

A AKHIL BHARAT GOSEVA SANGH ETC. ETC.

v.

STATE OF ANDHRA PRADESH AND ORS.

OCTOBER 25, 1994

B [B.P. JEEVAN REDDY AND SUHAS C. SEN, JJ.]

Environment Law—Setting up of Slaughter House—Permission granted by State Government—Challenged before High Court—High Court directs a report to be prepared by State Government—Central Government directed to pass orders after considering the report—Central Government fails to pass any order—Report containing serious reservations about the Slaughter House—Held, Central Government must consider the report and pass appropriate orders as directed by the High Court.

D 'X', which carried on business of processing and exporting buffalo as well as goat/sheep meat, applied for permission to the Gram Panchayat of Rudraram for setting up a slaughter house at Rudraram. The Gram Panchayat granted "No Objection Certificate" to 'X'. 'X' was also granted "No Objection Certificate" by the Andhra Pradesh Pollution Control Board and the Animal Husbandry Department and letter of intent for manufacturing meat by the State Government. E These permissions were subject to certain conditions which were to be followed by 'X'. One such condition was that only old and useless buffaloes would be slaughtered and that no cows or calves would be slaughtered.

F On July 24, 1990, by a notice under Section 131 (3) of the Andhra Pradesh Gram Panchayat Act, 1964, the Executive Officer of the Gram Panchayat suspended the "No Objection Certificate" granted in favour of 'X' on the ground of law and order problem. The order of the Executive Officer was challenged by 'X' by way of a writ petition. Subsequently, 'X' withdrew the writ petition and filed a revision petition before the State Government challenging the order of the G Executive Officer. The revision petition of 'X' was allowed by the concerned Minister on September 15, 1990 and 'X' was permitted to carry on construction of the slaughter house.

H Two writ petitions were filed in the High Court of Andhra Pradesh by certain organisations/individuals challenging the validity of order passed by the State Government on September 15, 1990. Single Judge

admitted the writ petitions and suspended the order of the State Government. Against this interim order, both the State Government as well as 'X' preferred writ appeals. During the hearing of the said appeals, the Division Bench heard the main writ petition itself and disposed it of on November 16, 1991 with certain directions. The Division Bench directed the State Government to prepare a detailed report regarding the likely effect of setting up of the slaughter house on the environment and the cattle wealth in the concerned area. The report of the State Government was to be forwarded to the Central Government which was directed to consider the report and pass appropriate orders in relation to the establishment of the slaughter house.

Pursuant to the order of the Division Bench dated November 16, 1991 the State Government constituted a committee known as 'Krishnan Committee'. Before the Committee, the Food and Agriculture Department of the State Government objected to the establishment of the slaughter house on the ground that it would lead to depletion of already declining cattle wealth. The Food and Agriculture Department further pointed out that as there was an embargo on slaughter of healthy productive animals as well as calves below three years of age, 'X' would be compelled to slaughter only sick and old animals which would adversely affect its exports. Therefore, there would be tendency to maim animals or render them useless and non-productive circumventing the law. The Department was of the opinion that establishment of slaughter house would adversely affect soil fertility and marginal farmers. The Krishnan Committee, in its report accepted the apprehension of the Department as well founded. The Committee recommended that 'X' should raise its own feed cattle initially to the extent of not less than 50 percent of its capacity and eventually to the extent of 100 percent of its capacity. In the alternative, the Committee recommended, a modern slaughter house may be set up taking over the plant of 'X' which would meet the meat requirement of the area and the unhygienic private slaughter houses may be closed down.

The Chief Secretary of Andhra Pradesh, forwarded the report of the Krishnan Committee to the Central Government in pursuance of the order of the High Court with the note that depletion of cattle wealth is a disputable area as the Committee has not considered the total figure of cattle wealth in Andhra Pradesh but only the district figures. The note further recorded that huge investment has been made by 'X'

- A in setting up the slaughter house and the clearance had been given to 'X' by the Food and Agriculture Department. The Central Government, even though it received the report of the Krishnan Committee along with the note of the Chief Secretary, did not pass any order in relation to the establishment of the slaughter house and it merely forwarded the report to Andhra Pradesh Pollution Control Board for appropriate action.
- B

- Several writ petitions were filed before the High Court challenging *inter alia*, the "No Objection Certificate" and the permissions granted to 'X'. The High Court by its order dated April 6, 1993 dismissed the writ petitions holding that the State Government was justified in granting permission for the establishment of the slaughter house. The High Court while dismissing the writ petitions relied upon the opinion of the Animal Husbandry Department, the 'No Objection Certificate' issued and the conditions imposed on 'X' by the Andhra Pradesh Pollution Control Board.
- C

- D On appeal to this Court, it was -

- HELD : 1.** The Krishnan Committee report makes it clear that the Committee has agreed with the objections raised by the Food and Agriculture Department to the effect that the establishment and operation of the respondent-slaughter house is likely to seriously and adversely affect the cattle wealth of the State in general and of the surrounding districts in particular. It has also pointed out that since the meat and meat products obtained at the said slaughter house are meant only for export, the slaughter house would necessarily go in for healthy and useful cattle rather than confining itself to old and infirm cattle. It has also pointed out that the attractive prices offered by the slaughter house would induce the poor farmers of the area to sell their cattle and that in the circumstances it is idle to expect the slaughter house to confine the killing only to aged and infirm cattle. It cannot be said that the several objections raised by the Food and Agriculture Department, which have found favour with the said Expert Committee are not relevant or are not germane to the issue of establishment and operation of the slaughter house. (163-G, H, 164 A, B, C)
- E
- F
- G

