

CORRECTED

ITEM NO.15

COURT NO.4

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A. 4/2015 in Writ Petition(s) (Civil) No(s). 599/2015

ANUPAM TRIPATHI

Petitioner(s)

VERSUS

UNION OF INDIA & ORS

Respondent(s)

(for directions and office report)

Date : 05/04/2016 This application was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

Mr. Dushyant Dave, Sr.Adv. (AC)

For Petitioner(s) Petitioner-in-person
Mr. Jasvin singh, Adv.

For Respondent(s) Mr. Ramesh Babu M. R., Adv.

Mr. V.K. Biju, AOR

Mr. Basant R., Sr. Adv.
Ms. Liz Mathew, AOR'
Mr. Karthik Ashok, Adv.
Mr. M.F. Philip, Adv.

UPON hearing the counsel the Court made the following
O R D E R

By this interlocutory application, Mr. Jose Sabastin had
prayed for the following reliefs :-

"(i) Issue an interim direction directing to the
second respondent to give an appropriate
compensation o the 1st applicants family as
this Hon'ble Court deem fit as there is no
other provision to protect the interest of
the applicant.

(ii) Issue an interim direction by appointing a

commission to go through the issues and the recent attacks of stray dogs and what medical facilities and protections providing by the Government and submit this report to the Hon'ble Court as this Hon'ble Court held in the case of Bandhua Mukthi Morcha versus Union of India reported in 1984 Vol. 3 SCC 161."

We have heard Mr. Biju, learned counsel for the applicant, Mr. Basant, learned senior counsel for the State of Kerala and Mr. Dushyant Dave, learned Amicus Curiae in the application.

It is agonizingly submitted by Mr. Biju that the horror of death or grievous injury hunts the psyche of many an individual in various districts in the State of Kerala as they fall prey to the dog bites.

Learned counsel should submit that there should be respect for the provisions made in Prevention of Cruelty to Animals Act, 1960 and the Animal Birth Control (Dogs) Rules, 2001 to protect the animals but that does not really mean that the human beings should become prey to the attacks of the stray dogs, for it is the obligation of the State to see that the said dogs are sterilized or from time to time dealt with in accordance with law.

The thrust of his submission is that because of inadequate action on the part of the State, the number of victims has arisen in the State of Kerala and it has given rise to a catastrophe, for death of number of persons has ruined the families. It is urged by him that wife of the present applicant succumbed to the injuries because of the dog bite and she could not be cured despite availing the treatment. He has cited many an example to bolster the stand that there should be a fact finding authority in this regard and thereafter the Court may advert to the issue whether apathetic attitude by the State would give rise to a remedy in public law.

Mr. Basant, learned senior counsel appearing for the State of Kerala has refuted the submissions with all vehemence at his

command and would contend that such kind of injuries or death would not come within the violations of any kind of public order inviting the wrath of public law remedy or for that matter giving room to agitate the grievance by taking recourse to the public law remedy.

We think it apt, as advised at present, that the deliberation with regard to duty of the State in this regard should wait for some time but the grievances agitated by Mr. Biju with agony, vehemence and sometimes with enthusiasm, cannot be ignored.

We have taken assistance of Mr. Dave, learned Amicus Curia and Mr. V. Giri, learned senior counsel who belongs to the State of Kerala. In our considered opinion, a committee should be constituted as per prayer No.(ii) of the interlocutory application and, accordingly, we constitute a committee consisting of the following members :-

1. Mr. Justice S. Siri Jagan, formerly a Judge of the High Court of Kerala.
2. The Secretary, Department of Law, State of Kerala.
3. The Director of Health Services, Government of Kerala.

The Committee shall entertain the complaints with regard to the injuries sustained by the persons in the dog bite, the nature and gravity of the injury, availability of medicines and the treatment administered to them, the failure of treatment and its cure and in case of unfortunate death, the particulars of the deceased and the reasons behind the same. The Committee shall also identify the centres/hospitals where the anti-rabies vaccines are available free of charge.

On such facts being recorded, this Court, subject to adjudication of the responsibility of the State, would be in a position to think of granting of compensation or making certain arrangements. We are absolutely certain that without the fact finding enquiry, this Court will not be in a position to deal with

the compensation facet.

The Committee shall be given the secretarial assistance, as required and it will be at liberty to avail the assistance of any authority and call for materials from any source as it thinks advisable. Needless to say, it shall follow the principles of natural justice.

As the former Judge has to travel from place to place, whenever requisitioned, he shall be provided a vehicle by the State of Kerala so that the enquiry can be facilitated. The learned Judge shall be entitled to an honorarium of Rs.60,000/- (Rupees sixty thousand only) per month for the present. Let the first report be submitted to this Court within 12 weeks hence.

At this juncture, we are obligated to deal with the first prayer put forth in the interlocutory application. Mr. Biju, learned counsel would submit that unless *ex gratia* amount is granted, the family is not in a position to sustain itself because the wife was working in the Mahatma Gandhi National Rural Employment Guarantee Scheme (MNREGS) and the husband is a bus driver and he has two young children. Though the prayer has been opposed by Mr. Basant, learned senior counsel with singularity of conviction, we think it apt to direct the respondent-State of Kerala to pay a sum of Rs.40,000/- (Rupees forty thousand only) to the applicant within four weeks hence. We hereby make it clear that this kind of application shall not be entertained henceforth because we have already constituted a Committee as a fact finding authority and hence, any person intends to avail this kind of remedy has to move the Committee and not directly come to this Court or move the High Court.

Let the matter be listed on 12.07.2016.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master