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AKHIL BHARAT GOSEVA SANGH ETC.

v.

STATE OF ANDHRA PRADESH AND ORS.

MARCH 12, 1997

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

Andhra Pradesh prohibition of Cow Slaughter and Animal Preservation Act, 1977—Export promotion Scheme—Agricultural products including meat and beef—Project of M/s Al Kabeer Slaughter House—Impact on depletion of cattle population including buffalo population.

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The Central Government constituted an inter-ministerial committee pursuant to an order dated 25.10.1994 passed by this Court requesting the Central Government to look into all relevant aspect as directed by the High Court of Andhra Pradesh in its judgment dated 16.11.1991 with regard to the pollution of air and water. The committee accepted recommendations and suggestions made by the Krishnan Committee, the Environmental Audit Report along with the Environmental Management Firm Report along with the Environmental Management Plan prepared by the company. However, it was report that the Krishnan Committee's assumption and apprehensions on depletion of cattle due to establishment of M/s. Al Kabeer's slaughter house, not being based on correct scientific analysis and adequate reasoning were not acceptable as amongst the bovine animals, the project of M/s Al Kabeer was to utilise only the unproductive buffaloes and not cow & its progeny and that adequate number of unproductive buffaloes were and will be available for use in this slaughter house and other slaughter houses in Andhra Pradesh; that the Committee's suggestion of State Government taking over M/s. Al Kabeer slaughter house for supply of meat for domestic requirement being contrary to the objective of giving permission for setting up of abattoir by M/s Al Kabeer, as well as Government of India's programme for increase of export of meat and meat products as there is need for modernising the existing abattoirs in the State for which the State Government may take appropriate steps separately; that the suggestion of Krishnan Committee, of the company undertaking effective programmes to raise feed cattle for meeting 50% requirement of the abattoir is not practicable and not acceptable and therefore, the company should prepare a plan in consult-

ation with the State Government and take up its implementation in conjunction with the State Government for promoting better animal husbandry practices. A

The appellants filed a number of objections stating that reliance in the report placed upon 15th quinquennial live stock Census 1993 prepared by the Directorate of Economics and Statistics, Government of Andhra Pradesh is misleading as that report reflected the position upto September-October, 1993 when the Al Kabeer had commenced its operation only in April, 1993 and that if the requirement of Al- Kabeer is taken into consideration which is 1.8 lakhs buffaloes per annum, there will be a substantial depletion of buffalo population as a result of the working of Al-Kabeer, in the Telengana region of Andhra Pradesh and other adjoining areas in general and that the Census figures of the years 1987 to 1993 could not constitute a valid basis for arriving at the conclusion that the substantial drawals of buffaloes from Telengana region from April, 1993 onwards would not have a negative effect upon the cattle wealth. B C

The respondent submitted that this project had been cleared and promoted as part of export promotion scheme of Government of India and the Parliament had enacted Agricultural Processing Export Development Authority Act, 1986 with a view to promote the exports of agricultural products including beef and meat and that environmental and all other aspects have been fully taken into consideration before permitting the establishment of this unit and that the Government of Andhra Pradesh stands by Krishnan Committee Report, being opposed to the contents and conclusions recorded by the Report submitted by the Government of India. D E

Disposing of the matter, this Court F

HELD : 1.1. Al-Kabeer started functioning only in April, 1993 and the effects and impact of its functioning will be known only if one studies the figures of availability and/or depletion of buffalo population over a period of one or two years after Al-Kabeer started functioning. Merely showing that there had been a marginal increase in buffalo population between 1987 and 1993 is neither here nor there. Even if it is assumed that the 1993 figures refer to the figures upto September-October, 1993, that will take in only six months of working of Al-Kabeer. The proper impact of working of Al-Kabeer on the depletion of cattle, if any, would be known only if one takes into consideration the census figures of cattle in Telen- G H

A gana region or in the areas contiguous to Medak district (where the said unit is located), as the case may be, after atleast two years of working of Al-Kabeer. The position obtaining after April, 1995 would alone give a correct picture. [1048-A-H]