- 2.** The rejection of Krishnan Committee report by the High Court really amounts to slurring over the main recommendation of the said report. Moreover, the learned Judges have not dealt with the failure of the Central Government to consider the said report and pass
- H

appropriate orders pursuant to the directions of the High Court in its judgment dated November 16, 1991. The learned Judges have observed in the said judgment that it is not possible for the Court to go into conflicting report of experts and that therefore, they should leave the matter for the judgment of the Government. This observation again does not take into account the directions made by the said High Court in its judgment dated November 16, 1991. They have also observed that the Director of Animal Husbandry has given his opinion or revised opinion, as the case may be, after taking into consideration the objections of the Food and Agriculture Department. The fact remains that this reconsideration by Director, Animal Husbandry Department is said to have taken place sometime in 1990, whereas even in 1992, the Food and Agriculture Department was yet persisting with its views before the Krishnan Committee. (165-F, G, H, 166 A)

3.1. It is unfortunate that the Central Government has not looked into the relevant aspect of the Krishnan Committee report and has chosen to simply forward the report to the Andhra Pradesh Pollution Control Board. According to the judgment of the High Court dated November 16, 1991, it was for the Central Government to consider the contents of the Krishnan Committee report and take a decision in the matter of establishment and operation of the said slaughter house. It cannot but be said that the Central Government has singularly failed to comply with the directions of the High Court. (164-D, E)

3.2. The endorsement of the Chief Secretary, which is at variance with the Krishnan Committee report is not only bald but is unsupported by any facts and figures. It appears to be the mere *ipse dixit* of the Chief Secretary. (164-G, 165 A)

4. The Central Government should look into all relevant aspects, as directed by the High Court of Andhra Pradesh in its judgment dated November 16, 1991, forthwith and record its opinion before a final decision is taken in the matter. The decision of the Central Government shall be recorded in a reasoned proceeding, which shall be placed before this Court. (166 H, 167 A)

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3968 of 1994 etc. etc.

From the Judgment and Order dated 6.4.93 of the Andhra Pradesh High Court in W.P. No. 10454 of 1992.

A U.N. Bahawal, Jasraj Shrishrimal, B.S. Banthia and H.M. Singh for the Appellants.

V.R. Reddy, Additional Solicitor General, Ashok H. Desai, Soli J. Sorabjee, Gopal Subramaniam, E. Manohar, J.D. Jain, Dhruv Mehta, Aman Vachhar, S.K. Mehta, Nikhil Nayyar, T.V.S.N. Chari, C.V.S. Rao and
B Hemant Sharma for the Respondents.

The Judgment of the Court was delivered by

C B.P. JEEVAN REDDY, J. These appeals concern the establishment, working and continuance of an abattoir (mechanised slaughter house) by name 'Alkabeer Abattoir' situated in Rudraram village in Patancheru Mandal of Medak District. Of the five appeals before us, Civil Appeal Nos. 3966 and 3967 of 1994 are preferred against the judgment of a Division Bench of the Andhra Pradesh High Court dated April 6, 1993 in Writ Petition No. 13062 of 1992, Civil Appeal No. 3968 of 1994 arises from Writ Petition No. 10454 of 1992 disposed of on the same day, i.e. April 6, D 1993, while the Civil Appeal Nos. 3964 and 3965 of 1994 arise from the order of the High Court in Writ Appeal Nos. 896 and 899 of 1993 preferred against the order of the learned Single Judge in W.P.M.P. No. 9367 of 1993 and W.P.M.P. No. 945 of 1993 in Writ Petition No. 7483 of 1993. As the facts stated hereinafter would disclose, the said slaughter house has been surrounded by controversy from the very inception. Indeed, it was sought to E be established earlier at Bhiwandi in Maharashtra. Some progress was also made towards installation but on account of opposition from the local people and other organisations, that location was abandoned and the present location selected.

F The respondent-Alkabeer Exports Limited is a public company formed for the purpose of carrying on the business of processing meat mainly for export purposes. With a view to establish the factory in Rudraram village, the respondent-company applied to the Gram Panchayat, Rudraram for the requisite permission to construct the factory and other buildings connected therewith. In the first instance, the Gram Panchayat issued a 'No Objection Certificate' on March 24, 1989 and after obtaining the opinion of the G District Medical and Health Officer, Director of Town Planning and Director of Factories, it granted the permission on June 29, 1989.

H On April 13, 1989 the Andhra Pradesh Pollution Control Board (for short 'A.P.P.C.B.') issued a 'No Objection Certificate' (for short 'NOC') on the basis of the respondent's application dated December 30, 1988. The NOC was granted subject to certain conditions concerning the treatment of

effluents and air pollution. It was stipulated that the respondent shall obtain a second NOC from the A.P.P.C.B. before commencing trial production in the factory and to obtain a regular consent under Sections 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1981 before commencing regular production. A

On July 18, 1989 the Government of India in the Ministry of Industry granted a Letter of Intent (for short 'LOI') under the provisions of the Industries (Development and Regulation) Act, 1951 for the establishment of a new industrial undertaking at Rudraram village for manufacturing 14,775 tonnes of Frozen Buffalo Meat, 225 tonnes of Frozen Buffalo Meat value added products, 3240 Tonnes of Frozen Mutton Meat and 360 tonnes of Frozen Mutton Meat value added products per annum. The LOI was granted subject to the following conditions : B C

"(a) Buffaloes to be slaughtered shall be subject to anti-mortem and post-mortem examination by the concerned authorities.

