HIGH COURT OF TRIPURA
AGARTALA
W.P.(C) 166/2026

Dhyan Foundation Goushala, registration No. Doc. No. 2235, AWBI Reg. No. ND054/2019, Having registered address at A-80, South Extension Part 2, New Delhi-110049, local address- Debipur Goushala, Bishalgarh, P.O.& P.S.- Madhupur, District- Sepahijala, Tripura, through its authorized representative Gaurav Yadav, son of Rajkumar Yadav, resident of Jakhani, Purani Basti, Basti, Uttar Pradesh-272002.

----Petitioner(s)

Versus

1. The State of Tripura, through the Chief Secretary, Government of Tripura, Agartala-799010, Tripura;

2. The Secretary, Animal Resource Development Department, Government of Tripura;

3. The Director, Animal Resource Development Department, Government of Tripura, New Civil Secretariat, Capital Complex, Agartala, West Tripura-799010;

4. The State of Assam, through the Chief Secretary, Government of Assam, Dispur, Guwahati-781006, Assam;

5. The Commissioner & Secretary, Animal Husbandry & Veterinary Department, Government of Assam, Dispur, Guwahati-781006, Assam;

6. The Director, Animal Husbandry & Veterinary Department, Government of Assam, Chenikuthi, Guwahati-781003, Assam;

7. The Chief Secretary, Government of Meghalaya, Main Secretariat Building, Shillong-793001, Meghalaya;

8. The Principal Secretary, Animal Husbandry & Veterinary Department, Government of Meghalaya, Rilang Building, Secretariat Hill, Main Secretariat Building, Shillong-793001, Meghalaya;

9. The Chief Secretary, Government of Bihar, Bihar Secretariat (Vikas Bhawan), Patna-800015, Bihar;

10. The Principal Secretary, Department of Animal and Fishery Resources (Veterinary Department), Government of Bihar, Bihar Veterinary College Campus, Patna-800014, Bihar, India;

11. The Chief Secretary, Government of Jharkhand, First Floor, Project Building, Dhurwa, Ranchi-834004, Jharkhand;

12. The Principal Secretary, Animal Husbandry (Veterinary Department), Government of Jharkhand, Project Bhawan, Dhurwa, Ranchi-834004, Jharkhand;

13. The Chief Secretary, Government of West Bengal, Nabanna (13th Floor), 325, Sarat Chatterjee Road, Shibpur, Howrah-711102, West Bengal;

14. The Principal Secretary, Animal Husbandry (Veterinary Department), Government of West Bengal, Prani Sampad Bhavan, LB-2, Sector-III, Salt Lake, Kolkata-7000106, West Bengal;

15. The Home Secretary, Home Department, Government of Meghalaya, Main Secretariat Building, Shillong-793001, Meghalaya;

16. The Secretary, Home Department, Government of Bihar, Main Main Secretariat, Patna-800015, Bihar;

17. The Secretary, Home and Hill Affairs Department, Government of West Bengal, 325, Sarat Chatterjee Road, Shibpur, Mandirtala, Howrah-711102, West Bengal;

18. The Home Secretary, Government of Jharkhand, Home Department, Project Building, Dhurwa, Ranchi-834004, Jharkhand;

19. The Secretary, Home Department, Government of Tripura, Secretariat Building, Capital Complex, Agartala, West Tripura;

20. The Secretary, Home Department, Government of Assam, Main 2nd Floor, 'I' Block, Janata Bhawan, Dispur, Guwahati-781006, Assam;

21. The Inspector General, Border Security Force, Frontier Headquarters BSF Tripura, Salbagan, Agartala-799012, Tripura;

----**Respondent**(s)

For Petitioner(s)	:	Mr. H. Pandeya, Advocate Mr. S. Agarwal, Advocate Mr. A. Acharjee, Advocate
For Respondent(s)	:	Mr. M. Debbarma, Addl. GA Mr. B. Majumder, Deputy SGI
Date of hearing & delivery of judgment	:	**23.03.2026**
Whether fit for reporting	:	**Yes**

BEFORE
HON'BLE JUSTICE DR. T. AMARNATH GOUD

Judgment & Order (ORAL)

Heard Mr. H.Pandeya, learned counsel appearing for the petitioner. Also heard Mr. M. Debbarma, learned Additional GA appearing for the State-respondents, and Mr. B. Majumder, learned Deputy SGI appearing for the respondent-Union of India.

