

Before Rakesh Kumar Jain, J.

AMRITSAR KENNEL CLUB (REGISTERED) AND OTHERS—
Petitioners

versus

UNION OF INDIA AND OTHERS—*Respondents*

CWP No.25558 of 2015

January 28, 2016

Prevention of Cruelty to Animals Act, 1960—Ss. 21, 22 and 23—Performing Animals (Registration) Rules, 2001—Rl. 3—Participaiton in dog show—Compulsory statutory registration in terms of Rule 3 of 2001 and Section 21(i) of the Act, if a person is interested in participation of his dog in the dog show, being held free of cost, without any ticket is not required.

Held that, owner/club, hosting the dog show, is not required under any provisions either of the Act, Rules of 2001 or the Birth Control Rules to get himself/itself registered with the AWBI (Animals Welfare Bond of India) and hence, the AWBI has no jurisdiction or right to interrupt, disrupt or cause obstacle in the hosting of dog shows by the petitioners/clubs.

(Para 22)

G.K.Mann, Advocate,
for the petitioners.

Puneet Gupta, Senior Panel Counsel
for Union of India.

Vinod S. Bhardwaj, Addl. A.G., Punjab,
for respondents No.2 to5.

Gaganpreet Kaur, A.A.G., Haryana,
for respondent No.7.

J.S.Toor,Advocate,
for respondentNo.8.

H.P.S.Ghuman, Advocate,
for respondent No.9.

Sanjeev Soni, Advocate,
for respondent No.10.

Deepak Sharma, Advocate,
for respondent No.11.

Deepak Manchanda, Advocate,
for respondent No.12.

L.M.Gulati, Advocate,
for respondent No.13.

RAKESH KUMAR JAIN, J.

(1) The petitioners are the registered Kennel Clubs, affiliated with the Kennel Club of India, Chennai (for short “KCI”), a member of the Federation Cynologique International, Brussels (for short “FCI”) and the Kennel Club, London. The FCI has 78 members and contract partners (one member per country); it recognizes 370 breeds of dogs and each has a country of its origin and is a property of a specific country. The petitioner- Kennel Clubs are hosting “Dog Shows” every year in the winter as it is obligatory, being a member of the FCI, to hold minimum one dog show every year. The aims and objects of one of the petitioner-Kennel Clubs i.e. Amritsar Kennel Club, reproduced in the writ petition, read as under:-

- “a) To spread knowledge of pedigreed dogs classified by means of promoting and supporting breed shows and in any other way as the Club may deem fit.
- b) To endeavor to promote the welfare of the pure pedigreed and registered dogs.
- c) To encourage and promote the rearing and selective breeding of dog on scientific lines, through well designed kennels, breeding, finding suitable and promote the importance of blood lines and protect the interest of the dog owners and to provide all possible counsel the help to the dog breeders.
- d) To find a suitable solution to the menace of stray dog, with the cooperation of local administration.
- e) To organize conferences, seminars, workshops, clinics, exhibitions and dog shows whenever possible, and to disseminate information through media.
- f) To endeavor to promote the availability of vaccines, modern medical facilities like clinical testing, X-ray and

facilities of operation in local dispensaries, in conjunction with the local Animal Husbandry Department.

g) To establish and maintain a library.

h) To render all assistance, advise to new dog owners in the maintenance and care of dogs and to encourage and assist its members in breeding quality pedigree dogs.

i) To co-operate and associate with other Kennel/Canine clubs and Association formed for similar purposes and registered with the Amritsar Kennel Club under the regulations of the Amritsar Kennel Club.

j) To print and publish any News-letters, Bulletins, Gazettes, Magazines, Pamphlets, Circulars, Leaflets, and posters that may be considered for the promotion or carrying out any objectives of the Club and the maintenance of the Library.

k) To acquire purchase, sell, own or take on lease any property land building etc. for fulfilling the objectives of the club and to approach the State government/or any commercial organization for any support that the club may need in the form of Grant, License for conducting dog shows.

l) To invest the funds of the Club which is not required immediately, in such manner from time to time as may be determined by the executive Committee and according to law.

m) To initiate such activities which promote brotherhood and better liaison among fellow members.

n) The sales, improvement and developments to all or part of the Club property.

o) To spread knowledge of pure breed pedigreed dogs by periodically holding shows, and in any other way the Club may deem fit.

p) To encourage breeders and Dog enthusiasts train their dogs for obedience, Security work, Agility Trials and Schutzhund Trials and to bring down if necessary trainers from abroad to educate breeders and show enthusiast in India.”