(b) Only old and useless buffaloes shall be slaughtered and for this purpose, their production and processing shall be subject to continuous inspection by the Municipal Authorities, Animal Husbandry and Health Department of the State Government may evolve for ensuring this. D

(c) Slaughter of cows of all ages and calves of cows and buffaloes male or female, shall be prohibited. E

(d) You shall undertake measures for preserving and improving the breeds of the buffaloes by adoption of suitable animal husbandry practices in consultation with the State Government. F

(e) At least 90% production of frozen buffalo meat would be exported for a period of ten years which may be extended by another five years at the discretion of the Government. G

(f) Adequate steps shall be taken to the satisfaction of the Government to prevent air, water and soil pollution. Such anti-pollution measures to be installed should conform to the fulfillment and emission standards prescribed in which the factory of the industrial undertaking is located. H

A (g) The new industrial undertaking or the industrial activity for effecting substantial expansion or for manufacture of new article shall not be located within :

B (a) 50 kilometers from the boundary of the standard urban area limits of any city having a population of more than 25 lakhs according to the 1981 census; or

(b) 30 kilometers from the boundary of the standard urban area limits of any city having a population of more than 15 lakhs but less than 25 lakhs according to the 1981 census;

C (h) In case the location of the industrial undertaking is in Industry District, change of location from No Industry District to any other area including a notified backward area either within the same State or outside the State will not normally be allowed."

D The Government of Andhra Pradesh too recommended to the Central Government for grant of industrial licence to the respondent.

E On August 28, 1991 the Agriculture and Processed Food Products Export Development Authority (for short 'A.P.E.D.A.') informed the respondent that the Government of India was keen to promote the export of meat and meat products as part of its export drive.

F The Director, Animal Husbandry Department, Government of Andhra Pradesh has also issued a NOC in favour of the respondent, through his letter dated July 13, 1989, subject to compliance with the provisions of Sections 5 and 6 of the Andhra Pradesh Prohibition of Cow Slaughter and Animal Preservation Act, 1977 (for short 'A.P. Act of 1977') and the instructions issued thereunder.

G On the basis of the above permissions, the respondent-company commenced the construction and installation of the building and machinery. After the construction had proceeded to some extent, the Executive Officer of the Gram Panchayat, Rudraram issued a notice dated July 24, 1990 to the respondent under Section 131 (3) of the Andhra Pradesh Gram Panchayat Act, 1964 suspending with immediate effect the permission granted for construction of the factory building and other buildings and calling upon the respondent to stop all further construction until further orders. This order was issued in view of the law and order problem said to have arisen

H

on account of the agitation by several organisations opposed to the establishment of the slaughter house. A

The respondent filed a writ petition in the Andhra Pradesh High Court questioning the said order of the Executive Officer. Certain organisations opposed to the establishment of the slaughter house applied for and were impleaded as respondents to the said writ petition. The respondent, however, withdrew the said writ petition and filed a revision petition before the Government under Section 232 of the Andhra Pradesh Gram Panchayat Act questioning the order of suspension passed by the Executive Officer. The organisations which had impleaded themselves in the aforesaid writ petition appeared before the Government and filed their objections. All of them were heard by the concerned Minister on September 13, 1990 who allowed the revision by his order dated September 15, 1990. Not only the order of the Executive Officer was set aside, the period of construction was also extended for one more year with effect from June 29, 1990. B C

Questioning the Government order dated September 15, 1990, two writ petitions were filed in the Andhra Pradesh High Court, being Writ Petition Nos. 13763 and 13808 of 1990 by certain organisations/individuals. A learned Single Judge admitted the writ petitions and suspended the operation of the Government's Order dated September 15, 1990 pending the writ petitions. Against the said interim order, both the State Government and the respondent-company filed four writ appeals which were admitted by a Division Bench and the interim order made by the learned Single Judge stayed. When the writ appeals came up for final hearing, the Division Bench heard the main writ petitions themselves and disposed them of under its judgment and order dated November 16, 1991 along with another Writ Petition No. 10413 of 1991. Several contentions were urged before the Division Bench, after considering which the Division Bench disposed of the said writ appeals and writ petitions with the following directions: D E F

“.....However, we direct that the State Government shall prepare a detailed report regarding the water, air and environment pollution, if any, as at present in Rudraram and surrounding villages of Patancheru Mandal, Medak District having regard to the provisions of the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control Pollution) Act, 1981 and the Environment (Protection) Act, 1986 and the rules made thereunder, *the likely effect of the setting up of the mechanised slaughter house at Rudraram village on the prevailing environment,* G H

- A *and also its likely effect on the cattle wealth in the area,*
after considering the representations which the petitioners
in these writ petitions and other interested parties may
submit in writing in this regard. The petitioners herein and
other interested persons shall submit the representations and
other supporting material in writing to the State
B Government within four weeks from today. The State
Government shall prepare and submit a detailed report to
the Central Government within eight weeks from the date of
receipt of the copy of this judgment. *On receipt of the*
report, the Central Government shall consider the same,
having regard to the provisions of the Water (Prevention
C and Control of Pollution) Act, 1974, the Air (Prevention
and Control Pollution) Act, 1981, the Environment
(Protection) Act, 1986 and the Industries (Development and
Regulation) Act, 1951 *and pass appropriate orders in*
relation to the establishment of the mechanised slaughter
D *house (abattoir) at Rudraram village, Patancheru Mandal,*
Medak District, Andhra Pradesh, within eight weeks from
the date of receipt of the report.”

