(2009) 01 PAT CK 0115

Patna High Court

Case No: LPA No. 915 of 2001

M/s Ajanta Circus		APPELLANT
	Vs	
Union of India and Others		RESPONDENT

Date of Decision: Jan. 23, 2009

Acts Referred:

- Prevention of Cruelty to Animals Act, 1960 - Section 22

Citation: (2009) 2 PLJR 323

Hon'ble Judges: Shiva Kirti Singh, J; J.N. Singh, J

Bench: Division Bench

Advocate: Badri Narayan Singh and Kumar Gaurav, Kaushal Kr. Jha and Baidyanath Thakur, for the Appellant; Pradeep Narain, for the Respondent

Final Decision: Dismissed

Judgement

Shiva Kirti Singh & Jayanandan Singh, JJ.

Heard learned counsel for the appellant, learned counsel for the Union of India and learned counsel for the State. The appellant had preferred a writ petition before this Court making a prayer to quash an order dated 23rd June, 2001, whereby the Director, Sanjay Gandhi Biological Park, Patna in continuation of his earlier letters directed the writ petitioner to handover the lions, tigers, panthers, bears and monkeys to the designated Rescue Centers mentioned in D.O. letter dated 18th May, 2001 of the Additional Director General of Forest (Wild Life). Government of India. The appellant had also sought direction against the respondents for payment of cost of such animals and also for a direction to respondent No. 3, the Additional Director General of Forest (Wild Life), Government of India to pay the cost of Rs. 15,000/- per day from 23.6.2001, the date when the show of the said animals was stopped till 31st August, 2001.

2. The writ court declined to interfere with the orders directing the appellant to handover the animals mentioned above. In respect of claim for payment of

compensation, the writ court took the view that as per letter of the Principal Secretary of the Central Zoo Authority (Annexure-9) the final view on payment of compensation had not been taken and hence the Court refrained from expressing any view on the said question. Liberty was granted to the petitioner that he may pursue the said matter before the authority concerned.

3. On behalf of the appellant, it has been submitted that as a fact the appellant had imported certain lions from Africa and the restriction imposed by a notification putting restriction on exhibition and training of lions and four other species of animals should not be read to include African Lions because such notification is under an Indian Act i.e. Prevention of Cruelty to Animals Act, 1960. On going through the provisions of Section 22 of the aforesaid Act and the relevant notifications, we find no merit in the aforesaid submission. The power given to the Stale covers any animal without any reference to its origin.

4. It was next contended on behalf of the appellant that in spite of liberty granted by the writ court and representation filed by the appellant, the concerned authorities have not intimated any decision in respect of claim of compensation which, according lo the Principal Secretary of the Central Zoo Authority, was pending for decision. Admittedly, a contempt petition in relation to the said issue has been filed by the appellant. The enforcement to any relief flowing from the impugned judgment and order may be dealt with in the pending contempt or through appropriate proceeding. It will not be proper to take up such a matter in this Letters Patent Appeal preferred against judgment and order of the writ court. On merits, this court does not find good ground to interfere with the judgment and order of the writ court. The Letters Patent Appeal is, therefore, dismissed. If the authorities have not decided as yet on the pending matter relating to claim of the appellant for compensation, they should do so expeditiously. It goes without saying that for violation of the order of the writ court the appellant will always have right to seek relief through an appropriate proceeding.