(2) The clubs promote and preserve the distinct canine breeds registered with the KCI after strict inspection and scrutiny of their traits, parentage, vaccinations, lineage etc. and are adjudged by the specialist judges, appointed from the panel of judges maintained by the KCI, on a comparative basis strictly as per the individual breed standards (written, compiled and drafted by the bred specialists, veterinarians and judges all over the world) of each competing dog.

(3) According to the petitioners, the dog shows are conducted only to spread a scientific knowledge regarding various breeds and breed standards of the dogs and it is free of cost without any exhibition fee. It is alleged that the dog shows are basically, in the layman's word, a "beauty pageant", different from the training trials followed by the police, army, paramilitary forces, RPF, BSF, Bomb Squad, Commando Force and other law enforcement agencies etc. It is further alleged that the Indian Kennel Gazette had already issued Dog Shows Calendar as per which the dog shows shall take place on 27.12.2015 at Amritsar, on 31.01.2016 at Ludhiana, on 07.02.2016 at Patiala and on 14.02.2016 at Chandigarh.

(4) The grievance of the petitioners is that in the recent past, the dog shows held at various places have been disturbed by the alleged activists and staff of the Animal Welfare Board of India, Chennai (for short "AWBI") and one such notice dated 31.12.2014 has been served upon the Secretary of the Jaipur Kennel Club in regard to the dog show which was scheduled for 04.01.2015, attached with the petition as Annexure P-5, that in case such a dog show is held without prior permission of the AWBI, under the provisions of the Performing Animals Rules, 1973 and Performing Animals (Registration) Rules, 2001 (for short "Rules of 2001"), then the said institution shall be punished under the provisions of the Prevention of Cruelty to Animals Act, 1960 (for short "the Act"). It is further alleged that the AWBI has already laid down guidelines for granting permission for the dog shows, which are reproduced as under:-

"1. Animal Birth Control (Dogs) Rules, 2001 requires that all Dog Breeders are to be registered with AWBI. Only those dogs of breeders which have been registered with Animal Welfare Board of India (AWBI) will be allowed to participate in the Dog Shows as performing animals after paying the Performing Animals Registration fee of Rs.500/- for each dog. The breeders will have to produce proof of registration with AWBI at the dog show to AWBI

appointedinspector.

2. Non Dog breeders who are wanting to participate in Dog Show must produce the records of purchase of dogs from Breeders/Kennel Club and it needs to be registered with AWBI as performing animal for the Dog Show as per Performing Animals (Registration) Rules by paying registration fee of Rs.500/- to AWBI.
3. The Board needs 4 weeks time to process the applications for getting permission/registration for Performing Animals for dog shows. The organizer shall send the application in respect of only those animals whose owners have provided the required details/documents.
4. A Veterinary Health and Vaccination Certificate of the dog from a VCI registered Veterinary Doctor must accompany the request for each dog for seeking permission for allowing the dog to participate in Dog Show as performing animals in the show as per Performing Animals Rules 2001.
5. A VCI registered Veterinary Doctor must be available at the venue of the Dog Show for attending to any emergency and checking the Veterinary health of all dogs participating in the show.
6. Necessary arrangements for administering the Veterinary First Aid must be made by the organizers at the venue of the Dog Show.
7. Full particulars of the organizer(s) and owner(s) of the Animal(s) i.e. name, address, phone numbers, Email ID should be provided to the Board.
8. The dogs participating in the Dog Show must be provided with proper food and water arrangements.
9. No tricks/acts involving any harassment/cruelty to the performing dogs will be allowed in the Dog shows.
10. Permission from the Local Administration for organizing the Dog Show is mandatory.
11. Sale of Puppies at the Dog Show will not be allowed. The venue of the Dog Show should be suitable for dogs considering the climatic conditions, Dog shows should not

be allowed in extreme weather conditions.