(emphasis added)

- E The above order has become final, not having been questioned by
anyone before this Court. Nor is it disputed that this order has to be carried
out and implemented by all concerned authorities.

- F Pursuant to the aforesaid directions made by the Andhra Pradesh High
Court, the State Government constituted a Committee known as “Krishnan
Committee” for examining and reporting on the matters referred to in the
order of the High Court. The Committee examined all the relevant aspects
relating to the establishment of the said slaughter house. It went into the
questions relating to environment as well as into the impact of the slaughter
house on the rural economy, in particular, the apprehensions expressed by
the Food and Agriculture Department of the Government of Andhra
Pradesh on the depletion of cattle. Having regard to the importance of this
G report, it is necessary to notice its contents briefly.

- H The Committee was of the view that the slaughter house will ultimately
have the capacity of consuming 500 buffaloes and 2000 sheep/goat per day.
In other words, it would require about 1.5 to 2 lakhs buffaloes in addition to
seven lakhs sheep/goat every year. After noticing the several permissions
granted by the various authorities for establishment of the said slaughter

house, the committee set out in brief the contentions urged by several objecting individuals/organisations as well as the submissions made by the respondent-company. On the question of depletion of cattle wealth, it noted the views of several organisations and departments of Government, of which the views of the Food and Agriculture department were noted in extenso in view of their relevance and supporting material. The Food and Agriculture department pointed out to the Committee that the cattle population in the State of Andhra Pradesh has been showing a declining trend over the years. It pointed out with reference to facts and figures that the decline was quite considerable. In particular, it pointed out that the decline in cattle wealth in Medak District (in which district the said slaughter house is located) was very steep. It further pointed out that 2.01 lakhs buffaloes are being slaughtered every year in the existing slaughter houses and that the commencement of operations in the respondent's slaughter house would mean a perennial loss of 5.14 lakhs cattle per annum. It pointed out: "the argument that animals would be brought from the neighbouring State cannot be depended upon. Several neighbouring State like Karnataka, Maharashtra etc., have banned transport of animals from their States. In effect, therefore, the hinterland of the Mesrs. Alkabir Exports Limited would be the adjacent districts of Telangana in general and Medak District in particular." It pointed out further, "as it is, these districts are suffering with decline in Buffalo population ranging from 6.5 to 30% annually as can be seen from the following table:.....". After referring to the particulars in support of the above statement, the department submitted: "the attractive rates offered by such export companies would further siphon off animals from these districts." It again gave facts and figures pertaining to several districts in Andhra Pradesh and reiterated its submission that the attractive prices offered by the respondent's slaughter house would result in depletion of useful cattle including milch cattle. The department made the following further *significant submission*:

"Under the provisions of Animal Husbandry Manual and Cow Slaughter Act, no healthy productive animal can be permitted to be slaughtered. Calves below three years of age are not allowed to be slaughtered. Similarly healthy animals from 3 to 10 years are not allowed to be slaughtered. This means only sick and old animals should be permitted to be killed and importing countries would not normally accept beef from these animals. To ensure quality beef, the company would be forced to circumvent provisions of the rules and Act by buying inter-calving dry females and dubbing them non-productive. The likely tendency to maim

A the animals and render them useless and non-productive to escape from the provisions of Rules and Act would also be encouraged. Without cutting corners and effectively violating the provisions of the Rules and Act, the Company cannot hope to obtain adequate input material for the plant under construction."

B and then added:

C "If such huge slaughter houses such as AI kabeer is allowed to be put up, there would virtually be no sufficient animals for ploughing, milk production and other purposes, besides adversely affecting soil fertility due to loss of urine and dung in the hinterland districts. Small and marginal farmers would be hit badly, as the buffaloes for ploughing operations would not be available at reasonable rates."

D Dealing with the NOC granted by the Animal Husbandry department to the said slaughter house, the Food and Agriculture department submitted that the said certificates was issued by the Animal Husbandry department "without consulting the Food and Agriculture Department and without examining in detail the deleterious effect of the setting up of the AI kabeer plant with such enormous capacity and economic consequence thereof." It stated emphatically that "in the interest of cattle and overall economic development of agrarian economy, the proposed plant cannot be allowed to be set up."