2. By means of filing this writ petition, the petitioners have prayed for the following reliefs:

> ***"a) Issue Notice upon the respondents and call for the records appertaining to the writ petition:***
> ***b) Issue a Writ of Mandamus or any other appropriate writ, order or direction directing the Respondents to issue permits for transportation of 1800 cattle from Tripura to Jharkhand:***
> ***c) Direct the respondents and the concerned authorities of the State of Tripura, Assam, Meghalaya, Bihar and Jharkhand to facilitate safe, unobstructed and priority passage of the said cattle during transit ,including necessary inter-state coordination among the concerned authorities, considering the long transit route and frequent road restrictions so as to ensure timely, safe and humane transportation of the cattle;***
> ***d) Pass such other and further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."***

3. Facts of the case, in a narrow compass, is that the petitioner, Dhyan Foundation is a NGO, which has been working across the country for rescue, care, treatment and rehabilitation of animals/cattle, more particularly, rescuing them from slaughter houses. It has several branches all over the country and couple of them is also in Tripura. It operates 44 large Gaushalas/Animal Welfare centres across India. By this writ petition, the petitioner sought for a direction from this Court in obtaining transit permission from the respondents for transportation of cattle rescued from illegal slaughter house and animal traffickers on International and State Border from the State of Tripura to the Gaushala of the petitioner. It is further case of the petitioner that the respondent no.3 herein, earlier accorded permission to the petitioner and issued transit permit in favour of the petitioner vide Applications dated 30.08.2024, 10.09.2024 and 26.08.2021 for transportation of total 1700 cattle, and the subsequent applications seeking fresh transit permit with regard to 1953 cattles remained unaddressed. Thus, by means of this writ petition the petitioner has sought for a direction.

4. The contention of Mr. Pandeya, learned senior counsel appearing for the petitioner is that since the respondent no. 3 earlier had granted permission for transit of cattles from the State of Tripura to the Gaushala of the petitioner, but the subsequent applications remained unaddressed without any valid reason. Learned counsel has further argued that currently approximately 1,953 cattles in Tripura are under challenging condition with severe fodder shortage and also threat of being smuggled by mafias. It has further been argued that the fodder cost in the Gaughalas of the petitioner is only Rs.1 per kg. wherein the cost of fodder in Tripura is much higher i.e. around Rs.25/- per kg.. It has further been argued that ARDD, Tripura, has not provided any or sufficient green or dry fodder or concentrated feed to the Gaushalas in Tripura for proper feeding of the cattle. Learned counsel has urged that if the cattles are handed over to the petitioner, the cattles will be safe from any threat, smuggle and natural calamities. It has also been urged that the petitioner will comply all the provisions of Prevention of Cruelty to Animals Act, 1960 and Transport of Animals Rules, 1978 with lawful transportation.

5. *Per contra,* Mr. Debbarma, learned Additional GA appearing for the State-respondents has submitted that a Memorandum of Agreement was executed between the petitioner and the respondent-State which was valid for a period of three years and the said Agreement expired on 24.02.2024. It has further been argued that without renewal of extending the period

of the Agreement, the petitioner has no right to obtain any permission from the respondent-State. Learned Additional GA has further submitted that there is no shortage of fodder in the State and all sorts of care and caution has been adopted by the respondent-State for the welfare of the cattle. Learned Additional GA has also submitted that the State Government had constituted expert committed who have inspected and after inspection nothing immaterial had been detected so as to grant permission to the petitioner, as aforestated. He further submitted on the strength of written instructions of Animal Husbandry Department, that the petitioner can donate the cattle to the interested persons in Tripura. As per argument with the State shifting is permitted without any intimation, but if its interstate permission is required.