12. A representative of AWBI with State Animal Welfare Board/District SPCA/State Veterinary Dept. will be allowed to check the records and AWBI Performing animals Registration Certificates of all participating dogs.”

(5) The petitioners have thus prayed for a writ in the nature of *mandamus* seeking direction to the respondents to forbear from treating the dogs in the dog shows as “performing animals” and causing any kind of disturbance, obstruction or disruption in the said dog shows and also prayed for directing respondent No.13 not to interfere in the dog shows to be conducted by the petitioners on the dates already set out in the Indian Kennel Gazette.

(6) Counsel for the petitioners, *inter alia*, contended that the dog brought to the dog shows are affectionately looked after with great care and caution not only by the club but also by the owner of the dog(s). The dogs are well fed, groomed, refreshed and walk with a leash. The dog shows are unlike the circus, bull fighting, cock fighting etc. where the animals are in a stress, pain or risk of physical injury. There is no entry ticket to witness the dog shows, rather it is free of cost, therefore, the dogs are not the performing animals which is defined under Rule 2 of the Performing Animals Rules, 1973 nor exhibited and trained as provided under Section 21 of the Act. It is further submitted that the AWBI is only an advisory body, as provided under Section 9 of the Act, which reads as under:-

“9. Functions of the Board:-- The functions of the Board shall be-

(a) to keep the law in force in, India for the prevention of cruelty to animals under constant study and advise the Government on the amendments to be undertaken in any such law from time to time;

(b) to advise the Central Government on the making of rules under this Act with a view to preventing unnecessary pain or suffering to animals generally, and more particularly when they are being transported from one place to another or when they are used as performing animals or when they are kept in captivity or confinement;

(c) to advise the Government or any local authority or other person on improvements in the design of vehicles so as to

lessen the burden on draught animals;

(d) to take all such steps as the Board may think fit for 11 (amelioration of animals) by encouraging or providing for, the construction of sheds, water-troughs and the like and by providing for veterinary assistance to animals;

(e) to advise the Government or any local authority or other person in the design of slaughter-houses or the maintenance of slaughter houses or in connection with slaughter of animals so that unnecessary pain or suffering, whether physical or mental, is eliminated in the pre-slaughter stages as far as possible, and animals are killed; wherever necessary, in as humane a manner as possible;

(f) to take all such steps as the Board may think fit to ensure that unwanted animals are destroyed by local authorities, whenever it is necessary to do so, either instantaneously or after being rendered insensible to pain or suffering;

(g) to encourage by the grant of financial assistance or otherwise, (the formation or establishment of pinjrapoles, rescue homes, animal shelters, sanctuaries and the like) where animals and birds may find a shelter when they have become old and useless or when they need protection;

(h) to co-operate with, and co-ordinate the work of, associations or bodies established for the purpose of preventing unnecessary pain or suffering to animals or for the protection of animals and birds;

(i) to give financial and other assistance to animal welfare organisations functioning in any local area or to encourage the formation of animal welfare organisations in any local area which shall work under the general supervision and guidance of the Board;

(j) to advise the Government on matters relating to the medical care and attention which may be provided in animal hospital, and to give financial and other assistance to animal hospitals whenever the Board thinks it necessary to do so;

(k) to impart education in relation to the humane treatment of animals and to encourage the formation of public opinion against the infliction of unnecessary pain or suffering to

animals and for the promotion of animal welfare by means of lectures, books, posters, cinematographic exhibitions and the like;

(1) to advise the Government on any matter connected with animal welfare or the prevention of infliction of unnecessary pain or suffering on animals.”

(7) Counsel for the petitioners has further relied upon a judgment of the Supreme Court in the case of *N.R. Nair versus Union of India*¹, an order of the Madras High Court in the case of *Delhi Kennel Club versus The Union of India and another*, W.P. No.533 of 2016, decided on 08.01.2016, a decision of the Uttarakhand at Nainital in the case of *M/s Doon Valley Kennel Club versus Union of India and another*, W.P. No.2984 of 2015, decided on 01.12.2015, a decision of the Madras High Court in the case of *The Madras Canine Club versus The Union of India and others*, M.P. No.1 of 2014 in WP No.24176 of 2014, decided on 11.09.2014.