F After setting out all the above facts, the committee proceeded to record its own views in the matter. It noted that while some fundamentalist organisations are opposing the establishment of the said slaughter house on account of their religious and sentimental opposition to the slaughter of animals, the Government of India and the Government of Andhra Pradesh have all permitted the setting up of this plant. So far as pollution of air and water is concerned, it opined that with due observance of the safeguards stipulated by the several concerned departments including APPCB and regular supervision, it can be kept within reasonable limits. But so far as the depletion of the cattle wealth is concerned, the Krishnan Committee upheld the objections of the Food and Agriculture Department in the following words:

H "There are valid reasons for believing that this argument is substantially valid. To start with the capacity of the plant is so large that with the existing cattle wealth and possible

increases thereto, will not be able to provide adequate input A
to this factory for more than a year or two unless drastic
action is taken to increase the cattle wealth in the
surrounding areas. The Food and Agriculture Department
have already brought out the fact that the cattle wealth in
the surrounding areas as also in the other parts of the State B
is gradually going down and the cattle available for
slaughter is around 1.76 lakhs animals per year. As against
this, the existing slaughter houses in the State are already
slaughtering animals to the extent of 2.01 lakhs, with the
result that with the level of existing cattle wealth, there is no
additional input likely to be available to cater to the huge C
capacity of the plant being established at Rudraram. Food
and Agriculture Department has also brought out the fact
that it will be difficult for the factory to adhere to the
existing regulations of the provisions of the Prevention of
Cruelty to Animals Act and Prohibition of Cow Slaughter
Act, 1977 and every effort would be made to circumvent D
the provisions of this Act so that adequate input supply is
maintained (for the?) factory. It was reported in the
newspapers sometime ago that a similar factory established
in Goa, after operation for one or two years have to
drastically stop their operations for want of adequate input
material.” E

Having expressed the above opinion, the Krishnan Committee made
the following recommendation as a condition for allowing the
establishment of the slaughter house:

“In the circumstances it is essential to insist on the F
Company to ensure that there is an effective programme to
raise feed cattle on their own initiative for not less than 50%
of the capacity so that the impact on the surrounding area is
limited to this extent atleast. Further increases in capacity
can be considered only if the company increases its own
feed cattle. Eventually the Company will have to produce G
feed cattle for their entire extent of operations so as to
minimise the impact on the existing cattle wealth.”

If this alternative is not acceptable to the Company, the
proposal mentioned by the Food and Agriculture
Department of starting a modern abattoir with an H

A investment of about Rs. 15 crores may be diverted to take over this plant and eventually the unhygienic private slaughter houses in and around the city and government slaughter houses can be closed and the meat requirement for the city may be met from this factory.”

B It is thus evident that Krishnan Committee was in favour of the establishment of the said slaughter house only on the condition that it raises on its own the cattle required by it - initially to the extent of half and ultimately to the full extent. And if the respondent was not willing to or not in a position to do it, it was not to be allowed and its capacity utilised to meet the existing requirements by diverting the cattle from the existing slaughter houses. In other words, the existing slaughter houses, big and small, government and private, were to be closed down and the respondent's slaughter house utilised to meet the present domestic requirements.

D Before forwarding this report to the Central Government, however, the Chief Secretary to the Government of Andhra Pradesh appended the following note (the note appears to have been made in August, 1992):

E “Depletion of cattle wealth is a disputable area. No figures have been given as a total figure for A.P. to substantiate the claim. Looking at district figures alone is not enough. In any case these should have been considered when approvals were sought for. F and A Dept. has also cleared the project. From PCB's point of view the over all measures taken are adequate except for a few minor additions. The company is supposed to have invested 40 crores in the project and therefore would have carefully studied data on cattle and animal availability. Government of India may be given the report prepared with this additional comments.”

G It is admitted that the Central Government received the aforesaid report of the Krishnan Committee but it is a matter of regret that no attention appears to have been paid to it or to the directions aforesaid made by the Andhra Pradesh High Court. All that appears to have happened is that the Central Government forwarded the report to the APPCB for appropriate action. We repeatedly asked the learned counsel appearing for the Government of India to show us the precise order made or the proceeding issued by the Government of India on the said report but none has been forthcoming. All that is stated is that the Government of India forwarded

the matter to the APPCB for appropriate action. We must say that this was certainly not the way to treat a report based upon such wealth of material, most of which was supplied by the Food and Agriculture Department of the Government of Andhra Pradesh - besides the glaring circumstance that it is a clear case of violation of the directions made by the High Court. The Government of India should have considered the fact that the Food and Agriculture Department of the State Government on one side and the Animal Husbandry and Industries Departments of that Government on the other were at logger heads - that while the Food and Agriculture department was opposing the very establishment of the plant/slaughter house, the Animal Husbandry department and the Industries department were very much in favour of its establishment and that such a situation called for a serious consideration of the issue as indeed directed by the High Court. It may be pointed out that Government of India was a party to the judgment of the High Court aforesaid. But before we say more on this aspect, it would be appropriate to set out the facts leading to the present appeals.

Writ Petition No. 6704 of 1991 was filed by two environmentalists for issuance of a writ, order or direction restraining the Hyderabad Metropolitan Water Supply and Sewerage Board (HMWSSB) and others from supplying/selling water to the said slaughter house. By order dated May 27, 1992 an interim order was made by the High Court restraining the HMWSSB from considering proposals for sale of water to the said factory.

Dr. Kishan Rao (the appellant in Civil Appeal No. 3966 of 1994) filed Writ Petition No. 8193 of 1992 questioning the grant of NOC by the APPCB. The High Court made an interim order to the effect that the NOC granted by the APPCB shall be subject to further orders in the said matter.

Akhil Bharat Goseva Sangh (appellant in Civil Appeal No. 3964 of 1994) filed Writ Petition No. 10454 of 1992 against the State of Andhra Pradesh and others questioning the grant of permission for the trial run of the said slaughter house.