6. This court has perused the record and also has gone through the correspondences made therein. From the communications dated 30.08.2024, 10.09.2024 and 26.08.2021 (Annexure 2 to the writ petition) it is evident that the respondent-State has accorded permission to the petitioner to shift total 1700 cattle from Gaushala of Tripura to Gaushala at Jharkhand by adhering all the Act and Rules. It is also evident that the MoU had expired and as per submission of learned Additional GA, without renew or extending the period, the State Government cannot pass any direction in favour of the petitioner, but considering the benefit, safety and security of animals, the expiration of a Memorandum of Understanding generally

does not debar a State Government from issuing permission for shifting cattle from one gaushala to another. Further none of the parties to the Agreement has undertaken any step for its renewal or extending the period. Thus, shifting the liability solely upon the petitioner is not accepted at this juncture. That apart, there is no provision under law where the respondent-State can prevent without any reason, except relying on the MoU, in shifting the cattle from one Goushala to another. Furthermore, State of Tripura shares border with Bangladesh in north, west and south. Day in and day out it is experienced that number of cattle are being smuggled unauthorizedly from the State of Tripura to the neighbouring country Bangladesh. And they are taken away to the slaughter house. It is unfortunate that despite efforts put in by the State or its agencies, the protection and rescue is not coming to end. Section 2 of the Prevention of Cruelty to Animals Act, 1960, provides essential definitions for the Act's interpretation, including "animal" (any living creature other than a human being), "captive animal," "domestic animal," "local authority," "owner," and specifically defines inhumane practices like "phooka" or "doom dev". Section 2 of the Prevention of Cruelty to Animals Act, 1960, reads as under:

> **“2. Definitions.—In this Act, unless the context otherwise requires,—**
> **(a) “animal” means any living creature other than a human being;**
> **(b) “Board” means the Board established under section 4, and as reconstituted from time to time under section 5A;]**
> **(c) “captive animal” means any animal (not being a domestic animal) which is in captivity or confinement, whether permanent or temporary, or which is subjected to any appliance or contrivance for the purpose of hindering or preventing its escape from captivity or confinement or which is pinioned or which is or appears to be maimed;**
> **(d) “domestic animal” means any animal which is tamed or which has been or is being sufficiently tamed to serve some purpose for the use of man or which, although it neither has been nor is being nor is intended to be so tamed, is or has become in fact wholly or partly tamed;**

(e) "local authority" means a municipal committee, district board or other authority for the time being invested by law with the control and administration of any matters within a specified local area;
(f) "owner", used with reference to an animal, includes not only the owner but also any other person for the time being in possession or custody of the animal, whether with or without the consent of the owner;
(g) "phooka" or "doom dev" includes any process of introducing air or any substance into the female organ of a milch animal with the object of drawing off from the animal any secretion of milk;
(h) "prescribed" means prescribed by rules made under this Act;
(i) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, to which the public have access."

Section 11 of the Prevention of Cruelty to Animals Act, 1960, defines various forms of cruelty to animals, such as beating, overloading, starving, abandoning, or killing them inhumanely. Section 11 of the Act, reads as under:

"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)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)wilfully and unreasonably administers any injurious drug or injurious substance to any animal or wilfully and unreasonably causes or attempts to cause any such drug or substance to be taken by 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
(f)keeps for an unreasonable time any animal chained or tethered upon an unreasonably short or unreasonably heavy chain or cord; 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 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)wilfully 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)organises, 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, 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.
(2)For the purposes of sub-section (1), an owner shall be deemed to have committed an offence if he has failed to exercise reasonable care and supervision with a view to the prevention of such offence:
Provided that where an owner is convicted of permitting cruelty by reason only of having failed to exercise such care and supervision, he shall not be liable to imprisonment without the option of a fine.
(3)Nothing in this section shall apply to—