(8) In response to the notice issued to the respondents, various replies have been filed. In the reply filed by respondent No.5, the Deputy Commissioner, Patiala has averred that the answering respondent has not given any “no objection” to any club or institution for organizing dog show and the matter to be adjudicated in this case is a matter of policy which has to be decided by the Government. In the reply filed by respondent No.9 (Municipal Corporation, Ludhiana), it is averred that the petitioners or any other club has never approached the Corporation for conducting any dog show but insofar as the dog show on 31.01.2016 is concerned, it is to be conducted at the Ireo Water Front Colony ground which is not in the jurisdiction of the Corporation. In the reply filed by respondent No.11 (Municipal Corporation, Chandigarh), it is averred that the answering respondent is not empowered to take any action against the petitioners under the provisions of the Act and it is connected to such a dog show only for the grant of permission for the use of land.

(9) In the reply filed by respondent No.1 (Union of India), it is alleged that the Act has been enacted to prevent the infliction of unnecessary pain or suffering on animals and has alleged that as per Section 22 of the Act, no person is allowed to exhibit or train any performing animal unless he is registered in accordance with the provisions of the Act and that the dog show can only be conducted after

¹ 2001 AIR(SC) 2337

registration/approval of the AWBI under the Rules of 2001 and even otherwise, the dog breeders are required to be registered with the AWBI as per the Rules enshrined in the Animal Birth Control (Dogs) Rules, 2001 (for short "Birth Control Rules").

(10) In the reply filed by respondent No.13 i.e. AWBI, it is averred that as per Rule 12(i) of the Birth Control Rules, registration is mandatory of all the dog breeders and as per the Rules of 2001, exhibition and training of the dogs can only be done after registration/approval of the AWBI.

(11) Counsel for respondent No.13 has also submitted orally that the AWBI has no objection if breeders are registered with it in terms of Rule 12(i) of the Birth Control Rules and for performing the dog show, registration is got done in terms of Section 22 of the Act.

(12) I have heard learned counsel for the parties and perused the available record with their able assistance.

(13) The question which is required to be answered in this case is as to whether a person/club, interested in participation of his/her/its dog in the dog show, being held free of cost, without any ticket, is required compulsory registration in terms of Rule 3 of the Rules of 2001 and Section 21(i) of the Act?

(14) The word "animal" has been defined in Section 2(a) of the Act which means any living creature other than a human being and the word "Board" has been defined in Section 2(b) of the Act which means the Board established under Section 4 and as reconstituted from time to time under Section 5-A of the Act. The functions of the Board are provided under Section 9 of the Act, already mentioned in the earlier part of the order, which are largely advisory in nature but it can also issue certain guidelines as it deems fit for the administration of its affairs and for carrying out its functions with the previous approval of the Central Government as provided under Section 10 of the Act. Chapter V of the Act deals with the performing animals in which Sections 21 and 22 are relevant and are reproduced as under:-

"21. "Exhibit" and "train" defined:- In this Chapter, "exhibit" means exhibit for any entertainment to which the public are admitted through sale of tickets, and "train" means train for the purpose of any such exhibition, and the expressions "exhibitor" and "trainer" have respectively the corresponding meanings.

22. Restriction on exhibition and training of performing animals:- No person shall exhibit or train-

- (i) any performing animal unless he is registered in accordance with the provisions of this Chapter;
- (ii) as a performing animal, any animal which the Central Government may, by notification in the official gazette, specify as an animal which shall not be exhibited or trained as a performing animal.”

(15) The performing animals are not defined in the Act rather it is defined in Rule 2(h) of the Rules of 2001, which also reads as under:-

“(h) “performing animal” means an animal which is used at or for the purpose of any entertainment including a film or an equine event to which the public are admitted.”