Writ Petition No. 13062 of 1992 was filed by Dr. Kishan Rao along with Smt. Satyavani questioning the various permissions granted for the establishment of the said slaughter house.

All these writ petitions were heard together and disposed of by the High Court under its judgment and order dated April 6, 1993. The Division Bench was of the opinion that inasmuch as the LOI granted by the Government of India and the provisions of the Andhra Pradesh Preservation of Cow Slaughter and Animal Preservation Act, 1977 permit slaughtering

- A of only useless cattle and because maintenance of useless cattle involves a wasteful drain on the nation's meagre cattle feed resources, the Animal Husbandry department, Government of Andhra Pradesh and the Government of India were fully justified in granting the permission for the establishment of the slaughter house. The Division Bench noted that "in view of the agitation by some organisations, the matter was re-examined and fresh discussions were made between the Animal Husbandry Department and Secretary, Food and Agriculture department and Secretary, Industries Department on the question of State's slaughter policy and that on a re-examination of the issues, the Director of Animal Husbandry observed on December 21, 1990 that the establishment of the said slaughter house would not really result in any depletion of the cattle in the State."
- B
- C The Bench stated further that on September 28, 1991 the issue was again considered by the Director of Animal Husbandry, who reiterated his opinion expressed on December 21, 1990 and that the Andhra Pradesh Cabinet which considered the matter later did not express a different view. In this view of the matter, the Bench opined that the establishment of the respondent-slaughter house would have only "negligible" effect on the cattle growth in the State. The Bench also dealt with the environmental aspects and found that the safeguards stipulated by the APPCB and other authorities are sufficient to ensure against pollution of air or water. The Division Bench also referred to the fact that the APPCB has issued a second NOC on October 1, 1992 subject again to safeguards sufficient to protect the environment. The Bench concluded that all the concerned authorities have granted the requisite permissions after duly considering all the relevant circumstances and that, therefore, there are no grounds for interfering with the establishment and operation of the slaughter house. While dismissing the writ petitions, the High Court directed the prosecution of Dr. Kishan Rao for certain mis-statements made by him. Civil Appeal Nos. 3964, 3965, 3966, 3967 and 3968 of 1994 are preferred against this judgment.
- D
- E
- F

- Writ Petition No. 10454 of 1992 filed by Akhil Bharat Goseva Sangh was also disposed of by the same Division Bench on the same day but under a separate order. The main contention in this writ petition was that the State Government had not complied with the directions made by the High Court in its judgment and order dated November 16, 1991 aforesaid and that until and unless the State Government sends its report in accordance with the said directions and the Central Government takes a decision thereon the respondent-company be restrained from functioning. It was also contended that according to the first NOC granted by APPCB, the respondent-factory had to obtain a second NOC from the Board and the
- G
- H

second NOC was to be issued only after considering air and water pollution aspects. It was also contended that the Board has failed to discharge its duties and is allowing the slaughter house to work contrary to law. It was also submitted by the writ petitioner that the effluent standards fixed for the said slaughter house by the APPCB are contrary to the relevant provisions of the Act and Rules. Several other contentions were also urged, all of which were negated by the Division Bench. It held that the respondent-factory has indeed obtained a second NOC from the APPCB and that in view of the amendment to the Environmental Protection Act in the year 1991, the pollution standards fixed for the respondent-factory are not inconsistent with the provisions of law. So far as compliance with the directions of the High Court dated November 16, 1991 is concerned, the Bench stated that it has already dealt with that aspect in their judgment in the other writ petitions delivered on the same day and hence, need not deal with it over again. Civil Appeal No. 3968 of 1994 is preferred against this judgment.

Civil Appeal Nos. 3964 and 3965 of 1994 are directed against the orders of another Division Bench allowing the writ appeal preferred by the respondent (Alkabeer Exports Limited) under clause (15) of the Letters Patent and setting aside the Interlocutory Order passed by a learned Single Judge in W.P.M.P. No. 9367 of 1993 in Writ Petition No. 7483 of 1993. The learned Single Judge had directed the APPCB to furnish copies of certain reports along with annexures to the writ petitioner and to keep in view the conditions imposed by it in the first and second NOCs while disposing of the application of the respondent-factory for permission to commence production. The Division Bench held that the directions made by the learned Single Judge were not called for at that stage of proceedings. It held further :

"Prima facie, having regard to the facts and circumstances of the case, we are of the view that the decision taken by the Andhra Pradesh Pollution Control Board at its meeting held on 24th August, 1993 to grant consent in favour of M/s. Alkabeer Exports Limited subject to the conditions laid down by them, shall be given effect to and it shall be in force pending disposal of Writ Petition No. 7483 of 1993.

We make it clear that the writ petition shall be disposed of on merits in accordance with law, without taking into consideration any observation made by us in this judgment."

A Sri Bachawat, learned counsel for the appellants in this appeals, urged the following contentions:

B (1) That the State Government and in particular the Central Government have not complied with the directions made by the Andhra Pradesh High Court in its judgment and order dated November 16, 1991 fully. Though the State Government has constituted a Committee and the Committee has made its recommendations, the Central Government has not taken any action on the basis of the said report. The mere forwarding of the said report by the Central Government to the APPCB cannot be said to be the compliance with the aforesaid directions of the High Court. The report of the Krishnan Committee had in effect recommended against the establishment and continuance of the said slaughter house unless certain important considerations are met and satisfied. Admittedly, no steps have been taken by the respondent-company for complying with the said conditions.