1.2. The contention of the appellants that the Government of India's Report is influenced to a considerable extent by the Report of Sri Yogi Reddy, the then Director of Animal Husbandry, Government of Andhra Pradesh, whose Report has been termed as "unauthorised" by the Special Secretary to the Government of Andhra Pradesh and thus disowned by the Government, cannot be rejected. Even according to the Government of India's Report, the requirement of Al-Kabeer is 1.5 to 2.0 lakhs buffaloes every year, which is not an insubstantial figure. There are inherent contradiction between the standard and quality of beef required for export and the provisions of the Andhra Pradesh Prohibition of Cow Slaughter and Animal Preservation Act, 1977 and the effect of the decisions of this Court, which leave only old and infirm buffaloes for slaughter. The Government of India should be called upon to send a fresh Report after studying the impact and effect of the working of Al-Kabeer upon the buffalo population of the Telengana region of Andhra Pradesh and also of the areas adjacent to Al-Kabeer, two years after the commencement of the operations by Al-Kabeer. It is not possible for this Court to pass any final orders on the basis of the Report now submitted, which is based upon the statistics/census figures of cattle population including buffalo population for the period 1987 to 1993. The Central Government to submit a fresh Report within six months. With effect from April 1, 1997, Al-Kabeer shall function only at *half* the installed capacity and not at its full installed capacity. The Government of India, the State Government and the Andhra Pradesh Pollution Control Board shall ensure compliance with this direction. [1049-A-B]

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

From the Judgment and Order dated 6.4.93 of the Andhra Pradesh High Court in W.P. No. 10454 of 1993.

Dr. A.M. Singhvi, U.N. Bhachawat, Gopalasubramaniam, G.L. Sanghi, N.N. Goswami B.S. Banthia, P.K. Bansal, P.K. Joshi, Jasraj Shrishimal, R. Santhanakrishnan, Harminder Mohan Singh, S.K. Mehta, Dhruv

Mehta, Fazlin Anam T. Anil Kumar, Nikhil Nayyar, T.V.S. Narsimhachari, A
Ms. Binu Tamta, S.N. Terdol and C.V. Subba Rao for the appearing
parties.

The Judgment of the Court was delivered by

B.P. JEEVAN REDDY, J. This order may be read in continuation of B
our order dated October 25, 1994. By the order aforesaid, we had re-
quested the Central Government to look into all relevant aspect as directed
by the High Court of Andhra Pradesh in its judgment dated November 16,
1991 and to record its opinion with reasons. The said record was directed
to be placed before this Court for consideration for passing of further C
orders.

The Central Government is said to have constituted an inter- mini-
sterial committee headed by Sri C.K. Basu, Joint secretary, Ministry of
Food Processing Industries. The Committee comprised three other mem-
bers, viz., Sri Shyam Lal, Director, Ministry of Environment and Forests, D
Sri Nikondaiah, Joint Commissioner, Department of Animal Husbandry
and dairying, Ministry of Agriculture and Dr. G.S. Singh, Deputy Commis-
sioner, Ministry of Food Processing Industries. The said Committee has
submitted a Report, Paragraph 11 whereof states its conclusions in the
following words : E

"11. *CONCLUSIONS.*

In the light of the foregoing discussions, the Committee is of the
opinion that :

(i) with regard to the pollution of air and water the suggestions F
and recommendations made by the Krishnan Committee as well
as the expert opinion contained in it are good and are acceptable.
The Government of India in the Ministry of Environment and
Forests have already accepted the same and the steps to implement
have already been taken The Environmental Audit Report along G
with the Environmental Management Firm Report along with the
Environmental Management Plan prepared by the company are
acceptable. However, regular monitoring of pollution of air and
water need to be continued by the Company itself as well as
periodic checking by the Andhra Pradesh State Pollution Control H

A Board.

(ii) the Krishnan Committee's assumption and apprehensions on depletion of cattle due to establishment of M/s. Al Kabeer's slaughter house are not based on correct scientific analysis and adequate reasoning, and therefore, are not acceptable. From the facts and analysis in the foregoing paras it is obvious that amongst the bovine animals, the project of M/s. Al Kabeer is to utilise only the unproductive buffaloes and not cow & its progeny. In fact, adequate number of unproductive buffaloes are and will be available for the use in this slaughter house and other slaughter houses in Andhra Pradesh.

(iii) the Krishnan Committee's suggestion of State Government taking over the M/s. Al Kabeer slaughter house for supply of meat for domestic requirement goes contrary to the objective of giving permission for setting up of abattoir by M/s. Al Kabeer, as well as Government of India's programme for increase of export of meat and meat products. There is, however, need for modernising the existing abattoirs in the State for which the State Government may take appropriate steps separately.

(iv) the suggestion of Krishnan Committee of company undertaking effective programmes to raise feed cattle for meeting 50% requirement of the abattoir is not practicable and therefore, is not acceptable. However, as per the terms of license, the company should prepare a plan in consultation with the State Government and take up its implementation in conjunction with the State Government for promoting better animal husbandry practices."

