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ANIMAL WELFARE BOARD OF INDIA

(Ministry of Environment and Forests, Govt. of India)

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No.12-1/2015-16 PCA

19-1-2016

To
The Chief Secretary
Of all States/UTs

Sir/Madam,

Sub: Urgent directions to be issued to the Authorities responsible for registering Residential Societies that are acting in violation of law and Court judgments - Reg

I am directed to write to you on behalf of the Animal Welfare Board of India, which is a Statutory body established in terms of Section 4 of the Prevention of Cruelty to Animals Act, 1960, (i.e. the PCA) for the promotion of animal welfare generally, and for protecting animals from being subjected to unnecessary pain or suffering, in particular.

The Board is presently working under the aegis of the Ministry of Environment, Forest and Climate Change, Government of India. I may also inform you, that under Section 9 of the PCA, it is a part of the function of the Board to keep the law in force in India for the prevention of cruelty to animals under constant study, and to advise the Government on the amendments to be undertaken in any such law from time to time. The Board has also been statutorily entrusted with the duty of advising the Central Government on making Rules under the PCA with a view to preventing unnecessary pain or suffering to animals. Additionally, it is also a part of the function of the Board 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. In fact, the Board is the body constituted under Indian law to advise the Government on any matter connected with animal welfare, and for the prevention of infliction of unnecessary pain and suffering on animals.

I also take this opportunity to invite your attention to clauses (h) and (i) of Section 11 (1), and Section 3 of the PCA. The same is read as under :

11 Treating animals cruelly. – (1) If any person –

(h) being the owner of any animal, fails to provide such animal with sufficient food, drink, or shelter

(i) without reasonable cause, abandons any animal in circumstances which render it likely that it will suffer pain by reason of starvation or thirst

Section 3 Duties of persons having charge of animals. –

It shall be the duty of every person having the care or charge of any animal to take all reasonable measures to ensure the well-being of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering.

From a perusal of the above you will see that pet owners and care-givers are duty bound to treat their pets in accordance with law and without cruelty. The well-being of animals in their care and custody is something that all citizens of India are duty bound to ensure. Moreover, the Constitution of India makes it a fundamental duty of every citizen of India, and every agency and instrumentality of government, to show compassion for all living creatures vide its Article 51A (g). Unfortunately, however, several RWAs, apartment owners' associations, etc., are acting in a manner that is impelling violations of animal protection laws.

The Board has been receiving a lot of complaints to the effect that residential societies have either been framing bye-laws prohibiting residents living within their precincts, from keeping pets in their flats or apartments, or simply putting up circulars or notices to the said effect. They are also stated to be issuing "directions" prohibit the feeding and care of stray and ownerless animals.

As you know, bye-laws, regulations, etc., that are at variance with central and state enactments, cannot be framed. In fact, nothing at all can be done that is not in consonance with the laws framed by Parliament or by the legislatures of states. Therefore, these bye-laws that various residential societies are framing, and the oppressive circulars and notices that they are issuing, are illegal, and often tantamount to criminal intimidation.

It will also interest you to know that even the Hon'ble Supreme Court of India, in a detailed judgment pronounced last year in the matter titled "Animal Welfare Board of India Vs. A. Nagaraja and Others" in SLP (C) No.11686 of 2007 has emphasized that 'animal rights' is an issue of 'seminal importance'. An extract of the directions issued and declarations made by the Supreme Court vide this judgment is enclosed for your reference. Likewise, many Courts of law, including the Hon'ble High Court of Delhi, have specifically held that street dogs should be fed since doing so reduces mistrust, and facilitates their catching for canine birth control.

The Animal Welfare Board of India has issued guidelines for the lawful treatment of Pet Dogs and Street Dogs in the form of a Circular dtd.26-2-2015 issued by the Chairman, AWBI, and the same is enclosed herewith for your reference.

In the above backdrop, you are urged by the Animal Welfare Board of India to do the following :

Please issue directions to all the Authorities concerned with the registration of Residential Societies to desist from making any bye-laws at variance with the laws of the land, prohibiting the keeping of pets in their flats or apartments, and prohibiting the use of common areas by pets even when properly leashed, and prohibiting the feeding of street animals, etc. You may advise them that doing so impels and abets violations of law, since residents then abandon their pet animals, leading to untold misery for the animals. Moreover, such conduct on the part of these societies is also violative of the rights of individual residents.

.3.

Please therefore do the needful as requested at the earliest.

A copy of the circular/directions that you issue may kindly be sent to our office as well, by post and by email at the earliest.

Yours faithfully,



(S. Vinod Kumar)
Assistant Secretary

Encl: as above

Copy to: for information and necessary action.

- 1) The Director General of Police of all States /UTs.
- 2) Chairman, AWBI/ Vice-Chairman, AWBI and Ms. Anjali Sharma, Member, AWBI