D (2) The granting of second NOC and the granting of consent under Section 25 of the Water (Prevention and Control of Pollution) Act by the APPCB is in total negation of the statutory provisions governing it and amounts to a failure on its part to discharge the duties placed on it by law.

E (3) The location of the factory within the prohibited perimeter of the Hyderabad Urban Agglomeration is contrary to law. The area wherein the said slaughter house has been located is already affected badly by air and water pollution, as is disclosed by the report submitted by the NEERI pursuant to the orders of this court. The respondent-slaughter house was permitted to be established in the said area by the relevant authorities without taking into consideration the said highly relevant circumstances. The slaughter house is bound to further aggravate the already vitiated environment.

(4) The composition of the APPCB is contrary to the statutory provisions of the Act. The Board is not validly constituted and, therefore, the NOCs and the consent given by such Board are equally invalid in law.

G Sri Gopal Subramaniam, learned counsel appearing for the respondent, Alakbir Exports Ltd., disputed the correctness of the various contentions urged by the learned counsel for the appellants. Sri Subramaniam submitted that the respondent-slaughter house has been established strictly in accordance with law and after obtaining permission from all the concerned authorities and that the safeguards stipulated by the Central Government, APPCB and the Andhra Pradesh Prohibition of Cow Slaughter and Animal

Preservation Act, 1977 are more than adequate to ensure against pollution of atmosphere and depletion of cattle wealth. Learned counsel submitted that the slaughter house is meant only for infirm and useless cattle, which are merely a burden on the scarce fodder resources of this country. The learned counsel emphasised that with a view to maintain export quality standards of a very high order, the respondent-company has not only installed the latest equipment but has also provided a very effective effluent treatment plant. Counsel submitted that a number of veterinary doctors were permanently posted at the slaughter house with a view to check the arrivals and reject those which did not conform to the prescribed specifications. He also submitted that there has been a proper and substantial compliance with the directions made by the High Court in its order dated November 16, 1991 and that the objections against the slaughter house is neither *bonafide* nor genuine but are born out of religious and sentimental reasons which have been repeatedly rejected by this court in several earlier decisions. Counsel also submitted that the respondent-factory is adhering scrupulously to the standards prescribed by the APPCB, that it has planted thousands of trees and that the water coming out of ETP is used fully for watering those plants and trees. He submitted that not a drop of water is going out of the area of the respondent.

We may reiterate that the learned Standing Counsel for the Central Government has not placed the proceeding of the Central Government to disclose the action taken on the basis of the Krishnan Committee reports. All that the learned counsel stated was that the Central Government examined the report and sent it to the APPCB for appropriate action. In its counter filed in Writ Petition No. 13062 of 1992 in the High Court, all that is stated regarding the likely effect on cattle population is this: "10. Overall availability of animals for meat production has been looked into and special conditions in this regard have been imposed as part of the L.O.I. and these conditions would adequately ensure non-depletion of animals." Even in Writ Petition No. 10454 of 1992, no averments have been made disclosing the manner in which the Krishnan Committee report was dealt with.

The Krishnan Committee report makes it clear that the Committee has agreed with the objections raised by the Food and Agriculture department to the effect that the establishment and operation of the respondent-slaughter house is likely to seriously and adversely affect the cattle wealth of the State in general and of the surrounding districts in particular. The Food and Agriculture department sought to support its objections by adducing particulars of the cattle population of the State and of the Telangana area in particular. It has also pointed out that since the meat and

- A meat products obtained at the said slaughter house are meant mainly for export, the slaughter house would necessarily go in for healthy and useful cattle rather than confining itself to old and infirm cattle. It has also pointed out that the attractive prices offered by the slaughter house would induce the poor farmers of the area to sell their cattle and that in the circumstances it is idle to expect the slaughter house to confine the killing only to aged and infirm cattle. Indeed, it has suggested that to start with, half the requirement of the slaughter house must be directed to be met from its own resources by raising the cattle on its own land and that ultimately whole of its requirements should be directed to be met from its own resources. It cannot be said that the several objections raised by the Food and Agriculture department, which have found favour with the said Expert Committee are not relevant or are not germane to the issue of establishment and operation of the slaughter house. The requirements of the slaughter house, both in the matter of buffaloes and sheep/goat are truly enormous. Even according to the figures furnished by Sri Subramaniam, the annual requirement of the slaughter house is more than 1,20,000 buffaloes. The number of sheep/goat required every year is about 3 to 4 times more. Though Sri Subramaniam asserted that a major percentage of the requirements of the slaughter house is obtained from other States and not from the Andhra Pradesh State alone, no facts and figures are forthcoming in this behalf nor have they been examined by the High Court. It is unfortunate that the Central Government has not looked into this relevant aspect and has chosen to simply forward the report to the APPCB. According to the judgment of the High Court dated November 16, 1991, it was for the Central Government to consider the contents of the Krishnan Committee report and take a decision in the matter of establishment and operation of the said slaughter house. It cannot but be said that the Central Government has singularly failed to comply with the directions of the High Court. It also does not appear that the various authorities like Central Government, State Government, Animal Husbandry department, Industries department and the APPCB which granted the requisite permissions took the above factors into consideration or that they were conscious of the said considerations before granting the permissions. We may make it clear that we have not taken into consideration the objections of the several voluntary organisations opposing the establishment of the said slaughter house. We have only referred to the objections of the Food and Agriculture department which have found favour with the Krishnan Committee - and which recommendations have gone unconsidered by the Central Government. In this behalf, we may mention that the endorsement of the Chief Secretary, which is at variance with the Krishnan Committee report is not only bald

but is unsupported by any facts and figures. It appears to be the mere *ipse dixit* of the Chief Secretary. A