The appellants have filed a number of objections to the said Report. We shall briefly deal with the main objections :

(i) In Paragraph 10.11 of the Report, reliance is placed upon 15th quinquennial live-stock Census 1993 prepared by the Directorate of Economics and Statistics, Government of Andhra Pradesh (Annexure VI to the Report). (According to the learned counsel for the Central Government, the said Report reflects the position upto September-October, 1993.) According to the Report, the buffalo population has increased by 4.28 percent between 1987 and 1993. In other words, the buffalo population has

risen from 87.57 lakhs to 91.32 lakhs. The increase is thus 0.7 percent per annum approximately. These figures are misleading because Al- Kabeer has commenced its operation only in April, 1993 and the requirement of Al-Kabeer is 1.8 lakhs buffaloes per annum. If the requirement of Al-Kabeer is taken into consideration, there will be a substantial depletion of buffalo population as a result of the working of Al-Kabeer.

(2) The aforesaid Census Report further shows that the population of male buffaloes of over three years has shown a decline of 29 percent between 1987 and 1993 though the female buffaloes has shown a rising trend of seven to twelve percent. The population of male buffaloes over three years has also shown a substantial decline ranging from twenty four percent to forty four percent. The only increase is in the buffaloes in milk. The above figures taken in conjunction with the annual intake of buffaloes of Al- Kabeer would establish that the working of Al-Kabeer would cause serious depletion of buffalo population in the Telengana region of Andhra Pradesh in particular and in the State of Andhra Pradesh and other adjoining areas in general. Besides, all the facts and figures which constitute the basis of the said Report are the facts and figures taken into 1993. These do not and cannot represent the correct state of affairs because Al-Kabeer started functioning only in April, 1993. Only if one studies the facts and figures relating to 1994 and/or subsequent years, would he be able to assess the impact of the working of Al-Kabeer on the cattle wealth of the area concerned.

(3) The Report further shows that between April, 1993 and December, 1994, 29.3% of animals required by Al- Kabeer have been procured from other States whereas 40.2% came from telengana region, 12.3.% from Rayalseema region and 7.13% from the coastal areas of Andhra Pradesh. At the same time, the Committee says that inasmuch as the buffalo population as a whole (which includes those in milk) has increased in Telengana region by eleven percent between 1987 and 1993, the apprehension of depletion of cattle wealth is not acceptable. Apart from certain inconsistencies in the Report, it is difficult to understand how the Census figures of the years 1987 to 1993 can constitute a valid basis for arriving at the conclusion that the substantial drawals of buffaloes from Telengana region from April, 1993 onwards would not

A have a negative effect upon the cattle wealth.

(4) The Central Government's Report is largely influenced by the letter of and the material furnishing by Sri M.Yogi Reddy, Director of Animal Husbandry, Government of Andhra Pradesh dated November 29, 1994. The said Sri Yogi Reddy was retiring on the day after. He sent the said report in indecent haste even before he was asked to submit any Report by the inter-ministerial committee or by the Government of India, as the case may be. This aspect has been adversely commented upon by the Principal Secretary, Animal Husbandry and Fisheries Department, Government of Andhra Pradesh in his letter dated August 28, 1995 addressed to Dr. Krishna Ashrith, Director of Animal Husbandry, Andhra Pradesh, Hyderabad (successor to Sri Yogi Reddy). The said letter states that "a special report was sent by your predecessor to the Government of India vide his Do. Lr. No. 25142/D6/94, dt. 29-11-1994 (just one day before his retirement) on a controversial issue like Al-Kabeer Export Ltd., without any reference to the Government even though the Directorate is well aware of the sensitive nature of the subject, in view of the Public agitation on the issue". The letter accordingly requested the Director, Animal Husbandry to check up the records "and fix up responsibility on the persons who are instrumental in sending such *unauthorised* reports to the Government of India directly without reference to the Government of Andhra Pradesh". A comparison of the contents of the enclosures to the Report sent by Sri Yogi Reddy and the Report submitted by the Central Government to this Court establishes that the Report of the Central Government draws heavily upon and is influenced to a large extent by the Report of and the material supplied by said Sri Yogi Reddy. Since the Report of Sri Yogi Reddy has been disowned by the Government of Andhra Pradesh as "unauthorised", the reliance upon the said Report has vitiated the Report of the Central Government.

