



Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 3626 OF 2024

RNA Royal Park Co-operative Housing Society ...Petitioner
Ltd

Versus

Municipal Corporation of Greater Mumbai & Ors ...Respondents

Mr Rahul Sarda, with Rahul, Avdhoot Prabhu & Dhrumil C Shah, i/b
Lex Services, for the Petitioner.

Mr Gauraj Shah, i/b Samaa Shah, for Respondent No. 5.

Ms S Tondwalkar, for the Respondent-BMC.

CORAM M.S. Sonak &
Kamal Khata, JJ.
DATED: 2nd August 2024

ASHWINI H
GAJAKOSH

Digitally signed by
ASHWINI H
GAJAKOSH
Date: 2024.08.02
19:03:46 +0530

PC:-

1. Heard learned Counsel for the parties.

2. Rule. Rule is made returnable immediately at the request and with the consent of learned counsel for the parties. This is the dispute between the society and some of its members regarding the feeding of stray dogs within the society's premises.

3. The Petitioner's society contends that the 5th Respondent is indiscriminately feeding stray dogs beyond the appointed timings and locations, causing society to face a serious problem. The learned counsel for the Petitioner submits that the dogs have become

aggressive, and there are instances of them biting or attacking senior citizens and even small children who are helpless to defend themselves.

4. Learned Counsel for the 5th Respondent disputes this position and points out that a mechanism was put in place by the order of this Court dated 24 April 2023 in Writ Petition No. 7402 of 2023. He submits that even the Petitioner seeks implementation of this order, to which the 5th Respondent has no objection whatsoever.

5. Learned Counsel for the Petitioner has invited us to look into the Animal Birth Control Rules 2023, which entered force on 10th March 2023. Rule 20 of these Rules is concerned with the Feeding of community animals. The same reads as follows:

“20. Feeding of Community Animals:—(1) It shall be responsibility of the Resident Welfare Association or Apartment Owner Association or Local Body’s representative of that area to make necessary arrangement for feeding of community animals residing in the premises or that area involving the person residing in that area or premises as the case may be, who feeds those animals or intends to feed those animals and provides care to street animals as a compassionate gesture. The Resident Welfare Association or Apartment Owner Association or the Local Body’s representative shall ensure:-

- (i) to designate feed spots which are mutually agreed upon, keeping in mind the number of dog population and their respective territories and the

feeding spots shall be far from children play areas, entry and exit points, staircase or in an area which is likely to be least frequented by children and senior citizen.

- (ii) to designate feeding time depending on the movement of children, senior citizens, sports which is likely to be least frequented by children and senior citizen.
- (iii) designated feeder shall ensure that there is no littering at the feeding location or violation of guidelines framed by the Resident Welfare Association or Apartment Owner Association or that areas.
- (iv) designated feeders are allowed to volunteer for the vaccination, catching and release of dogs to assist with the Animal Birth Control Program.

(2) Where there is any conflict between the Resident Welfare Association or Apartment Owner Association and the animal caregivers or other residents, an Animal Welfare committee comprising of the following members shall be formed:

- (i) Chief Veterinary Officer or his representative;
- (ii) Representative of the Jurisdictional Police;
- (iii) Representative of the District Society for Prevention of Cruelty to Animal or State Board;
- (iv) Representative of any Recognised Animal Welfare Organisation conducting Animal Birth Control;

- (v) Veterinary Officer deputed by the local authority;
- (vi) Complainant;
- (vii) Representative of the Resident Welfare Association or Apartment Owner Association or Local Body of that area.

The decision of the Committee constituted under sub-rule (2) of rule 20 shall be the final decision with regard to the fixing of the feeding point and the Committee may also nominate person from amongst the designated Colony Care Taker by the Board to feed those animals in that area.

(3) Any local authority or animal welfare organisation or any feeder Resident Welfare Association or Apartment Owner Association or Local Body aggrieved by the decision of the Committee framed under sub-rule (2) of rule 20, the appeal shall be filed to the State Board and the decision of State Board shall be the final decision for feeding of animals in that area.

6. Sub-Rule (1) of Rule 20 refers to the responsibility of the Resident Welfare Association or Apartment Owner Association or Local Body's representative of that area to make necessary arrangements for feeding community animals residing in the premises or that area involving the person residing in that area or premises as the case may be, who feed those animals and provides care to street animals as a compassionate gesture. This Sub-Rule imposes certain duties on the Resident Welfare Association, Apartment Owner Association or Local Body's representative, inter alia, to ensure the following:

- (i) to designate feed spots which are mutually agreed upon, keeping in mind the number of dog population and their respective territories and the feeding spots shall be far from children play areas, entry and exit points, staircase or in an area which is likely to be least frequented by children and senior citizen.
- (ii) to designate feeding time depending on the movement of children, senior citizens, sports which is likely to be least frequented by children and senior citizen.
- (iii) designated feeder shall ensure that there is no littering at the feeding location or violation of guidelines framed by the Resident Welfare Association or Apartment Owner Association or that areas.
- (iv) designated feeders are allowed to volunteer for the vaccination, catching and release of dogs to assist with the Animal Birth Control Program.

7. Sub-Rule (2) of Rule 20 provides that an Animal Welfare committee shall be formed where there is a conflict between the Resident Welfare Association or Apartment Owner Association and the animal caregivers or other residents. In this case, there is obviously a dispute between the Petitioner, the society of the residents, and the 5th Respondent, one of the residents. Therefore, it is necessary that an Animal Welfare Committee comprising the members referred to in clauses (i) to (vii) is formed expeditiously. The learned counsel submitted that this committee has to be formed

by the local authority concerned, which would be the BMC in this case.

8. The Animal Welfare Committee so formed by the BMC, will have to look into the Petitioner's complaints and the 5th Respondent's response to such complaints and make a final decision. Sub-Rule 3 of Rule 20 provides for an appeal against such a decision to the State Government.

9. As it is, it would be difficult for us to decide the disputed question of facts which arise in this Petition. In the exercise of our extraordinary but summary jurisdiction, it would not be possible for us to go into the rival claims involving the breach of the feeding point protocols, the breach of timings, aggression by some of the animals, etc. These are matters that are best considered by the Animal Welfare Committee as provided under Rule 20(2) of the rules quoted above.

10. Accordingly, we direct the MCGM to constitute an Animal Welfare Committee to resolve the disputes between the Petitioner Society and the 5th Respondent, and, for that matter, any other residents on the issue of animal feeding, etc.

11. This Animal Welfare Committee should be constituted within 15 days from today without giving any excuses. The Animal Welfare Committee, so constituted, must dispose of the Petitioner's complaint within 15 days of its constitution. The Animal Welfare

Committee may also look into any complaints that the 5th Respondent may have.

12. The Animal Welfare Committee must hear obviously hear the Petitioner and the 5th Respondent or any other residents interested in feeding or caring for the animals in the society premises or in and around the society premises. The Animal Welfare Committee must consider visiting a society's premises to ascertain the position first-hand. The Committee must communicate its reasoned decision to the parties within a week after arriving at such decision so that if any of the parties are aggrieved it will be open to explore the appeal option.

13. We request Ms Tondwalkar, learned counsel for BMC, to immediately forward an authenticated copy of this order to the BMC so that there is no time loss in constituting the Animal Welfare Committee as contemplated by Rule 20 (2). These matters should be resolved without delay, given the Petitioner's grievance that there have been some dog-biting incidents involving senior citizens and even small children.

14. With the above directions, we dispose of Rule in this Petition. There shall be no order for costs. All concerned to act on an authenticated copy of this order.

(Kamal Khata, J)

(M.S. Sonak, J)