We are of the opinion that the learned Judges of the High Court have not appreciated this aspect in its proper perspective in the judgment under appeal. The learned Judges dealt with this aspect only in their judgment in Writ Petition No. 13062 of 1992. The learned Judges disposed of the said objection in the following words: B

“.....As regards the effect of the project on “depletion of cattle population”, the Director of Animal Husbandry grant NOC on the ground that the effect of project on cattle growth is negligible. Sri R.V. Krishnan’s report without considering the report of Animal Husbandry Department supported the comments made by the Secretary, Food and Agriculture Department, who expressed the view that it will have enormous effect on “depletion of cattle wealth”. According to the Chief Secretary, the Agriculture Department expressed their view without taking into account the total figures of Andhra Pradesh and reliance on district figures alone is not enough. We are of the view that the effect of the project on the cattle wealth is a disputable area. The best judge for making the correct assessment is the Department of Animal Husbandry.” C D E

We are of the opinion that the rejection of Krishnan Committee report in the above manner really amounts to slurring over the main recommendation of the said report. Moreover, the learned Judges have not dealt with the failure of the Central Government to consider the said report and pass appropriate orders pursuant to the directions of the High Court in its judgment dated November 16, 1991. The learned Judges have observed in the said judgment that it is not possible for the Court to go into conflicting reports of experts and that, therefore, they should leave the matter for the judgment of the Government. This observation again does not take into account the directions made by the said High Court in its judgment referred to above. They have also observed that the Director of Animal Husbandry has given his opinion or revised opinion, as the case may be, after taking into consideration the objections of the Food and Agriculture department. Though no material has been brought to our notice in support of the said statement, we shall assume that it is so. Even then the fact remains that this reconsideration by Director, Animal Husbandry department is said to have taken place sometime in 1990, whereas even in F G H

A 1992, the Food and Agriculture department was yet protesting with its views before the Krishnan Committee. Above all, the said reconsideration by the Director, Animal Husbandry department far prior to the judgment of the High Court dated November 16, 1991 does not relieve the Central Government of the obligation to consider the Krishnan Committee report and pass appropriate orders in the matter as directed by the judgment of the High Court dated November 16, 1991. It was for the Central Government to consider the said report taking into consideration the several facts and circumstances mentioned therein as also the contending views expressed by the several authorities and departments referred to therein. This the Central Government has clearly failed to do.

C There is another relevant consideration. The slaughter house has been in operation for the past eighteen months or so. It would be possible to find out the effect, if any, the operation of the slaughter house had on the cattle population of Medak and adjacent and nearby districts. It would equally be relevant to ascertain, if possible, what percentage of cattle slaughtered have been brought from other States and what percentage from the surrounding areas. In this connection, it is relevant to mention that the Animal Husbandry department has taken the total cattle population of the Andhra Pradesh State which is indeed misleading. The slaughter house is situated on the western boarder of Andhra Pradesh State, almost on the trijunction of Andhra Pradesh, Maharashtra and Karnataka. In such a situation, the slaughter house would rather draw its requirements of cattle from the surrounding and nearby districts rather than go all the way to far away districts of Andhra Pradesh State like Srikakulam, Visakhapatnam or for that matter, Nellore and Anantapur, which are situated several hundreds of miles away. The transport of cattle over long distance may induce the slaughter house to go in for cattle in the nearby areas, whether in Andhra Pradesh, Maharashtra or Karnataka - unless, of course, the cattle are available at far cheaper rates at distant places, which together with transport charges would make it more economic for the slaughter house to bring cattle from far away districts or from far away areas in the country. Therefore, taking the entire cattle population of the Andhra Pradesh State is bound to convey an incorrect picture. Perhaps, it would be more appropriate to take into consideration the cattle population of, what the Krishnan Committee calls, the "hinterland" of the slaughter house.

H In view of the fact that the controversy relating to the establishment of the slaughter house has been going on over the last several years, we think it appropriate that the Central Government should look into all relevant aspects, as directed by the High Court of Andhra Pradesh in its judgment

dated November 16, 1991, forthwith and record its opinion before we take a final decision in the matter. The decision of the Central Government shall be recorded in a reasoned proceeding, which shall be placed before this Court. The further orders to be passed would depend upon the contents of the report and the material so placed before us. A

We may make it clear that we should not be understood to have expressed any opinion on the merits of the aspects which the Central Government has been directed to consider by the Andhra Pradesh High Court. Whatever we have said in this judgment is only to indicate the failure of the Central Government to abide by the said directions and to record reasons in support of the direction made herein. We have also not gone into the other questions raised by the learned counsel for the appellants. They can be considered at a later stage after the receipt of the material and the report from the Central Government. B C

The Central Government shall submit the report within four months from today.

List the appeals for further hearing after the receipt of the report. D

B.K.M.