G (5) The Central Government Report has not taken into consideration the inherent contradiction lying at the heart of the issue. A perusal of the provisions of the Andhra Pradesh Prohibition of Cow Slaughter and Animal Preservation Act, 1977 shows that slaughter of animals (which expressions defined to include buffaloes, both male and female and their calves) which are or are likely to become

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economical for the purpose of (a) breeding, or (b) drought or any kind of agricultural operations, of (c) giving milk or bearing off-spring, is prohibited. This is also the purport of the decisions of the Court on the subject. This means that only old and infirm buffaloes are available for slaughter whereas Al-Kabeer is said to be a most modern slaughter house and the beef obtained by it is meant exclusively for export. Can it be believed that Al-Kabeer would confine itself to old and infirm buffaloes. No one abroad would like to purchase or consume the meat of such old and infirm buffaloes. They would require fresh and healthy beef which can be obtained only from young and healthy buffaloes, whether male or female. The failure to notice this inherent contradiction has vitiated the Central Government's Report. On the contrary, the Krishnan Committee Report has laid particular emphasis upon this aspect.

Sri Goswamy, learned counsel appearing for the Union of India, and Shri Gopal Subramaniam, learned counsel for Al-Kabeer, disputed the correctness of the aforesaid objections and submitted that this project has been cleared and promoted as part of export promotion scheme of Government of India. Indeed, the Parliament has enacted Agricultural Processing Export. Development Authority Act, 1986 (APEDA) with a view to promote the exports of agricultural products including beef and meat and that environmental and all other aspects have been fully taken into consideration before permitting the establishment of this unit.

So far as the Government of Andhra Pradesh is concerned, Sri Anil Kumar, learned counsel appearing for it, has specifically stated, on instructions received from the Government, that the Government of Andhra Pradesh stands by Krishnan Committee Report which means that it is opposed to the contents and conclusions recorded by the Report submitted by the Government of India. Rather curiously, in the written submissions of State of Andhra Pradesh and Andhra Pradesh Pollution Control Board filed in September 1994 (i.e., prior to our Order dated October 25, 1994), the Government of Andhra Pradesh had taken a different view. It had supported the establishment and working of Al-Kabeer fully.

A We are of the considered opinion that there is good amount of
substance in the submissions of the learned counsel for the appellants.
The statistics which constitute the basis of this Report submitted by the
B Government of India are not really relevant to the issue before us. As
rightly pointed out by the learned counsel for the appellants, Al-Kabeer
started functioning only in April, 1993, and the effects and impact of its
functioning will be known only if one studies the figures of availability and/or
depletion of buffalo population over a period of one or two years *after*
C Al-Kabeer has started functioning. Merely showing that there has been a
marginal increase in buffalo population between 1987 and 1993 is neither here
nor there. Even if it is assumed that the 1993 figures refer to the figures upto
D september-October, 1993, that will take in only six months of working of
Al-Kabeer. The proper impact of working of Al-Kabeer on the depletion of
cattle, if any, would be known only if one taken into consideration the census
E figures of cattle in Telengana region or in the areas contiguous to Medak
district (where the said unit is located), as the case may be, after atleast two
years of working of Al-Kabeer. In Short, the position obtaining after April,
1995 would alone give a correct picture. We cannot also reject the contention
F of the learned counsel for the appellants that the Government of India's
Report is influenced to a considerable extent by the Report of Sri Yogi Reddy,
the then Director of Animal Husbandry, Government of Andhra Pradesh,
whose Report has been termed as "unauthorised" by the special Secretary to
the Government of Andhra Pradesh, and thus disowned by the Government.
Even according to the Government of India's Report, the requirement of
Al-Kabeer is 1.5 to 2.0 lakhs buffaloes every year, which is not an insubstantial
figure. We must also take into consideration what the appellants' counsel call
G the inherent contradiction between the standard and quality of beef required
for export and the provisions of the Andhra Pradesh prohibition of Cow
Slaughter and Animal preservation Act, 1977 and the effect of the decisions
of this Court, which leave only old and infirm buffaloes for slaughter. We,
therefore, think it appropriate that the Government of India should be called
H upon to send a fresh Report after studying the impact and effect of the
working of Al- Kabeer upon the buffalo population of the Telengana region
of Andhra Pradesh and also of the areas adjacent to Al-Kabeer, two years
after the commencement of the operations by Al-Kabeer. It is not possible for
us to pass any final orders on the basis of the Report now submitted, which
as stated above, is based upon the statistics/census figures of cattle population

including buffalo population for the period 1987 to 1993. Accordingly, we call upon the central Government to submit a fresh Report in the light of the observations made herein within six months. A

Pending further orders and in the light of the material placed before us, we direct that with effect from April 1, 1997, Al- Kabeer shall function only at *half* the installed capacity and not at its full installed capacity. The Government of India, the State Government and the Andhra Pradesh Pollution Control Board shall ensure compliance with this direction. B

List after six months.

R.A.

Matter disposed of.