for non-compliance should be levied on such registered dog owners.
5. The Municipal Corporation, Gurugram is also directed to issue public notice warranting all residences/housing societies to strictly follow the mandate of the bye laws/rules, non compliance whereof should attract penalty as has been statutorily prescribed.
6. The Municipal Corporation, Gurugram, shall also furnish all the details of the action taken by it regarding the spaying of the stray dogs and total expenses incurred.
7. The Municipal Corporation, Gurugram, shall also furnish details of the dogs that are being kept in ponds and infirmeries

maintained as per the Prevention of Cruelty to Animals Act, 1960, as well as as per the directions of The Animal Welfare Board. It shall also submit the details of the vaccination undertaken by The Municipal Corporation, Gurugram, in the last three years.

8. The Municipal Corporation, Gurugram, shall furnish details of the drives undertaken by it over the last three years to mitigate the stray dog menace.
9. He shall also give details of the dog bite cases reported in Municipal Corporation, Gurugram, in last five years.

To come up for further consideration on 15.02.2023.

A photocopy of the order be placed on the file of each connected case.

November 24, 2022.
raj arora

(VINOD S. BHARDWAJ)
JUDGE