(a)the dehorning of cattle, or the castration or branding or nose-roping of any animal, in the prescribed manner; or

(b)the destruction of stray dogs in lethal chambers or by such other methods as may be prescribed; or

(c)the extermination or destruction of any animal under the authority of any law for the time being in force; or

(d)any matter dealt with in Chapter IV; or

(e)the commission or omission of any act in the course of the destruction or the preparation for destruction of any animal as food for mankind unless such destruction or preparation was accompanied by the infliction of unnecessary pain or suffering."

7. Here is the petitioner, without burdening the government exchequer for the last several years is taking care of the rescued cattle and providing food, shelter and aid and also looking after the cattle in terms of provisions of Protection of Animal Acts. In the event if there is surplus of cattle in limited apace and overcrowded/congested, it also amounts to cruelty. Again, if proper food, medication and shelter is not provided, the same comes within the purview of cruelty. In the event, if the cattle are shifted or transported from one place to another and if during transportation the cattle are overcrowded in a truck/ transport vehicle, then also it amounts to cruelty under the statute, and in the process of shifting the cattle to a distant place and, for any reason, if there is any stoppage for undue period and for prolong hours by any authority or any officers, it is needless to say, the same amounts to cruelty because during the course of transportation sufficient fodder only would be provided by the petitioner-cum-owner of the cattle during the transit period.

8. The respondents in their counter affidavit except relying the clauses under the expired MoU, which is not recognized by any statute, are placing their reliance and without

any authority of law, denying the request of the petitioner through the present counter affidavit is also of no basis.

9. In view of the above, this court feels that facilitation has to be given to the petitioner by the respondents herein during transportation of the cattle from the State of Tripura to the place of destination, as earlier it was done in the year 2023 by granting permission by the respondent-State.

10. The petitioner only has sought permission from the State-respondent for issuance of transit permit to take the cattle to its Goushala at Jharkhand from Tripura and for that purpose the petitioner has not claimed any financial assistance from the respondents. The petitioner herein has shown its voluntary willingness to accept the custody of the cattle and had undertaken comprehensive, nurturing, and attentive approach towards the cattle. The entire service rendered by the petitioner is gratuitous in nature.

11. Sub-rule 9 of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017, focuses on the adoption or rehabilitation of animals after a magistrate hands them over. It stipulates that the person adopting the animal is not the permanent owner, but rather its guardian, responsible for its well-being. Sub-rule 9 of the Rules, 2017, reads as under:

> **"(9) Process of adoption or other disposition (1) The infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala having custody of the animal during the litigation or post litigation may euthanize the animal in its custody as per section 13 of the Act.**
> **(2) Where the animal has been forfeited to the infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala after conviction, abandonment or voluntary relinquishment, as the case may be, the animal shall be put up for adoption.**

(3) A person who has been charged under the Act or any cattle preservation law made by the State Government shall be prohibited from adopting animals from the infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala.
(4) The infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala prior to giving the animal for adoption shall,-
(a) in case of cattle, take an undertaking in form of an affidavit that the animals are adopted for agriculture purposes and not for slaughter, and verify that the person adopting the animal is an agriculturist by seeing the relevant revenue document;
(b) in case of draught and pack animals, take an undertaking in the form of an affidavit that the animals are adopted for draught and pack purposes and not for slaughter;
(c) in case of dogs and cats, ensure that the animal is spayed or neutered before adoption;
(d) keep a record of name and address of the person adopting the animal and procure an identity proof and address proof of the person adopting the animal;
(e) obtain from the person adopting the animal a declaration in the form of an affidavit that he shall not alienate the animal up to six months from the date of adoption and shall abide by the rules for transport framed under the Act or any other law for the time being in force and shall get regular veterinary checkup done for the animal.
(5) The person adopting the animal shall-
(a) not sell the animal;
(b) not abandon the animal;
(c) follow the State cattle protection and preservation law;
(d) not sacrifice the animal for any religious purpose;
(e) not sell the cattle to a person outside the State without permission as per the State cattle protection and preservation law.
(6) Where a cattle or a draught and pack animal has been adopted, before its removal from the premises of the infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala, the proof of adoption shall be issued in five copies, out of which first copy shall be handed over to person adopting the animal, second copy to infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala, as the case may be, third copy to tehsil office of the residence of person adopting the animal, fourth copy to the Chief Veterinary Officer, Office of District of person adopting the animal and last copy shall be sent to the court to be filed in the case file.