(16) Rule 3 of the Rules 2001 is also relevant and is thus reproduced as under:-

“3. Application for registration:

- (1) Any person desirous of training or exhibiting a performing animal shall, within thirty days from the commencement of these rules, apply for registration to the prescribed authority and shall not exhibit or train any animal as a performing animal without being registered under these rules.
- (2) Any person desirous of exhibiting or training any performing animal shall apply for registration in the form of application set out in the First Schedule.
- (3) Every such application shall be made to the prescribed authority.”

(17) There is no dispute that the registration of the dog, as a performing animal, is necessary in terms of Section 22(i) of the Act for which the procedure is provided under Section 23 of the Act, if the said animal is “exhibited”, meaning thereby for any entertainment to which the public are admitted through sale of tickets, and “trained” for the purpose of any exhibition. Rule 3 of the Rules of 2001 is also on the same lines as that of Section 22(i) of the Act as Rule 3(1) also provides that if any person is desirous of training or exhibition of a performing animal, then he shall have to apply for registration to the prescribed

authority within 30 days and shall not exhibit or train any animal/performing animal without registration.

(18) The entire case of respondent No.1-Union of India and respondent No.13-AWBI is regarding registration of dogs who take part in the dog show as according to the respondents, they are performing animals and require registration under Section 22(i) of the Act and Rule 3 of the Rules of 2001. No evidence has been led on record by the respondents that any kind of money is being charged by sale of tickets for the dog show by the petitioners/clubs and the public is admitted to the entertainment of the dog show. The petitioners have strongly denied charging of any kind of fee by sale of tickets while hosting the dog shows in which the dog owners/lovers assemble besides the onlookers. Thus, in the absence of any evidence on record led by the respondents to contradict the stand taken by the petitioners hosting the dog show free of cost, the dog, as alleged as a performing animal, cannot be termed as “exhibited” or “trained” in terms of Section 21 of the Act and no permission or registration is thus required either to be taken by the dog owner or the club hosting the dog shows in terms of Section 22(i) of the Act and Rule 3 of the Rules of 2001.

(19) The other argument raised by the respondents that registration is also required under Rule 12 of the Birth Control Rules is also without any substance because the said Rule 12 only lays down the guidelines for the breeders that they should be registered with the AWBI, must maintain the record of number of pups born/died from individual bitches and the record of the person buying the pups. These guidelines are only for the purpose of birth control of the dogs and have no relevance at all with the dog show.

(20) In *N.R. Nair's case (supra)*, the challenge was to the notification issued under Section 22(ii) of the Act, which empowers the Central Government to prohibit exhibition or training of a particular performing animal by way of notification. The Central Government had issued the notification prohibiting exhibition and training of bears, monkeys, tigers, panthers, lions and dogs. This notification was challenged by the Indian Circus Federation and later on the dogs were excluded from the said notification by way of a corrigendum. The said notification was upheld on the ground that it is the policy matter of the Government, in which the relevant material has been considered.

(21) In *M/s Doon Valley Kennel Club's case (supra)*, the Uttarakhand High Court, while relying upon a decision of the Madras High Court in the case of *Chennai Kennel Club* versus *Union of India*

& another, Writ Petition No.18941/2015 decided on 30.06.2015 and a decision of this Court in the case of **Chandigarh Kennel Club** versus **The Union of India & others**, CWP No.2566 of 2015 decided on 13.02.2015, held that “*there is no prohibition for mere display of dogs that does not involve display skills by dogs and, therefore, there is no scope for any cruelty to the animals, and, as such, there appears to be no requirement in law for taking prior permission of the Animal Welfare Board of India*”.

(22) Thus, from a combined reading of the provisions of the Act, Rules, precedents and the facts emerging from the record, I am of the view that the owner/club, hosting the dog show, is not required under any provisions either of the Act, Rules of 2001 or the Birth Control Rules to get himself/itself registered with the AWBI and hence, the AWBI has no jurisdiction or right to interrupt, disrupt or cause obstacle in the hosting of dog shows by the petitioners/clubs.

(23) Once it has been held that the AWBI has no jurisdiction as the participants of the dog show are not required to get themselves registered with it, the guidelines issued by the AWBI in this regard, would not apply.

(24) Thus, in view of the above discussion, the present petition is hereby allowed.

Dr. Payel Mehta