(7) The adoption of animal shall not create an irrevocable right to the person adopting the animal, and the înfirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala, as the case may be, may from time to time inspect the animal and in case it finds that the person who has adopted the animal is not providing sufficient care or it has reasons to believe that an offence under the Act or any cattle preservation law is anticipated, then the infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala, as the case may be, shall take possession of the animal.
(8) The person adopting the animal shall only be the lawful guardian of the animal and shall not have any rights bestowed generally to an owner of the animal, but shall have the duty to take all responsible measures to ensure the well being of such animal and to prevent infliction upon such animal of unnecessary pain or suffering."

12. This Court is to ensure that the cattle would be properly preserved. It is trite law that the rights of the animals, welfare of the animals and protection of the animals have to be taken care of in accordance with law. The Hon'ble Apex Court in ***Animal Welfare Board of India v. A. Nagaraja***, reported in ***(2014) 7 SCC 547 para 26***, has observed thus:--

"26. PCA Act is a welfare legislation which has to be construed bearing in mind the purpose and object of the Act and the Directive Principles of State Policy. It is trite law that, in the matters of welfare legislation, the provisions of law should be liberally construed in favour of the weak and infirm. Court also should be vigilant to see that benefits conferred by such remedial and welfare legislation are not defeated by subtle devices. Court has got the duty that, in every case, where ingenuity is expanded to avoid welfare legislations, to get behind the smoke-screen and discover the true state of affairs. Court can go behind the form and see the substance of the devise for which it has to pierce the veil and examine whether the guidelines or the Regulations are framed so as to achieve some other purpose than the welfare of the animals. Regulations or guidelines, whether statutory or otherwise, if they purport to dilute or defeat the welfare legislation and the constitutional principles, Court should not hesitate to strike them down so as to achieve the ultimate object and purpose of the welfare legislation. Court has also a duty under the doctrine of parents patriae to take care of the rights of animals, since they are unable to take care of themselves as against human beings."

13. In the spirit of the object of the Act, as enunciated in ***A Nagaraja (supra)***, this Court is of the *prima facie* view that in the interest, nurture, care, protection from slaughter house, the petitioner can have a right to claim to transport its own cattle from its Gaushala at Tripura to its own Gaushala at Jharkhand. It can safely be concluded that the cattle would be safe in the custody of the petitioner.

14. Accordingly, this Court directs the respondent-State to issue transit permit in favour of the petitioner to transport the rescued cattle from the State of Tripura to the State of Jharkhand, the Gaushala of the petitioner. Thereafter, the petitioner shall be at liberty to transport the cattle to its Gaushala at Jharkhand following due care and caution. It is made clear that in course of such transportation there shall be no violation of any of the provision under the Act, 1960 and Rules, 2017 by the respondents and their subordinates and shall co-operate and assist in shifting the cattle from Tripura to Jharkhand via Assam, Meghalaya, West Bengal and Bihar.

15. In the above conspectus, the instant writ petition stands allowed to the extent as indicated above. As a sequel, pending application(s), if any, also stands disposed.

JUDGE

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